

**TAX REVISIONS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Individual Income Tax Act and other provisions relating to income taxation.

**Highlighted Provisions:**

This bill:

- ▶ imposes a single income tax rate for purposes of the Individual Income Tax Act;
- ▶ changes the basis for imposing individual income taxes from federal taxable income to federal adjusted gross income;
- ▶ repeals and modifies additions to income of an individual, an estate, or a trust, and repeals related provisions;
- ▶ repeals subtractions from income of an individual, an estate, or a trust, and repeals related provisions;
- ▶ provides subtractions from income of an individual, an estate, or a trust;
- ▶ repeals tax credits and related provisions;
- ▶ modifies tax credits;
- ▶ repeals and reenacts tax credits for:
  - a tax paid to another state; and
  - a nonresident shareholder of an S corporation;
- ▶ provides income tax credits for:
  - certain charitable contributions;



- 28           • homeowners; and
- 29           • claimants on the basis of filing status;
- 30           ▶ requires certain tax credits claimed by a nonresident person, nonresident estate, or
- 31 nonresident trust to be apportioned;
- 32           ▶ repeals individual income tax contributions and related provisions;
- 33           ▶ modifies the calculation of income taxes on estates and trusts;
- 34           ▶ addresses filing status for purposes of individual income taxes;
- 35           ▶ modifies provisions relating to the administration of income taxes;
- 36           ▶ modifies the calculation of income taxes on nonresident individuals;
- 37           ▶ repeals and modifies definitions;
- 38           ▶ repeals obsolete language;
- 39           ▶ grants rulemaking authority to the State Tax Commission; and
- 40           ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42           None

43 **Other Special Clauses:**

44           This bill takes effect for taxable years beginning on or after January 1, 2007.

45           This bill provides revisor instructions.

46 **Utah Code Sections Affected:**

47 AMENDS:

- 48           **9-4-802**, as last amended by Chapter 132, Laws of Utah 2003
- 49           **9-4-803**, as last amended by Chapter 132, Laws of Utah 2003
- 50           **19-1-403**, as last amended by Chapter 108 and renumbered and amended by Chapter
- 51 294, Laws of Utah 2005
- 52           **19-1-404**, as renumbered and amended by Chapter 294, Laws of Utah 2005
- 53           **19-2-104**, as last amended by Chapter 131, Laws of Utah 2003
- 54           **22-3-505**, as enacted by Chapter 285, Laws of Utah 2004
- 55           **26-18a-3**, as last amended by Chapter 1, Laws of Utah 1997
- 56           **26-18a-4**, as last amended by Chapter 1, Laws of Utah 1997
- 57           **53B-8a-106**, as last amended by Chapter 109, Laws of Utah 2005
- 58           **53B-8a-112**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session

- 59           **59-2-102**, as last amended by Chapters 162, 243, 281 and 303, Laws of Utah 2004  
60           **59-6-101**, as last amended by Chapter 3, Laws of Utah 1988  
61           **59-6-102**, as last amended by Chapter 28, Laws of Utah 2002  
62           **59-7-607**, as last amended by Chapter 113, Laws of Utah 2005  
63           **59-7-703**, as last amended by Chapter 110, Laws of Utah 2003  
64           **59-10-103**, as last amended by Chapter 241, Laws of Utah 2005  
65           **59-10-104**, as last amended by Chapters 323 and 324, Laws of Utah 2001  
66           **59-10-114**, as last amended by Chapters 109 and 241, Laws of Utah 2005  
67           **59-10-115**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
68           **59-10-116**, as last amended by Chapter 79, Laws of Utah 2004  
69           **59-10-117**, as last amended by Chapters 311 and 345, Laws of Utah 1995  
70           **59-10-119**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
71           **59-10-120**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
72           **59-10-121**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
73           **59-10-122**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
74           **59-10-123**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
75           **59-10-201**, as last amended by Chapter 109, Laws of Utah 2005  
76           **59-10-201.1**, as enacted by Chapter 345, Laws of Utah 1995  
77           **59-10-202**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session  
78           **59-10-204**, as last amended by Chapter 345, Laws of Utah 1995  
79           **59-10-205**, as last amended by Chapter 345, Laws of Utah 1995  
80           **59-10-207**, as last amended by Chapter 345, Laws of Utah 1995  
81           **59-10-210**, as last amended by Chapter 345, Laws of Utah 1995  
82           **59-10-529**, as last amended by Chapter 35, Laws of Utah 2002  
83           **59-13-202**, as last amended by Chapter 86, Laws of Utah 2000  
84           **62A-4a-607**, as last amended by Chapter 327, Laws of Utah 2001  
85           **63-38f-402**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
86           **63-38f-412**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
87           **63-38f-413**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
88           **63-38f-501**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
89           **63-38f-502**, as renumbered and amended by Chapter 148, Laws of Utah 2005

- 90           **63-38f-503**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 91           **63-38f-1102**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 92           **63-38f-1110**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 93           **63-38f-1203**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 94           **63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004
- 95           **63-55-259**, as last amended by Chapters 232 and 289, Laws of Utah 2005
- 96           **72-12-107**, as renumbered and amended by Chapter 270, Laws of Utah 1998

97 ENACTS:

- 98           **59-10-118.1**, Utah Code Annotated 1953
- 99           **59-10-136**, Utah Code Annotated 1953
- 100          **59-10-209.1**, Utah Code Annotated 1953
- 101          **59-10-1001**, Utah Code Annotated 1953
- 102          **59-10-1002**, Utah Code Annotated 1953
- 103          **59-10-1004**, Utah Code Annotated 1953
- 104          **59-10-1005**, Utah Code Annotated 1953
- 105          **59-10-1006**, Utah Code Annotated 1953
- 106          **59-10-1007**, Utah Code Annotated 1953
- 107          **59-10-1101**, Utah Code Annotated 1953
- 108          **59-10-1102**, Utah Code Annotated 1953

109 RENUMBERS AND AMENDS:

- 110          **59-10-1003**, (Renumbered from 59-10-106, as renumbered and amended by Chapter 2,
- 111 Laws of Utah 1987)
- 112          **59-10-1103**, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of
- 113 Utah 2003)

114 REPEALS:

- 115          **23-14-14.1**, as enacted by Chapter 162, Laws of Utah 2003
- 116          **31A-32a-101**, as enacted by Chapter 131, Laws of Utah 1999
- 117          **31A-32a-102**, as last amended by Chapter 116, Laws of Utah 2001
- 118          **31A-32a-103**, as enacted by Chapter 131, Laws of Utah 1999
- 119          **31A-32a-104**, as enacted by Chapter 131, Laws of Utah 1999
- 120          **31A-32a-105**, as enacted by Chapter 131, Laws of Utah 1999

121           **31A-32a-106**, as last amended by Chapter 53, Laws of Utah 2001  
122           **31A-32a-107**, as enacted by Chapter 131, Laws of Utah 1999  
123           **59-10-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
124           **59-10-104.1**, as enacted by Chapter 323, Laws of Utah 2001  
125           **59-10-105**, as last amended by Chapter 323, Laws of Utah 2001  
126           **59-10-107**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
127           **59-10-108**, as last amended by Chapter 73, Laws of Utah 2001  
128           **59-10-108.1**, as enacted by Chapter 272, Laws of Utah 1999  
129           **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995  
130           **59-10-108.7**, as last amended by Chapter 148, Laws of Utah 2005  
131           **59-10-109**, as last amended by Chapter 198, Laws of Utah 2003  
132           **59-10-111**, as last amended by Chapter 96, Laws of Utah 1987  
133           **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995  
134           **59-10-127**, as last amended by Chapters 108 and 294, Laws of Utah 2005  
135           **59-10-128**, as last amended by Chapter 198, Laws of Utah 2003  
136           **59-10-129**, as last amended by Chapter 113, Laws of Utah 2005  
137           **59-10-130**, as last amended by Chapter 145, Laws of Utah 2002  
138           **59-10-131**, as last amended by Chapter 59, Laws of Utah 1999  
139           **59-10-132**, as last amended by Chapter 59, Laws of Utah 1999  
140           **59-10-133**, as last amended by Chapter 263, Laws of Utah 2005  
141           **59-10-134**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005  
142           **59-10-134.1**, as enacted by Chapter 312, Laws of Utah 2003  
143           **59-10-134.2**, as enacted by Chapter 290, Laws of Utah 2005  
144           **59-10-135**, as enacted by Chapter 62, Laws of Utah 2002  
145           **59-10-209**, as last amended by Chapter 345, Laws of Utah 1995  
146           **59-10-530**, as last amended by Chapter 12, Laws of Utah 1997  
147           **59-10-530.5**, as last amended by Chapter 132, Laws of Utah 2003  
148           **59-10-546**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
149           **59-10-547**, as last amended by Chapter 269, Laws of Utah 1998  
150           **59-10-548**, as last amended by Chapters 107 and 256, Laws of Utah 2002  
151           **59-10-549**, as last amended by Chapter 208, Laws of Utah 2005

152 59-10-550, as last amended by Chapters 1 and 12, Laws of Utah 1997

153 59-10-550.1, as enacted by Chapter 162, Laws of Utah 2003

154 59-10-551, as last amended by Chapter 208, Laws of Utah 2005



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

157 Section 1. Section 9-4-802 is amended to read:

158 **9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Pamela**  
159 **Atkinson Homeless Trust Account.**

160 (1) (a) The Homeless Coordinating Committee shall work to ensure that services  
161 provided to the homeless by state agencies, local governments, and private organizations are  
162 provided in a cost-effective manner.

163 (b) Programs funded by the committee shall emphasize emergency housing and  
164 self-sufficiency, including placement in meaningful employment or occupational training  
165 activities and, where needed, special services to meet the unique needs of the homeless who  
166 have families with children, or who are mentally ill, disabled, or suffer from other serious  
167 challenges to employment and self-sufficiency.

168 (c) The committee may also fund treatment programs to ameliorate the effects of  
169 substance abuse or a disability.

170 (2) The committee members designated in Subsection 9-4-801(2) shall:

171 (a) award contracts funded by the Pamela Atkinson Homeless Trust Account with the  
172 advice and input of those designated in Subsection 9-4-801(3);

173 (b) consider need, diversity of geographic location, coordination with or enhancement  
174 of existing services, and the extensive use of volunteers; and

175 (c) give priority for funding to programs that serve the homeless who are mentally ill  
176 and who are in families with children.

177 (3) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson  
178 Homeless Trust Account may be allocated to organizations that provide services only in Salt  
179 Lake, Davis, Weber, and Utah Counties.

180 (b) The committee may~~[(t)]~~ expend up to 3% of its annual appropriation for  
181 administrative costs associated with the allocation of funds from the Pamela Atkinson  
182 Homeless Trust Account, and up to 2% of its annual appropriation for marketing the account

183 and soliciting donations to the account[; and].

184 [~~(ii) pay for the initial costs of the State Tax Commission in implementing Section~~  
185 ~~59-10-530.5 from the account.]~~

186 (4) (a) The committee may not expend, except as provided in Subsection (4)(b), an  
187 amount equal to the greater of \$50,000 or 20% of the amount donated to the Pamela Atkinson  
188 Homeless Trust Account during fiscal year 1988-89.

189 (b) If there are decreases in contributions to the account, the committee may expend  
190 funds held in reserve to provide program stability, but the committee shall reimburse the  
191 amounts of those expenditures to the reserve fund.

192 (5) The committee shall make an annual report to the Economic Development and  
193 Human Resources Appropriations Subcommittee regarding the programs and services funded  
194 by contributions to the Pamela Atkinson Homeless Trust Account.

195 (6) The moneys in the Pamela Atkinson Homeless Trust Account shall be invested by  
196 the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State  
197 Money Management Act, except that all interest or other earnings derived from the fund  
198 moneys shall be deposited in the fund.

199 Section 2. Section **9-4-803** is amended to read:

200 **9-4-803. Creation of Pamela Atkinson Homeless Trust Account.**

201 (1) There is created a restricted account within the General Fund to be known as the  
202 Pamela Atkinson Homeless Trust Account.

203 (2) Private contributions received under this section [~~and Section 59-10-530.5~~] shall be  
204 deposited into the account to be used only for programs described in Section 9-4-802.

205 (3) Money shall be appropriated from the account to the State Homeless Coordinating  
206 Committee in accordance with the Utah Budgetary Procedures Act.

207 (4) The State Homeless Coordinating Committee may accept transfers, grants, gifts,  
208 bequests, or any money made available from any source to implement this part.

209 Section 3. Section **19-1-403** is amended to read:

210 **19-1-403. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with**  
211 **fund monies.**

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

213 (b) The fund consists of:

- 214 (i) appropriations to the fund;
- 215 (ii) other public and private contributions made under Subsection (1)(d);
- 216 (iii) interest earnings on cash balances; and
- 217 (iv) all monies collected for loan repayments and interest on loans.
- 218 (c) All money appropriated to the fund is nonlapsing.
- 219 (d) The department may accept contributions from other public and private sources for
- 220 deposit into the fund.

221 (2) (a) Except as provided in Subsection (3), the department may make loans or grants  
222 with monies available in the fund for:

223 (i) the conversion of private sector business vehicles and government vehicles to use a  
224 clean fuel, if certified by the Air Quality Board; or

225 (ii) the purchase of OEM vehicles for use as private sector business vehicles or  
226 government vehicles.

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

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

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

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

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

233 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit  
234 claimed under Section 59-7-605 [~~or 59-10-127~~] for the vehicle for which a grant is requested;  
235 or

236 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of  
237 any tax credit claimed under Section 59-7-605 [~~or 59-10-127~~] for the vehicle for which a grant  
238 is requested.

239 (d) (i) Except as provided in Subsection (3) and subject to the availability of monies in  
240 the fund, the department may make loans for the purchase of vehicle refueling equipment for  
241 private sector business vehicles and government vehicles.

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

244 (3) Notwithstanding Subsection (2)(a) or (2)(d), the department may not make a loan or

245 grant under this part with respect to an electric-hybrid vehicle.

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

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

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

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

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

254 Section 4. Section **19-1-404** is amended to read:

255 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

256 (1) The department shall:

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

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

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

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

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

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

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

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

272 (v) specifying repayment periods;

273 (vi) specifying procedures for:

274 (A) awarding loans and grants; and

275 (B) collecting loans; and

- 276 (vii) requiring all loan and grant applicants to:
- 277 (A) apply on forms provided by the department;
- 278 (B) agree in writing to use the clean fuel for which each vehicle is converted or
- 279 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
- 280 beginning from the time of conversion or purchase of the vehicle;
- 281 (C) agree in writing to notify the department if a vehicle converted or purchased using
- 282 loan or grant proceeds becomes inoperable through mechanical failure or accident and to
- 283 pursue a remedy outlined in department rules;
- 284 (D) provide reasonable data to the department on vehicles converted or purchased with
- 285 loan or grant proceeds; and
- 286 (E) submit vehicles converted or purchased with loan or grant proceeds to inspections
- 287 by the department as required in department rules and as necessary for administration of the
- 288 loan and grant program.

289 (2) (a) When developing repayment schedules for the loans, the department shall  
290 consider the projected savings from use of the clean-fuel vehicle.

291 (b) A repayment schedule may not exceed ten years.

292 (c) Loans made from the fund for private sector vehicles shall be made at an interest  
293 rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as  
294 determined the month immediately preceding the closing date of the loan.

295 (d) Loans made from the fund for government vehicles shall be made at a zero interest  
296 rate.

297 (3) The Division of Finance is responsible for collection of and accounting for the  
298 loans and has custody of all loan documents, including all notes and contracts, evidencing the  
299 indebtedness of the fund.

300 Section 5. Section **19-2-104** is amended to read:

301 **19-2-104. Powers of board.**

302 (1) The board may make rules in accordance with Title 63, Chapter 46a, Utah  
303 Administrative Rulemaking Act:

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

- 307 (b) establishing air quality standards;
- 308 (c) requiring persons engaged in operations which result in air pollution to:
  - 309 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;
  - 310 (ii) file periodic reports containing information relating to the rate, period of emission,  
311 and composition of the air contaminant; and
  - 312 (iii) provide access to records relating to emissions which cause or contribute to air  
313 pollution;
- 314 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter  
315 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management  
316 plans submitted by local education agencies under that act;
- 317 (e) establishing a requirement for a diesel emission opacity inspection and maintenance  
318 program for diesel-powered motor vehicles;
- 319 (f) implementing an operating permit program as required by and in conformity with  
320 Titles IV and V of the federal Clean Air Act Amendments of 1990;
- 321 (g) establishing requirements for county emissions inspection and maintenance  
322 programs after obtaining agreement from the counties that would be affected by the  
323 requirements;
- 324 (h) with the approval of the governor, implementing in air quality nonattainment areas  
325 employer-based trip reduction programs applicable to businesses having more than 100  
326 employees at a single location and applicable to federal, state, and local governments to the  
327 extent necessary to attain and maintain ambient air quality standards consistent with the state  
328 implementation plan and federal requirements under the standards set forth in Subsection (2);  
329 and
- 330 (i) implementing lead-based paint remediation training, certification, and performance  
331 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,  
332 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.
- 333 (2) When implementing Subsection (1)(h) the board shall take into consideration:
  - 334 (a) the impact of the business on overall air quality; and
  - 335 (b) the need of the business to use automobiles in order to carry out its business  
336 purposes.
- 337 (3) The board may:

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

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

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

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

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

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

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

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

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

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

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

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

366 (m) consult, upon request, with any person proposing to construct, install, or otherwise  
367 acquire an air contaminant source in the state concerning the efficacy of any proposed control  
368 device, or system for this source, or the air pollution problem which may be related to the

369 source, device, or system, but a consultation does not relieve any person from compliance with  
370 this chapter, the rules adopted under it, or any other provision of law;

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

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

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

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

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

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

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

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

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

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

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

397 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et  
398 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to  
399 be accredited as inspectors, management planners, abatement project designers, asbestos

400 abatement contractors and supervisors, or asbestos abatement workers;

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

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

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

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

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

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

419 Section 6. Section **22-3-505** is amended to read:

420 **22-3-505. Income taxes.**

421 (1) A tax required to be paid by a trustee based on receipts allocated to income must be  
422 paid from income.

423 (2) A tax required to be paid by a trustee based on receipts allocated to principal must  
424 be paid from principal, even if the tax is called an income tax by the taxing authority.

425 (3) A tax required to be paid by a trustee on the trust's share of an entity's taxable  
426 income must be paid proportionately:

427 (a) from income to the extent that receipts from the entity are allocated to income; and

428 (b) from principal to the extent that:

429 (i) receipts from the entity are allocated to principal; and

430 (ii) the trust's share of the entity's state taxable income as defined in Section

431 59-10-201.1 exceeds the total receipts described in Subsections (3)(a) and (3)(b)(i).

432 (4) For purposes of this section, receipts allocated to principal or income must be  
433 reduced by the amount distributed to a beneficiary from principal or income for which the trust  
434 receives a deduction in calculating the tax.

435 Section 7. Section **26-18a-3** is amended to read:

436 **26-18a-3. Purpose of committee.**

437 (1) The committee shall work to:

438 (a) provide financial assistance for initial medical expenses of children who need organ  
439 transplants;

440 (b) obtain the assistance of volunteer and public service organizations; and

441 (c) fund activities as the committee designates for the purpose of educating the public  
442 about the need for organ donors.

443 (2) (a) The committee is responsible for awarding financial assistance funded by the  
444 trust account.

445 (b) The financial assistance awarded by the committee under Subsection (1)(a) shall be  
446 in the form of interest free loans. The committee may establish terms for repayment of the  
447 loans, including a waiver of the requirement to repay any awards if, in the committee's  
448 judgment, repayment of the loan would impose an undue financial burden on the recipient.

449 (c) In making financial awards under Subsection (1)(a), the committee shall consider:

450 (i) need;

451 (ii) coordination with or enhancement of existing services or financial assistance,  
452 including availability of insurance or other state aid;

453 (iii) the success rate of the particular organ transplant procedure needed by the child;  
454 and

455 (iv) the extent of the threat to the child's life without the organ transplant.

456 (3) The committee may only provide the assistance described in this section to children  
457 who have resided in Utah, or whose legal guardians have resided in Utah for at least six months  
458 prior to the date of assistance under this section.

459 (4) (a) The committee may expend up to 5% of its annual appropriation for  
460 administrative costs associated with the allocation of funds from the trust account.

461 (b) The administrative costs shall be used for the costs associated with staffing the

462 committee ~~[and for State Tax Commission costs in implementing Section 59-10-550].~~

463 (5) The committee shall make an annual report to the Health and Human Services  
464 Appropriations Subcommittee regarding the programs and services funded by contributions to  
465 the trust account.

466 Section 8. Section **26-18a-4** is amended to read:

467 **26-18a-4. Creation of Kurt Oscarson Children's Organ Transplant Trust**

468 **Account.**

469 (1) There is created a restricted account within the General Fund pursuant to Section  
470 51-5-4 known as the Kurt Oscarson Children's Organ Transplant Trust Account. Private  
471 contributions received under this section ~~[and Section 59-10-550]~~ shall be deposited into the  
472 trust account to be used only for the programs and purposes described in Section 26-18a-3.

473 (2) Money shall be appropriated from the trust account to the committee in accordance  
474 with Title 63, Chapter 38, Budgetary Procedures Act.

475 (3) ~~[In addition to funds received under Section 59-10-550, the]~~ The committee may  
476 accept transfers, grants, gifts, bequests, or any money made available from any source to  
477 implement this chapter.

478 Section 9. Section **53B-8a-106** is amended to read:

479 **53B-8a-106. Account agreements.**

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

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

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

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

490 ~~[(d) The maximum amount of investments that may be subtracted from federal taxable~~  
491 ~~income of a resident or nonresident individual under Subsection 59-10-114(2)(j) shall be~~  
492 ~~\$1,510 for each individual beneficiary for the 2005 calendar year and an amount adjusted~~

493 ~~annually thereafter to reflect increases in the Consumer Price Index.]~~

494 ~~[(2) (a) (i) Beneficiaries designated in account agreements must be designated after~~  
495 ~~birth and before age 19 for the participant to subtract allowable investments from federal~~  
496 ~~taxable income under Subsection 59-10-114(2)(j).]~~

497 ~~[(ii)]~~ (2) (a) If ~~[the]~~ a beneficiary is designated after birth and before age 19, the  
498 payment of benefits provided under the account agreement ~~[must]~~ shall begin ~~[not]~~ no later  
499 than the beneficiary's 27th birthday.

500 ~~[(b) (i) Account owners may designate beneficiaries age 19 or older, but investments~~  
501 ~~for those beneficiaries are not eligible for subtraction from federal taxable income.]~~

502 ~~[(ii)]~~ (b) If a beneficiary age 19 or older is designated in an account agreement, the  
503 payment of benefits provided under the account agreement must begin not later than ten years  
504 from the account agreement date.

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

507 (4) Each account agreement shall provide that:

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

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

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

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

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

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

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

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

521 (6) Beneficiaries may be changed as permitted by the rules and regulations of the board  
522 upon written request of the account owner prior to the date of admission of any beneficiary  
523 under an account agreement by an institution of higher education so long as the substitute

524 beneficiary is eligible for participation.

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

528 (8) Each account agreement shall provide that:

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

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

534 Section 10. Section **53B-8a-112** is amended to read:

535 **53B-8a-112. Tax considerations.**

536 (1) For tax purposes the property of the trust and its income are governed by Sections  
537 59-7-105, 59-7-106, [~~59-10-114,~~] and 59-10-201.

538 (2) The tax commission, in consultation with the board, may adopt rules necessary to  
539 monitor and implement the tax provisions referred to in Subsection (1) as related to the  
540 property of the trust and its income.

541 Section 11. Section **59-2-102** is amended to read:

542 **59-2-102. Definitions.**

543 As used in this chapter and title:

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

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

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

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

555 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis  
556 which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled  
557 routes.

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

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

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

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

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

571 (c) vehicles which are:

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

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

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

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

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

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

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

583 (i) a county; and

584 (ii) a school district.

585 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created

586 by the overlapping boundaries of:

587 (i) the taxing entities described in Subsection (9)(a); and

588 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)  
589 and the boundaries of the city or town are identical; or

590 (B) a special service district if the boundaries of the school district under Subsection  
591 (9)(a) are located entirely within the special service district.

592 (10) "Eligible judgment" means a final and unappealable judgment or order under  
593 Section 59-2-1330:

594 (a) that became a final and unappealable judgment or order no more than 14 months  
595 prior to the day on which the notice required by Subsection 59-2-919(4) is required to be  
596 mailed; and

597 (b) for which a taxing entity's share of the final and unappealable judgment or order is  
598 greater than or equal to the lesser of:

599 (i) \$5,000; or

600 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the  
601 previous fiscal year.

602 (11) (a) "Escaped property" means any property, whether personal, land, or any  
603 improvements to the property, subject to taxation and is:

604 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed  
605 to the wrong taxpayer by the assessing authority;

606 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to  
607 comply with the reporting requirements of this chapter; or

608 (iii) undervalued because of errors made by the assessing authority based upon  
609 incomplete or erroneous information furnished by the taxpayer.

610 (b) Property which is undervalued because of the use of a different valuation  
611 methodology or because of a different application of the same valuation methodology is not  
612 "escaped property."

613 (12) "Fair market value" means the amount at which property would change hands  
614 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell  
615 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair  
616 market value" shall be determined using the current zoning laws applicable to the property in

617 question, except in cases where there is a reasonable probability of a change in the zoning laws  
618 affecting that property in the tax year in question and the change would have an appreciable  
619 influence upon the value.

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

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

629 (15) "Geothermal resource" means:

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

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

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

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

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

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

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

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

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

647 (ii) removal of the item would:

- 648 (A) cause substantial damage to the item; or
- 649 (B) require substantial alteration or repair of a structure to which the item is attached.
- 650 (b) "Improvement" includes:
- 651 (i) an accessory to an item described in Subsection (17)(a) if the accessory is:
- 652 (A) essential to the operation of the item described in Subsection (17)(a); and
- 653 (B) installed solely to serve the operation of the item described in Subsection (17)(a);
- 654 and
- 655 (ii) an item described in Subsection (17)(a) that:
- 656 (A) is temporarily detached from the land for repairs; and
- 657 (B) remains located on the land.
- 658 (c) Notwithstanding Subsections (17)(a) and (b), "improvement" does not include:
- 659 (i) an item considered to be personal property pursuant to rules made in accordance
- 660 with Section 59-2-107;
- 661 (ii) a moveable item that is attached to land:
- 662 (A) for stability only; or
- 663 (B) for an obvious temporary purpose;
- 664 (iii) (A) manufacturing equipment and machinery; or
- 665 (B) essential accessories to manufacturing equipment and machinery; ~~[or]~~
- 666 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 667 damage to:
- 668 (A) the land; or
- 669 (B) the item; or
- 670 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
- 671 transportable factory-built housing unit is considered to be personal property under Section
- 672 59-2-1503.
- 673 (18) "Intangible property" means:
- 674 (a) property that is capable of private ownership separate from tangible property,
- 675 including:
- 676 (i) moneys;
- 677 (ii) credits;
- 678 (iii) bonds;

- 679 (iv) stocks;
- 680 (v) representative property;
- 681 (vi) franchises;
- 682 (vii) licenses;
- 683 (viii) trade names;
- 684 (ix) copyrights; and
- 685 (x) patents; or
- 686 (b) a low-income housing tax credit.
- 687 (19) "Low-income housing tax credit" means:
- 688 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 689 or
- 690 (b) a low-income housing tax credit under~~[-(i)]~~ Section 59-7-607~~[-or]~~;
- 691 ~~[(ii) Section 59-10-129;]~~
- 692 (20) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 693 (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 694 valuable mineral.
- 695 (22) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 696 otherwise removing a mineral from a mine.
- 697 (23) (a) "Mobile flight equipment" means tangible personal property that is:
- 698 (i) owned or operated by an:
- 699 (A) air charter service;
- 700 (B) air contract service; or
- 701 (C) airline; and
- 702 (ii) (A) capable of flight;
- 703 (B) attached to an aircraft that is capable of flight; or
- 704 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 705 intended to be used:
- 706 (I) during multiple flights;
- 707 (II) during a takeoff, flight, or landing; and
- 708 (III) as a service provided by an air charter service, air contract service, or airline.
- 709 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare

710 engine that is rotated:

711 (A) at regular intervals; and

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

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

714 the commission may make rules defining the term "regular intervals."

715 (24) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,

716 sand, rock, gravel, and all carboniferous materials.

717 (25) "Personal property" includes:

718 (a) every class of property as defined in Subsection (26) which is the subject of

719 ownership and not included within the meaning of the terms "real estate" and "improvements";

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

721 (c) bridges and ferries;

722 (d) livestock which, for the purposes of the exemption provided under Section

723 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

725 (26) (a) "Property" means property that is subject to assessment and taxation according

726 to its value.

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

728 (27) "Public utility," for purposes of this chapter, means the operating property of a

729 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline

730 company, electrical corporation, telephone corporation, sewerage corporation, or heat

731 corporation where the company performs the service for, or delivers the commodity to, the

732 public generally or companies serving the public generally, or in the case of a gas corporation

733 or an electrical corporation, where the gas or electricity is sold or furnished to any member or

734 consumers within the state for domestic, commercial, or industrial use. Public utility also

735 means the operating property of any entity or person defined under Section 54-2-1 except water

736 corporations.

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

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

739 (b) all mines, minerals, and quarries in and under the land, all timber belonging to

740 individuals or corporations growing or being on the lands of this state or the United States, and

741 all rights and privileges appertaining to these; and

742 (c) improvements.

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

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

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

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

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

751 (ii) where an aircraft:

752 (A) takes off; or

753 (B) lands.

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

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

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

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

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

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

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

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

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

773 Section 12. Section **59-6-101** is amended to read:

774 **59-6-101. Definitions.**

775 As used in this chapter:

776 (1) (a) Except as provided in Subsection (1)(b), "claimant" means a resident or  
777 nonresident person.

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

779 (2) "Estate" means a nonresident estate or a resident estate.

780 ~~[(1)]~~ (3) "Minerals" means either metalliferous minerals as defined in Section  
781 59-2-102, nonmetalliferous minerals as defined in Section 59-2-102, or both.

782 ~~[(2)]~~ (4) "Producer" means any person who produces or extracts minerals from deposits  
783 in this state or who is the first purchaser of minerals produced or extracted from deposits in this  
784 state.

785 (5) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
786 trust may claim:

787 (a) as provided by statute; and

788 (b) regardless of whether the claimant, estate, or trust has a tax liability under this  
789 chapter for the taxable year for which the claimant, estate, or trust claims the tax credit.

790 (6) "Trust" means a nonresident trust or a resident trust.

791 Section 13. Section **59-6-102** is amended to read:

792 **59-6-102. Producer's obligation to deduct and withhold payments -- Amount --**  
793 **Exempt payments -- Credit against tax.**

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

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

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

802 (b) an organization that is exempt from the taxes imposed by Chapter 7, Corporate

803 Franchise and Income Taxes, in accordance with Subsection 59-7-102(1)(a); or

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

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

809 ~~(i)~~ (a) Chapter 7, Corporate Franchise and Income Taxes;

810 ~~(ii)~~ (b) Chapter 8, Gross Receipts Tax on Certain Corporations not Required to Pay  
811 Corporate Franchise or Income Tax Act;

812 ~~(iii)~~ (c) Chapter 8a, Gross Receipts Tax on Electrical Corporations Act; or

813 ~~(iv)~~ (d) Chapter 10, Individual Income Tax Act.

814 ~~(b) If the amount withheld under Subsection (1) is greater than the tax due on the~~  
815 ~~return, the person making the return is entitled to a refund in the amount of the overpayment.]~~

816 Section 14. Section **59-7-607** is amended to read:

817 **59-7-607. Utah low-income housing tax credit.**

818 (1) As used in this section:

819 (a) "Allocation certificate" means:

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

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

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

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

829 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership  
830 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability  
831 company in the case of a limited liability company.

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

834 (f) "Special low-income housing tax credit certificate" means a certificate:  
835 (i) prescribed by the commission;  
836 (ii) that a housing sponsor issues to a taxpayer for a taxable year; and  
837 (iii) that specifies the amount of tax credit a taxpayer may claim under this section if  
838 the taxpayer meets the requirements of this section.

839 (g) "Taxpayer" means a person that is allowed a tax credit in accordance with this  
840 section which is the corporation in the case of a C corporation, the partners in the case of a  
841 partnership, the shareholders in the case of an S corporation, and the members in the case of a  
842 limited liability company.

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

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

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

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

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

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

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

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

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

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

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

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

865 (A) 12.5 cents; and

866 (B) the population of Utah.

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

869 (3) (a) ~~[By October 1, 1994, the]~~ The Utah Housing Corporation shall determine  
870 criteria and procedures for allocating the tax credit under this section ~~[and Section 59-10-129]~~  
871 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified  
872 allocation plan.

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

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

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

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

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

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

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

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

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

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

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

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

896 Corporation.

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

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

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

902 (i) the taxpayers issued a special low-income housing tax credit certificate; and

903 (ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed  
904 on the special low-income housing tax credit certificate.

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

906 (i) to the commission;

907 (ii) on a form provided by the commission; and

908 (iii) with the housing sponsor's tax return for each taxable year for which the housing  
909 sponsor issues a special low-income housing tax credit certificate described in this Subsection  
910 (7).

911 (8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue  
912 Code, shall apply to this section.

913 (b) (i) If a taxpayer is required to recapture a portion of any federal low-income  
914 housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax  
915 credits authorized by this section.

916 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
917 that equals the proportion the federal recapture amount bears to the original federal low-income  
918 housing tax credit amount subject to recapture.

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

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

923 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the  
924 tax credit exceeds the tax, may be carried back three years or may be carried forward five years  
925 as a credit against the tax.

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

- 927 (i) before the application of the tax credits earned in the current year; and  
928 (ii) on a first-earned first-used basis.
- 929 (11) Any tax credit taken in this section may be subject to an annual audit by the  
930 commission.
- 931 (12) The Utah Housing Corporation shall provide an annual report to the Revenue and  
932 Taxation Interim Committee which shall include at least:
- 933 (a) the purpose and effectiveness of the tax credits; and  
934 (b) the benefits of the tax credits to the state.
- 935 (13) The commission may, in consultation with the Utah Housing Corporation,  
936 promulgate rules to implement this section.
- 937 Section 15. Section **59-7-703** is amended to read:
- 938 **59-7-703. Payment or withholding of tax on behalf of nonresident shareholders --**  
939 **Rate.**
- 940 (1) As used in this section, "return" means:
- 941 (a) if a nonresident shareholder is required to file a return under this chapter, a return  
942 filed under this chapter; or
- 943 (b) if a nonresident shareholder is required to file a return under Chapter 10, Individual  
944 Income Tax Act, a return filed under Chapter 10, Individual Income Tax Act.
- 945 (2) (a) Except as provided in Subsection (4), an S corporation shall pay or withhold a  
946 tax on behalf of any nonresident shareholder.
- 947 (b) The amount paid or withheld by an S corporation under Subsection (2)(a) shall be  
948 determined by:
- 949 (i) calculating the items of income or loss from federal form 1120S, Schedule K;  
950 (ii) applying the apportionment formula to determine the amount apportioned to Utah;  
951 (iii) reducing the amount apportioned to Utah by the percentage of ownership  
952 attributable to resident shareholders; and
- 953 (iv) applying the rate to the remaining balance.
- 954 (3) (a) For a nonresident shareholder who is required to file a return under this chapter:
- 955 (i) the nonresident shareholder may claim a credit on the nonresident shareholder's  
956 return for the amount of tax paid or withheld by the S corporation on behalf of the nonresident  
957 shareholder;

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

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

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

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

964 (b) If a nonresident shareholder is required to file a return under Chapter 10, Individual  
965 Income Tax Act, the nonresident shareholder is subject to Section [~~59-10-108.2~~] 59-10-1103.

966 (4) Notwithstanding Subsection (2), the obligation to pay or withhold a tax under  
967 Subsection (2) does not apply to an organization that is exempt under Subsection  
968 59-7-102(1)(a) from the taxes imposed by this chapter.

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

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

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

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

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

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

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

986 (8) (a) An S corporation shall furnish each nonresident shareholder a statement  
987 showing:

988 (i) the amount of the nonresident shareholder's share of the corporate earnings from

989 Utah sources; and

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

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

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

994 (ii) on forms furnished by the commission.

995 Section 16. Section **59-10-103** is amended to read:

996 **59-10-103. Definitions.**

997 (1) As used in this chapter:

998 [~~(a) "Adoption expenses" means:~~]

999 [~~(i) any actual medical and hospital expenses of the mother of the adopted child which  
1000 are incident to the child's birth;~~]

1001 [~~(ii) any welfare agency fees or costs;~~]

1002 [~~(iii) any child placement service fees or costs;~~]

1003 [~~(iv) any legal fees or costs; or~~]

1004 [~~(v) any other fees or costs relating to an adoption.]~~]

1005 [~~(b) "Adult with a disability" means an individual who:~~]

1006 [~~(i) is 18 years of age or older;~~]

1007 [~~(ii) is eligible for services under Title 62A, Chapter 5, Services to People with  
1008 Disabilities; and~~]

1009 [~~(iii) is not enrolled in:~~]

1010 [~~(A) an education program for students with disabilities that is authorized under  
1011 Section 53A-15-301; or~~]

1012 [~~(B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.]~~]

1013 [~~(c) (i) For purposes of Subsection 59-10-114(2)(m), "capital gain transaction" means a  
1014 transaction that results in a:~~]

1015 [~~(A) short-term capital gain; or~~]

1016 [~~(B) long-term capital gain.]~~]

1017 [~~(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1018 the commission may by rule define the term "transaction."]~~]

1019 [~~(d) "Commercial domicile" means the principal place from which the trade or business~~]

1020 of a ~~Utah small business corporation is directed or managed.]~~

1021 (a) "Adjusted gross income" is as defined in Section 62, Internal Revenue Code.

1022 ~~[(e)]~~ (b) "Corporation" includes:

1023 (i) associations;

1024 (ii) joint stock companies; and

1025 (iii) insurance companies.

1026 ~~[(f) "Dependent child with a disability" means an individual 21 years of age or younger~~

1027 ~~who:]~~

1028 ~~[(i) (A) is diagnosed by a school district representative under rules adopted by the State~~

1029 ~~Board of Education as having a disability classified as:]~~

1030 ~~[(I) autism;]~~

1031 ~~[(II) deafness;]~~

1032 ~~[(III) preschool developmental delay;]~~

1033 ~~[(IV) dual sensory impairment;]~~

1034 ~~[(V) hearing impairment;]~~

1035 ~~[(VI) intellectual disability;]~~

1036 ~~[(VII) multidisability;]~~

1037 ~~[(VIII) orthopedic impairment;]~~

1038 ~~[(IX) other health impairment;]~~

1039 ~~[(X) traumatic brain injury; or]~~

1040 ~~[(XI) visual impairment;]~~

1041 ~~[(B) is not receiving residential services from:]~~

1042 ~~[(I) the Division of Services for People with Disabilities created under Section~~

1043 ~~62A-5-102; or]~~

1044 ~~[(II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;~~

1045 ~~and]~~

1046 ~~[(C) is enrolled in:]~~

1047 ~~[(I) an education program for students with disabilities that is authorized under Section~~

1048 ~~53A-15-301; or]~~

1049 ~~[(II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;~~

1050 ~~or]~~

1051 ~~[(ii) is identified under guidelines of the Department of Health as qualified for:]~~  
 1052 ~~[(A) Early Intervention; or]~~  
 1053 ~~[(B) Infant Development Services.]~~  
 1054 ~~[(g)]~~ (c) "Employee" is as defined in Section 59-10-401.  
 1055 ~~[(h)]~~ (d) "Employer" is as defined in Section 59-10-401.  
 1056 (e) "Federal taxable income" means taxable income as defined by Section 63, Internal  
 1057 Revenue Code.  
 1058 ~~[(i)]~~ (f) "Fiduciary" means:  
 1059 (i) a guardian;  
 1060 (ii) a trustee;  
 1061 (iii) an executor;  
 1062 (iv) an administrator;  
 1063 (v) a receiver;  
 1064 (vi) a conservator; or  
 1065 (vii) any person acting in any fiduciary capacity for any individual.  
 1066 ~~[(j)]~~ (g) "Homesteaded land diminished from the Uintah and Ouray Reservation"  
 1067 means the homesteaded land that was held to have been diminished from the Uintah and Ouray  
 1068 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).  
 1069 ~~[(k)]~~ (h) "Individual" means a natural person and includes aliens and minors.  
 1070 ~~[(l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate~~  
 1071 ~~all or part of the trust without the consent of a person who has a substantial beneficial interest~~  
 1072 ~~in the trust and the interest would be adversely affected by the exercise of the settlor's power to~~  
 1073 ~~revoke or terminate all or part of the trust.]~~  
 1074 ~~[(m) For purposes of Subsection 59-10-114(2)(m), "long-term capital gain" is as~~  
 1075 ~~defined in Section 1222, Internal Revenue Code.]~~  
 1076 ~~[(n)]~~ (i) "Nonresident individual" means an individual who is not a resident of this  
 1077 state.  
 1078 ~~[(o)]~~ (j) "Nonresident trust" or "nonresident estate" means a trust or estate which is not  
 1079 a resident estate or trust.  
 1080 ~~[(p)]~~ (k) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other  
 1081 unincorporated organization:

1082 (A) through or by means of which any business, financial operation, or venture is  
 1083 carried on; and

1084 (B) which is not, within the meaning of this chapter:

1085 (I) a trust;

1086 (II) an estate; or

1087 (III) a corporation.

1088 (ii) "Partnership" does not include any organization not included under the definition of  
 1089 "partnership" in Section 761, Internal Revenue Code.

1090 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
 1091 organization described in Subsection (1)~~(p)~~(k)(i).

1092 ~~[(q) "Qualifying military service member" means a member of:]~~

1093 ~~[(i) The Utah Army National Guard;]~~

1094 ~~[(ii) The Utah Air National Guard; or]~~

1095 ~~[(iii) the following if the member is assigned to a unit that is located in the state:]~~

1096 ~~[(A) The Army Reserve;]~~

1097 ~~[(B) The Naval Reserve;]~~

1098 ~~[(C) The Air Force Reserve;]~~

1099 ~~[(D) The Marine Corps Reserve; or]~~

1100 ~~[(E) The Coast Guard Reserve.]~~

1101 ~~[(r) "Qualifying stock" means stock that is:]~~

1102 ~~[(i) (A) common; or]~~

1103 ~~[(B) preferred;]~~

1104 ~~[(ii) as defined by the commission by rule, originally issued to:]~~

1105 ~~[(A) a resident or nonresident individual; or]~~

1106 ~~[(B) a partnership if the resident or nonresident individual making a subtraction from~~  
 1107 ~~federal taxable income in accordance with Subsection 59-10-114(2)(m):]~~

1108 ~~[(D) was a partner when the stock was issued; and]~~

1109 ~~[(H) remains a partner until the last day of the taxable year for which the resident or~~  
 1110 ~~nonresident individual makes the subtraction from federal taxable income in accordance with~~  
 1111 ~~Subsection 59-10-114(2)(m); and]~~

1112 ~~[(iii) issued:]~~

- 1113 ~~[(A) by a Utah small business corporation;]~~  
 1114 ~~[(B) on or after January 1, 2003; and]~~  
 1115 ~~[(C) for:]~~  
 1116 ~~[(F) money; or]~~  
 1117 ~~[(H) other property, except for stock or securities.]~~  
 1118 ~~[(s)]~~ (l) (i) "Resident individual" means:  
 1119 (A) an individual who is domiciled in this state for any period of time during the  
 1120 taxable year, but only for the duration of the period during which the individual is domiciled in  
 1121 this state; or  
 1122 (B) an individual who is not domiciled in this state but:  
 1123 (I) maintains a permanent place of abode in this state; and  
 1124 (II) spends in the aggregate 183 or more days of the taxable year in this state.  
 1125 (ii) For purposes of Subsection (1)~~[(s)]~~(l)(i)(B), a fraction of a calendar day shall be  
 1126 counted as a whole day.  
 1127 ~~[(t)]~~ (m) "Resident estate" or "resident trust" is as defined in Section 75-7-103.  
 1128 ~~[(u) For purposes of Subsection 59-10-114(2)(m), "short-term capital gain" is as~~  
 1129 ~~defined in Section 1222, Internal Revenue Code.]~~  
 1130 ~~[(v) "Taxable income" and "state taxable income" are defined as provided in Sections~~  
 1131 ~~59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.]~~  
 1132 (n) "Taxable income" or "state taxable income":  
 1133 (i) subject to Subsection 59-10-302(2), for a resident individual, means the resident  
 1134 individual's adjusted gross income after making the additions and subtractions required by  
 1135 Sections 59-10-114 and 59-10-115;  
 1136 (ii) for a nonresident individual, is as defined in Section 59-10-116;  
 1137 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and  
 1138 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.  
 1139 ~~[(w)]~~ (o) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or  
 1140 trust, whose income is subject in whole or part to the tax imposed by this chapter.  
 1141 ~~[(x)]~~ (p) "Uintah and Ouray Reservation" means the lands recognized as being included  
 1142 within the Uintah and Ouray Reservation in:  
 1143 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

1144 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

1145 [~~(y) (i) "Utah small business corporation" means a corporation that:~~

1146 [~~(A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue~~

1147 ~~Code;~~]

1148 [~~(B) except as provided in Subsection (1)(y)(ii), meets the requirements of Section~~

1149 ~~1244(c)(1)(C), Internal Revenue Code; and]~~

1150 [~~(C) has its commercial domicile in this state.]~~

1151 [~~(ii) Notwithstanding Subsection (1)(y)(i)(B), the time period described in Section~~

1152 ~~1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a~~

1153 ~~corporation's aggregate gross receipts shall end on the last day of the taxable year for which the~~

1154 ~~resident or nonresident individual makes a subtraction from federal taxable income in~~

1155 ~~accordance with Subsection 59-10-114(2)(m).]~~

1156 [~~(z) (q) "Ute tribal member" means a person who is enrolled as a member of the Ute~~

1157 ~~Indian Tribe of the Uintah and Ouray Reservation.~~

1158 [~~(aa) (r) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.~~

1159 [~~(bb) (s) "Wages" is as defined in Section 59-10-401.~~

1160 (2) (a) Any term used in this chapter has the same meaning as when used in

1161 comparable context in the laws of the United States relating to federal income taxes unless a

1162 different meaning is clearly required.

1163 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall

1164 mean the Internal Revenue Code or other provisions of the laws of the United States relating to

1165 federal income taxes that are in effect for the taxable year.

1166 (c) Any reference to a specific section of the Internal Revenue Code or other provision

1167 of the laws of the United States relating to federal income taxes shall include any

1168 corresponding or comparable provisions of the Internal Revenue Code as hereafter amended,

1169 redesignated, or reenacted.

1170 Section 17. Section **59-10-104** is amended to read:

1171 **59-10-104. Tax basis -- Rates.**

1172 (1) [~~Except as provided in Subsection (4), for]~~ For taxable years beginning on or after

1173 January 1, [~~2001~~] 2007, a tax is imposed on the state taxable income[~~, as defined in Section~~

1174 ~~59-10-112;~~] of every resident individual as provided in this section.

1175 ~~[(2) For an individual, other than a husband and wife or head of household required to~~  
 1176 ~~use the tax table under Subsection (3), the tax under this section is imposed in accordance with~~  
 1177 ~~the following table:]~~

1178	<del>[If the state taxable income is: _____</del>	<del>The tax is:]</del>
1179	<del>[Less than or equal to \$863 _____</del>	<del>2.3% of the state taxable income]</del>
1180	<del>Greater than \$863 but less than or equal _____</del>	<del>\$20, plus 3.3% of state taxable]</del>
1181	<del>[to \$1,726 _____</del>	<del>income greater than \$863]</del>
1182	<del>Greater than \$1,726 but less than or equal _____</del>	<del>\$48, plus 4.2% of state taxable]</del>
1183	<del>[to \$2,588 _____</del>	<del>income greater than \$1,726]</del>
1184	<del>Greater than \$2,588 but less than or equal _____</del>	<del>\$85, plus 5.2% of state taxable]</del>
1185	<del>[to \$3,450 _____</del>	<del>income greater than \$2,588]</del>
1186	<del>[Greater than \$3,450 but less than or equal _____</del>	<del>\$129, plus 6% of state taxable]</del>
1187	<del>[to \$4,313 _____</del>	<del>income greater than \$3,450]</del>
1188	<del>Greater than \$4,313 _____</del>	<del>\$181, plus 7% of state taxable]</del>
1189	<del>[ _____</del>	<del>income greater than \$4,313]</del>

1190 ~~[(3) For a husband and wife filing a single return jointly, or a head of household as~~  
 1191 ~~defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section~~  
 1192 ~~is imposed in accordance with the following table:]~~

1193	<del>[If the state taxable income is: _____</del>	<del>The tax is:]</del>
1194	<del>[Less than or equal to \$1,726 _____</del>	<del>2.3% of the state taxable income]</del>
1195	<del>[Greater than \$1,726 but less than or equal _____</del>	<del>\$40, plus 3.3% of state taxable]</del>
1196	<del>[to \$3,450 _____</del>	<del>income greater than \$1,726]</del>
1197	<del>[Greater than \$3,450 but less than or equal _____</del>	<del>\$97, plus 4.2% of state taxable]</del>
1198	<del>[to \$5,176 _____</del>	<del>income greater than \$3,450]</del>
1199	<del>[Greater than \$5,176 but less than or equal _____</del>	<del>\$169, plus 5.2% of state taxable]</del>
1200	<del>[to \$6,900 _____</del>	<del>income greater than \$5,176]</del>
1201	<del>[Greater than \$6,900 but less than or equal _____</del>	<del>\$259, plus 6% of state taxable]</del>
1202	<del>[to \$8,626 _____</del>	<del>income greater than \$6,900]</del>
1203	<del>[Greater than \$8,626 _____</del>	<del>\$362, plus 7% of state taxable]</del>
1204	<del>[ _____</del>	<del>income greater than \$8,626]</del>

1205 ~~[(4) This section does not apply to a resident individual exempt from taxation under~~

1206 Section ~~59-10-104.1.~~]

1207 (2) The tax imposed by this section is equal to the product of:

1208 (a) a resident individual's state taxable income for the taxable year; and

1209 (b) 4.9%.

1210 Section 18. Section **59-10-114** is amended to read:

1211 **59-10-114. Additions to and subtractions from adjusted gross income of an**  
1212 **individual.**

1213 (1) There shall be added to [~~federal taxable~~] adjusted gross income of a resident or  
1214 nonresident individual[:] the amount disbursed to an account owner under Title 53B, Chapter  
1215 8a, Higher Education Savings Incentive Program:

1216 (a) if the amount disbursed to the account owner is not expended for higher education  
1217 costs as defined in Section 53B-8a-102; and

1218 (b) for the taxable year for which the amount described in Subsection (1)(a) is  
1219 disbursed.

1220 [~~(a) the amount of any income tax imposed by this or any predecessor Utah individual~~  
1221 ~~income tax law and the amount of any income tax imposed by the laws of another state, the~~  
1222 ~~District of Columbia, or a possession of the United States, to the extent deducted from federal~~  
1223 ~~adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal~~  
1224 ~~taxable income;]~~

1225 [~~(b) a lump sum distribution that the taxpayer does not include in adjusted gross~~  
1226 ~~income on the taxpayer's federal individual income tax return for the taxable year;]~~

1227 [~~(c) for taxable years beginning on or after January 1, 2002, the amount of a child's~~  
1228 ~~income calculated under Subsection (5) that:]~~

1229 [~~(i) a parent elects to report on the parent's federal individual income tax return for the~~  
1230 ~~taxable year; and]~~

1231 [~~(ii) the parent does not include in adjusted gross income on the parent's federal~~  
1232 ~~individual income tax return for the taxable year;]~~

1233 [~~(d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue~~  
1234 ~~Code;]~~

1235 [~~(e) a withdrawal from a medical care savings account and any penalty imposed in the~~  
1236 ~~taxable year if:]~~

1237           ~~[(i) the taxpayer did not deduct or include the amounts on the taxpayer's federal~~  
1238 ~~individual income tax return pursuant to Section 220, Internal Revenue Code; and]~~  
1239           ~~[(ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);]~~  
1240           ~~[(f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher~~  
1241 ~~Education Savings Incentive Program, in the year in which the amount is disbursed;]~~  
1242           ~~[(g) except as provided in Subsection (6), for taxable years beginning on or after~~  
1243 ~~January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after~~  
1244 ~~January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by~~  
1245 ~~one or more of the following entities:]~~  
1246           ~~[(i) a state other than this state;]~~  
1247           ~~[(ii) the District of Columbia;]~~  
1248           ~~[(iii) a political subdivision of a state other than this state; or]~~  
1249           ~~[(iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i)~~  
1250 ~~through (iii);]~~  
1251           ~~[(h) any distribution received by a resident beneficiary of a resident trust of income that~~  
1252 ~~was taxed at the trust level for federal tax purposes, but was subtracted from state taxable~~  
1253 ~~income of the trust pursuant to Subsection 59-10-202(2)(c); and]~~  
1254           ~~[(i) any distribution received by a resident beneficiary of a nonresident trust of income~~  
1255 ~~that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by~~  
1256 ~~any state;]~~  
1257           (2) There shall be subtracted from ~~[federal taxable]~~ adjusted gross income of a resident  
1258 or nonresident individual:  
1259           (a) the interest or dividends on obligations or securities of the United States and its  
1260 possessions or of any authority, commission, or instrumentality of the United States, to the  
1261 extent includable in gross income for federal income tax purposes but exempt from state  
1262 income taxes under the laws of the United States, but the amount subtracted under this  
1263 Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to  
1264 purchase or carry the obligations or securities described in this Subsection (2)(a), and by any  
1265 expenses incurred in the production of interest or dividend income described in this Subsection  
1266 (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in  
1267 determining federal taxable income;

1268           ~~[(b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income~~  
1269 ~~tax paid or payable to the United States after all allowable credits, as reported on the United~~  
1270 ~~States individual income tax return of the taxpayer for the same taxable year; and]~~

1271           ~~[(ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after~~  
1272 ~~January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or~~  
1273 ~~nonresident individual's United States individual income tax return allowed as a result of the~~  
1274 ~~acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,~~  
1275 ~~Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be~~  
1276 ~~used in calculating the amount described in Subsection (2)(b)(i);]~~

1277           ~~[(c) the amount of adoption expenses for one of the following taxable years as elected~~  
1278 ~~by the resident or nonresident individual:]~~

1279           ~~[(i) regardless of whether a court issues an order granting the adoption, the taxable year~~  
1280 ~~in which the adoption expenses are:]~~

1281           ~~[(A) paid; or]~~

1282           ~~[(B) incurred;]~~

1283           ~~[(ii) the taxable year in which a court issues an order granting the adoption; or]~~

1284           ~~[(iii) any year in which the resident or nonresident individual may claim the federal~~  
1285 ~~adoption expenses credit under Section 23, Internal Revenue Code;]~~

1286           ~~[(d) amounts received by taxpayers under age 65 as retirement income which, for~~  
1287 ~~purposes of this section, means pensions and annuities, paid from an annuity contract~~  
1288 ~~purchased by an employer under a plan which meets the requirements of Section 404(a)(2),~~  
1289 ~~Internal Revenue Code, or purchased by an employee under a plan which meets the~~  
1290 ~~requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or~~  
1291 ~~political subdivision thereof, or the District of Columbia, to the employee involved or the~~  
1292 ~~surviving spouse;]~~

1293           ~~[(e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500~~  
1294 ~~personal retirement exemption;]~~

1295           ~~[(f) 75% of the amount of the personal exemption, as defined and calculated in the~~  
1296 ~~Internal Revenue Code, for each dependent child with a disability and adult with a disability~~  
1297 ~~who is claimed as a dependent on a taxpayer's return;]~~

1298           ~~[(g) any amount included in federal taxable income that was received pursuant to any~~

1299 federal law enacted in 1988 to provide reparation payments, as damages for human suffering,  
1300 to United States citizens and resident aliens of Japanese ancestry who were interned during  
1301 World War II;]

1302 [~~(h)~~ subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the  
1303 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:]

1304 [~~(i)~~ for:]

1305 [~~(A)~~ the taxpayer;]

1306 [~~(B)~~ the taxpayer's spouse; and]

1307 [~~(C)~~ the taxpayer's dependents; and]

1308 [~~(ii)~~ to the extent the taxpayer does not deduct the amounts under Section 125, 162, or  
1309 213, Internal Revenue Code, in determining federal taxable income for the taxable year;]

1310 [~~(i)~~ (i) except as otherwise provided in this Subsection (2)(i), the amount of a  
1311 contribution made during the taxable year on behalf of the taxpayer to a medical care savings  
1312 account and interest earned on a contribution to a medical care savings account established  
1313 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the  
1314 contribution is accepted by the account administrator as provided in the Medical Care Savings  
1315 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal  
1316 individual income tax return pursuant to Section 220, Internal Revenue Code; and]

1317 [~~(ii)~~ a contribution deductible under this Subsection (2)(i) may not exceed either of the  
1318 following:]

1319 [~~(A)~~ the maximum contribution allowed under the Medical Care Savings Account Act  
1320 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is  
1321 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that  
1322 covers the other spouse, and each spouse has a medical care savings account; or]

1323 [~~(B)~~ the maximum contribution allowed under the Medical Care Savings Account Act  
1324 for the tax year for taxpayers:]

1325 [~~(I)~~ who do not file a joint return; or]

1326 [~~(II)~~ who file a joint return, but do not qualify under Subsection (2)(i)(ii)(A);]

1327 [~~(j)~~ the amount included in federal taxable income that was derived from money paid  
1328 by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education  
1329 Savings Incentive Program, not to exceed amounts determined under Subsection

1330 ~~53B-8a-106(1)(d), and investment income earned on account agreements entered into under~~  
1331 ~~Section 53B-8a-106 that is included in federal taxable income, but only when the funds are~~  
1332 ~~used for qualified higher education costs of the beneficiary;]~~

1333 ~~[(k) for taxable years beginning on or after January 1, 2000, any amounts paid for~~  
1334 ~~premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the~~  
1335 ~~amounts paid for long-term care insurance were not deducted under Section 213, Internal~~  
1336 ~~Revenue Code, in determining federal taxable income;]~~

1337 ~~[(†) (b) for taxable years beginning on or after January 1, 2000, if the conditions of~~  
1338 ~~Subsection [(†) (3)(a) are met, the amount of income derived by a Ute tribal member:~~

1339 ~~(i) during a time period that the Ute tribal member resides on homesteaded land~~  
1340 ~~diminished from the Uintah and Ouray Reservation; and~~

1341 ~~(ii) from a source within the Uintah and Ouray Reservation;~~

1342 ~~(c) an amount received by a resident or nonresident individual or distribution received~~  
1343 ~~by a resident beneficiary of a resident trust:~~

1344 ~~(i) if that amount or distribution constitutes a refund of taxes imposed by:~~

1345 ~~(A) a state; or~~

1346 ~~(B) the District of Columbia; and~~

1347 ~~(ii) to the extent that amount or distribution is included in adjusted gross income for~~  
1348 ~~that taxable year on the federal individual income tax return of the resident or nonresident~~  
1349 ~~individual or resident beneficiary of a resident trust;~~

1350 ~~(d) the amount of a railroad retirement benefit:~~

1351 ~~(i) paid:~~

1352 ~~(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec 231 et~~  
1353 ~~seq.;~~

1354 ~~(B) to a resident or nonresident individual; and~~

1355 ~~(C) for the taxable year; and~~

1356 ~~(ii) to the extent that railroad retirement benefit is included in adjusted gross income on~~  
1357 ~~that resident or nonresident individual's federal individual income tax return for that taxable~~  
1358 ~~year; and~~

1359 ~~(e) an amount:~~

1360 ~~(i) received by an enrolled member of an American Indian tribe; and~~

1361 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
1362 part on that amount in accordance with:

1363 (A) federal law;

1364 (B) a treaty; or

1365 (C) a final decision issued by a court of competent jurisdiction.

1366 ~~[(m)(i) for taxable years beginning on or after January 1, 2003, the total amount of a~~  
1367 ~~resident or nonresident individual's short-term capital gain or long-term capital gain on a~~  
1368 ~~capital gain transaction:]~~

1369 ~~[(A) that occurs on or after January 1, 2003;]~~

1370 ~~[(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:]~~

1371 ~~[(D) to purchase qualifying stock in a Utah small business corporation; and]~~

1372 ~~[(H) within a 12-month period after the day on which the capital gain transaction~~  
1373 ~~occurs; and]~~

1374 ~~[(C) if, prior to the purchase of the qualifying stock described in Subsection~~  
1375 ~~(2)(m)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the~~  
1376 ~~Utah small business corporation that issued the qualifying stock; and]~~

1377 ~~[(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
1378 ~~the commission may make rules:]~~

1379 ~~[(A) defining the term "gross proceeds"; and]~~

1380 ~~[(B) for purposes of Subsection (2)(m)(i)(C), prescribing the circumstances under~~  
1381 ~~which a resident or nonresident individual has an ownership interest in a Utah small business~~  
1382 ~~corporation; and]~~

1383 ~~[(n) for the taxable year beginning on or after January 1, 2005, but beginning on or~~  
1384 ~~before December 31, 2005, the first \$2,200 of income a qualifying military service member~~  
1385 ~~receives:]~~

1386 ~~[(i) for service:]~~

1387 ~~[(A) as a qualifying military service member; or]~~

1388 ~~[(B) under an order into active service in accordance with Section 39-1-5; and]~~

1389 ~~[(ii) to the extent that income is included in adjusted gross income on that resident or~~  
1390 ~~nonresident individual's federal individual income tax return for that taxable year.]~~

1391 ~~[(3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted~~

1392 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or  
1393 \$4,800, except that:]

1394        [(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1395 earned over \$32,000, the amount of the retirement income exemption that may be subtracted  
1396 shall be reduced by 50 cents;]

1397        [(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1398 earned over \$16,000, the amount of the retirement income exemption that may be subtracted  
1399 shall be reduced by 50 cents; and]

1400        [(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1401 \$25,000, the amount of the retirement income exemption that may be subtracted shall be  
1402 reduced by 50 cents;]

1403        [(b) For purposes of Subsection (2)(e), the amount of the personal retirement  
1404 exemption shall be further reduced according to the following schedule:]

1405        [(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1406 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50  
1407 cents;]

1408        [(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1409 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50  
1410 cents; and]

1411        [(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1412 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents;]

1413        [(c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be  
1414 calculated by adding to federal adjusted gross income any interest income not otherwise  
1415 included in federal adjusted gross income.]

1416        [(d) For purposes of determining ownership of items of retirement income common  
1417 law doctrine will be applied in all cases even though some items may have originated from  
1418 service or investments in a community property state. Amounts received by the spouse of a  
1419 living retiree because of the retiree's having been employed in a community property state are  
1420 not deductible as retirement income of such spouse.]

1421        [(e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care  
1422 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:]

1423           ~~[(i) for an amount that is reimbursed or funded in whole or in part by the federal~~  
1424 ~~government, the state, or an agency or instrumentality of the federal government or the state;~~  
1425 ~~and]~~

1426           ~~[(ii) for a taxpayer who is eligible to participate in a health plan maintained and funded~~  
1427 ~~in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.]~~

1428           ~~[(4)]~~ (3) (a) A subtraction for an amount described in Subsection (2)~~[(4)]~~(b) is allowed  
1429 only if:

1430           (i) the taxpayer is a Ute tribal member; and

1431           (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1432 requirements of this Subsection ~~[(4)]~~ (3).

1433           (b) The agreement described in Subsection ~~[(4)]~~ (3)(a):

1434           (i) may not:

1435           (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1436           (B) provide a subtraction under this section greater than or different from the  
1437 subtraction described in Subsection (2)~~[(4)]~~(b); or

1438           (C) affect the power of the state to establish rates of taxation; and

1439           (ii) shall:

1440           (A) provide for the implementation of the subtraction described in Subsection  
1441 ~~(2)~~(b);

1442           (B) be in writing;

1443           (C) be signed by:

1444           (I) the governor; and

1445           (II) the chair of the Business Committee of the Ute tribe;

1446           (D) be conditioned on obtaining any approval required by federal law; and

1447           (E) state the effective date of the agreement.

1448           (c) (i) The governor shall report to the commission by no later than February 1 of each  
1449 year regarding whether or not an agreement meeting the requirements of this Subsection ~~[(4)]~~  
1450 (3) is in effect.

1451           (ii) If an agreement meeting the requirements of this Subsection ~~[(4)]~~ (3) is terminated,  
1452 the subtraction permitted under Subsection (2)~~[(4)]~~(b) is not allowed for taxable years  
1453 beginning on or after the January 1 following the termination of the agreement.

1454 (d) For purposes of Subsection (2)(~~f~~)(b) and in accordance with Title 63, Chapter 46a,  
1455 Utah Administrative Rulemaking Act, the commission may make rules:

1456 (i) for determining whether income is derived from a source within the Uintah and  
1457 Ouray Reservation; and

1458 (ii) that are substantially similar to how [federal] adjusted gross income derived from  
1459 Utah sources is determined under Section 59-10-117.

1460 [~~(5) (a) For purposes of this Subsection (5), "Form 8814" means:~~]

1461 [~~(i) the federal individual income tax Form 8814, Parents' Election To Report Child's  
1462 Interest and Dividends; or]~~

1463 [~~(ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
1464 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
1465 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
1466 on 2000 Form 8814 is reported on a form other than Form 8814; and]~~

1467 [~~(B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
1468 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
1469 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
1470 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
1471 8814.]~~

1472 [~~(b) The amount of a child's income added to adjusted gross income under Subsection  
1473 (1)(c) is equal to the difference between:]~~

1474 [~~(i) the lesser of:]~~

1475 [~~(A) the base amount specified on Form 8814; and]~~

1476 [~~(B) the sum of the following reported on Form 8814:]~~

1477 [~~(I) the child's taxable interest;]~~

1478 [~~(II) the child's ordinary dividends; and]~~

1479 [~~(III) the child's capital gain distributions; and]~~

1480 [~~(ii) the amount not taxed that is specified on Form 8814.]~~

1481 [~~(6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences  
1482 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be  
1483 added to federal taxable income of a resident or nonresident individual if, as annually  
1484 determined by the commission:]~~

1485           ~~[(a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the~~  
1486 ~~political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on~~  
1487 ~~income on any part of the bonds, notes, and other evidences of indebtedness of this state; or]~~

1488           ~~[(b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose~~  
1489 ~~a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of~~  
1490 ~~this state:]~~

1491           ~~[(i) the entity; or]~~

1492           ~~[(ii) (A) the state in which the entity is located; or]~~

1493           ~~[(B) the District of Columbia, if the entity is located within the District of Columbia.]~~

1494           Section 19. Section **59-10-115** is amended to read:

1495           **59-10-115. Equitable adjustments.**

1496           ~~[(1) If any provision of the Internal Revenue Code requires the inclusion of an item of~~  
1497 ~~gross income or the allowance of an item of deduction from gross income in the computation~~  
1498 ~~of federal taxable income of the taxpayer for any taxable year beginning on or after the~~  
1499 ~~effective date of this chapter, and if such item has been taken into account in computing the~~  
1500 ~~taxable income of the taxpayer for state income tax purposes for any prior taxable year, the~~  
1501 ~~commission shall make or allow such adjustments to the taxpayer's state taxable income as are~~  
1502 ~~necessary to prevent the inclusion for a second time or the deduction for a second time of such~~  
1503 ~~item for state income tax purposes.]~~

1504           ~~[(2) If in a return filed for any taxable year beginning on or after the effective date of~~  
1505 ~~this chapter, the taxpayer reports gain or loss from the disposition of property or claims a~~  
1506 ~~deduction for depreciation of property, and if his basis for gain or loss on the disposition of~~  
1507 ~~such property or for allowance of the depreciation deduction for the exhaustion, wear, and tear~~  
1508 ~~thereof (including a reasonable allowance for obsolescence) is different for federal income tax~~  
1509 ~~purposes than it would be for state income tax purposes if the provisions of former Title 59,~~  
1510 ~~Chapter 14, were applicable to such taxable year, the commission shall (anything in this~~  
1511 ~~chapter to the contrary notwithstanding) allow or make such adjustment to state taxable income~~  
1512 ~~of the taxpayer for such taxable year as will result in the use by the taxpayer of the same basis,~~  
1513 ~~for such purpose, that he would be allowed or required to use in reporting such gain or loss or~~  
1514 ~~claiming such depreciation deduction if the provisions of former Title 59, Chapter 14, were~~  
1515 ~~applicable to the taxable year.]~~

1516 ~~[(3) If the taxpayer receives, in any taxable year beginning on or after the effective date~~  
 1517 ~~of this chapter, a distribution from an electing small business corporation, as defined by~~  
 1518 ~~Section 1371(b) of the Internal Revenue Code, of a net share of the corporation's undistributed~~  
 1519 ~~taxable income for a taxable year or years prior to the taxable year in which such distribution is~~  
 1520 ~~made, the commission shall make such adjustment to state taxable income as will prevent~~  
 1521 ~~escape from taxation by this state of such undistributed taxable income previously taxed to the~~  
 1522 ~~taxpayer for federal income tax purposes but not for state income tax purposes.]~~

1523 ~~[(4)]~~ (1) The commission shall ~~[by rule prescribe for adjustments]~~ allow an adjustment  
 1524 to [state taxable] adjusted gross income or an addition or subtraction required by Section  
 1525 59-10-114 of [the] a taxpayer [in circumstances other than those specified by Subsections (1);  
 1526 (2), and (3) of this section where, solely by reason of the enactment of this chapter;] if the  
 1527 taxpayer would otherwise;

1528 (a) receive ~~[or have received]~~ a double tax benefit under this part; or  
 1529 (b) suffer ~~[or have suffered]~~ a double tax detriment under this part. ~~[Anything in this~~  
 1530 ~~section or this chapter to the contrary notwithstanding, the commission may not make any~~  
 1531 ~~adjustment pursuant to this section which will result in an increase or decrease of tax liability~~  
 1532 ~~the amount of which is less than \$25.]~~

1533 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 1534 commission may make rules to allow for the adjustment, addition, or subtraction required by  
 1535 Subsection (1).

1536 Section 20. Section **59-10-116** is amended to read:

1537 **59-10-116. Definitions -- Tax on nonresident individual -- Calculation --**

1538 **Rulemaking authority.**

1539 (1) For purposes of this section:

1540 (a) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101[?].

1541 (b) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101[?].

1542 (c) "State income tax percentage" means a percentage equal to a nonresident  
 1543 individual's ~~[federal]~~ adjusted gross income for the taxable year received from Utah sources, as  
 1544 determined under Section 59-10-117, divided by the difference between:

1545 (i) the nonresident individual's total ~~[federal]~~ adjusted gross income for that taxable  
 1546 year; and

1547 (ii) if the nonresident individual described in Subsection (1)(c)(i) is a servicemember,  
 1548 the compensation the servicemember receives for military service if the servicemember is  
 1549 serving in compliance with military orders~~[-and]~~.

1550 (d) "State taxable income" means a nonresident individual's adjusted gross income  
 1551 after making the additions and subtractions required by Sections 59-10-114 and 59-10-115.

1552 ~~[(d)]~~ (e) "Unapportioned state tax" means the product of the:

1553 (i) difference between:

1554 (A) a nonresident individual's ~~[federal taxable income, as defined in Section~~  
 1555 ~~59-10-111, with the modifications, subtractions, and adjustments provided for in Section~~  
 1556 ~~59-10-114]~~ state taxable income; and

1557 (B) if the nonresident individual described in Subsection (1)~~[(d)]~~ (e)(i)(A) is a  
 1558 servicemember, compensation the servicemember receives for military service if the  
 1559 servicemember is serving in compliance with military orders; and

1560 (ii) tax rate imposed under Section 59-10-104.

1561 (2) ~~[Except as provided in Subsection (3), a]~~ A tax is imposed on a nonresident  
 1562 individual in an amount equal to the product of the nonresident individual's:

1563 (a) unapportioned state tax; and

1564 (b) state income tax percentage.

1565 ~~[(3) This section does not apply to a nonresident individual exempt from taxation~~  
 1566 ~~under Section 59-10-104.1.]~~

1567 ~~[(4)]~~ (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
 1568 Act, for purposes of Subsection (1), the commission may by rule define what constitutes  
 1569 compensation.

1570 Section 21. Section **59-10-117** is amended to read:

1571 **59-10-117. Federal adjusted gross income derived from Utah sources.**

1572 (1) For ~~[the purpose]~~ purposes of Section 59-10-116, ~~[federal]~~ adjusted gross income  
 1573 derived from Utah sources ~~[shall include]~~ includes those items includable in ~~[federal "adjusted~~  
 1574 ~~gross income" (as defined by Section 62 of the Internal Revenue Code)]~~ adjusted gross income  
 1575 attributable to or resulting from:

1576 (a) the ownership in this state of any interest in real or tangible personal property,

1577 ~~[(including real property or property rights from which "gross income from mining," as~~

- 1578 defined by Section 613(c) [~~of the~~], Internal Revenue Code, is derived[~~]~~; or
- 1579 (b) the carrying on of a business, trade, profession, or occupation in this state.
- 1580 (2) For the purposes of Subsection (1):
- 1581 (a) income from intangible personal property, including annuities, dividends, interest,
- 1582 and gains from the disposition of intangible personal property shall constitute income derived
- 1583 from Utah sources only to the extent that such income is from property employed in a trade,
- 1584 business, profession, or occupation carried on in this state[~~]~~;
- 1585 (b) deductions with respect to capital losses, net long-term capital gains, and net
- 1586 operating losses shall be based solely on income, gain, loss, and deduction connected with Utah
- 1587 sources, under rules prescribed by the commission in accordance with Title 63, Chapter 46a,
- 1588 Utah Administrative Rulemaking Act, but otherwise shall be determined in the same manner as
- 1589 the corresponding federal deductions[~~]~~;
- 1590 (c) salaries, wages, commissions, and compensation for personal services rendered
- 1591 outside this state shall not be considered to be derived from Utah sources[~~]~~;
- 1592 (d) a nonresident shareholder's distributive share of ordinary income, gain, loss, and
- 1593 deduction derived from or connected with Utah sources shall be determined under Section
- 1594 59-10-118[~~]~~;
- 1595 (e) a nonresident, other than a dealer holding property primarily for sale to customers
- 1596 in the ordinary course of his trade or business, [~~shall~~] may not be considered to carry on a trade,
- 1597 business, profession, or occupation in this state solely by reason of the purchase or sale of
- 1598 property for [~~his~~] the nonresident's own account[~~]~~;
- 1599 (f) if a trade, business, profession, or occupation is carried on partly within and partly
- 1600 without this state, items of income, gain, loss, and deductions derived from or connected with
- 1601 Utah sources shall be determined in accordance with the provisions of Section 59-10-118[~~]~~;
- 1602 (g) a nonresident partner's distributive share of partnership income, gain, loss, and
- 1603 deduction derived from or connected with Utah sources shall be determined under Section
- 1604 59-10-303[~~]~~;
- 1605 (h) the share of a nonresident estate or trust and nonresident beneficiaries of any estate
- 1606 or trust in income, gain, loss, and deduction derived from or connected with Utah sources shall
- 1607 be determined under Section 59-10-207[~~]~~; and
- 1608 (i) any dividend, interest, or distributive share of income, gain, or loss from a real

1609 estate investment trust, as defined in Section 59-7-116.5, distributed or allocated to a  
1610 nonresident investor in the trust, including any shareholder, beneficiary, or owner of a  
1611 beneficial interest in the trust, shall be income from intangible personal property under  
1612 Subsection (2)(a), and shall constitute income derived from Utah sources only to the extent the  
1613 nonresident investor is employing its beneficial interest in the trust in a trade, business,  
1614 profession, or occupation carried on by the investor in this state.

1615 Section 22. Section **59-10-118.1** is enacted to read:

1616 **59-10-118.1. Filing status.**

1617 Except as provided in Section 59-10-119 and subject to Section 59-10-503, a resident  
1618 or nonresident individual shall file a return under this chapter for a taxable year using the same  
1619 filing status as the resident or nonresident individual uses for filing a federal individual income  
1620 tax return for that same taxable year.

1621 Section 23. Section **59-10-119** is amended to read:

1622 **59-10-119. Returns by husband and wife, either or both of whom is a**  
1623 **nonresident.**

1624 (1) If the [~~federal taxable~~] adjusted gross income of a husband and wife [~~(both) who~~  
1625 are nonresidents of this state] is reported or determined on separate federal returns, [~~their~~] the  
1626 state taxable [~~incomes in this state~~] income of that husband and wife shall be separately  
1627 determined.

1628 (2) If the [~~federal taxable~~] adjusted gross income of a husband and wife [~~(both) who~~  
1629 are nonresidents] of this state is reported or determined on a joint return [~~their tax~~], the state  
1630 taxable income of that husband and wife shall be reported or determined in this state on a joint  
1631 return.

1632 (3) (a) If either a husband or wife is a nonresident and the other a resident, separate  
1633 taxes shall be determined on their separate state taxable incomes on such forms as the  
1634 commission shall prescribe, unless both elect to determine their state taxable income as if both  
1635 were residents.

1636 (b) If a husband and wife [~~(one being a resident, the other a nonresident)~~] described in  
1637 Subsection (3)(a) file a joint federal income tax return, but determine their state taxable income  
1638 separately, they shall compute their taxable incomes in this state as if their [~~federal taxable~~]  
1639 adjusted gross incomes had been determined separately.

1640 Section 24. Section **59-10-120** is amended to read:

1641 **59-10-120. Change of status as resident or nonresident.**

1642 (1) If an individual changes [~~his~~] that individual's status during [~~his~~] the taxable year  
1643 from resident to nonresident or from nonresident to resident, the commission may by rule  
1644 require [~~him~~] that individual to file one return for the portion of the year during which [~~he~~] the  
1645 individual is a resident and another return for the portion of the year during which [~~he~~] the  
1646 individual is a nonresident.

1647 (2) Except as provided in Subsection (3), the state taxable income of the individual  
1648 described in Subsection (1) shall be determined as provided in this chapter for residents and for  
1649 nonresidents as if the individual's taxable year for federal income tax purposes were limited to  
1650 the period of [~~his~~] the individual's resident and nonresident status respectively.

1651 (3) There shall be included in determining state taxable income from sources within or  
1652 without this state, as the case may be, income, gain, loss, or deduction accrued prior to the  
1653 change of status, even though not otherwise includable or allowable in respect of the period  
1654 prior to such change, but the taxation or deduction of items received or accrued prior to the  
1655 change of status shall not be affected by the change.

1656 Section 25. Section **59-10-121** is amended to read:

1657 **59-10-121. Proration when two returns required.**

1658 Where two returns are required to be filed as provided in Section 59-10-120[:(1)-  
1659 ~~personal exemptions and the standard deduction as used on the federal return shall be prorated~~  
1660 ~~between the two returns, under rules prescribed by the commission, to reflect the proportions of~~  
1661 ~~the taxable year during which the individual was a resident and a nonresident; and (2)], the  
1662 total of the taxes due [~~thereon shall~~] on those returns may not be less than would be due if the  
1663 total of the taxable incomes reported on the two returns were includable in one return.~~

1664 Section 26. Section **59-10-122** is amended to read:

1665 **59-10-122. Taxable year.**

1666 (1) For purposes of the tax imposed by this chapter, a taxpayer's taxable year shall be  
1667 the same as [~~his~~] the taxpayer's taxable year for federal income tax purposes.

1668 (2) (a) If a taxpayer's taxable year is changed for federal income tax purposes, [~~his~~] the  
1669 taxpayer's taxable year for purposes of the tax imposed by this chapter shall be similarly  
1670 changed.

1671 (b) If a change in taxable year results in a taxable period of less than 12 months for  
1672 federal income tax purposes, the same taxable period shall be used in computing the tax  
1673 imposed by this chapter.

1674 Section 27. Section **59-10-123** is amended to read:

1675 **59-10-123. Accounting method.**

1676 (1) For purposes of the tax imposed by this chapter, a taxpayer's method of accounting  
1677 shall be the same as the method employed for federal income tax purposes.

1678 (2) If a taxpayer's method of accounting is changed for federal income tax purposes,  
1679 ~~his~~ the taxpayer's method of accounting shall be similarly changed and reflected in each  
1680 return filed ~~[for Utah individual income tax purposes]~~ under this chapter for any taxable year  
1681 for which ~~such~~ the change is reflected in ~~his~~ the taxpayer's return for federal income tax  
1682 purposes.

1683 Section 28. Section **59-10-136** is enacted to read:

1684 **59-10-136. Carry forward of tax credits -- Rulemaking authority.**

1685 (1) Notwithstanding the repeal of a tax credit by this bill and subject to Subsection (2),  
1686 a claimant, estate, or trust may carry forward a tax credit repealed by this bill:

1687 (a) if for a taxable year beginning before January 1, 2007, the claimant, estate, or trust  
1688 is allowed to claim a tax credit repealed by this bill;

1689 (b) an amount of tax credit described in Subsection (1)(a) exceeds the claimant's,  
1690 estate's, or trust's tax liability under this chapter for the taxable year for which the claimant,  
1691 estate, or trust is allowed to claim the tax credit repealed by this bill; and

1692 (c) on the first day of the first taxable year beginning on or after January 1, 2007, there  
1693 remains an amount of tax credit that the claimant is allowed to carry forward for a tax credit  
1694 described in Subsection (1)(a).

1695 (2) If a claimant, estate, or trust may carry forward a tax credit in accordance with  
1696 Subsection (1), the claimant, estate, or trust may carry forward the tax credit for a time period  
1697 equal to the earlier of:

1698 (a) the number of taxable years required to carry forward the remaining amount of tax  
1699 credit described in Subsection (1)(c); or

1700 (b) the number of taxable years that the claimant, estate, or trust would have been  
1701 allowed to carry forward tax credit if the tax credit had not been repealed by this bill.

1702 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1703 commission may make rules for determining the number of taxable years that a claimant,  
1704 estate, or trust would have been allowed to carry forward tax credit if the tax credit had not  
1705 been repealed by this bill.

1706 Section 29. Section **59-10-201** is amended to read:

1707 **59-10-201. Taxation of resident trusts and estates.**

1708 (1) A tax determined in accordance with the [~~rates~~] rate prescribed by Section  
1709 59-10-104 [~~for individuals filing separately~~] is imposed for each taxable year on the state  
1710 taxable income of each resident estate or trust, except for trusts taxed as corporations.

1711 (2) A resident estate or trust shall be allowed the credit provided in Section  
1712 [~~59-10-106~~] 59-10-1003, relating to an income tax imposed by another state, except that the  
1713 limitation shall be computed by reference to the taxable income of the estate or trust.

1714 (3) The property of the trust established in Title 53B, Chapter 8a, Higher Education  
1715 Savings Incentive Program, and its income from operations and investments are exempt from  
1716 all taxation by the state under this chapter.

1717 Section 30. Section **59-10-201.1** is amended to read:

1718 **59-10-201.1. State taxable income of resident estate or trust defined.**

1719 The state taxable income of a resident estate or trust means its federal taxable income as  
1720 defined in [~~Subsections (a) and (b);~~] Section 641 (a) and (b), Internal Revenue Code, as  
1721 adjusted by Sections 59-10-202, 59-10-209.1, and [~~59-10-209~~] 59-10-210.

1722 Section 31. Section **59-10-202** is amended to read:

1723 **59-10-202. Additions to and subtractions from state taxable income of resident or**  
1724 **nonresident estate or trust.**

1725 (1) There shall be added to federal taxable income of a resident or nonresident estate or  
1726 trust:

1727 (a) the amount of any income tax imposed by this or any predecessor Utah individual  
1728 income tax law and the amount of any income tax imposed by the laws of another state, the  
1729 District of Columbia, or a possession of the United States, to the extent deducted from [~~federal~~]  
1730 adjusted [~~total~~] gross income [~~as defined in Section 62, Internal Revenue Code;~~] in determining  
1731 federal taxable income;

1732 (b) any charitable deduction that a resident or nonresident estate or trust takes for the

1733 taxable year on the resident or nonresident estate's or trust's federal tax return for estates and  
1734 trusts for that taxable year;

1735 (c) any federal estate tax deduction or generation-skipping tax deduction that a resident  
1736 or nonresident estate or trust takes for the taxable year on the resident or nonresident estate's or  
1737 trust's federal tax return for estates and trusts for that taxable year; and

1738 (d) any fiduciary adjustments required by Section 59-10-210.

1739 ~~[(b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the~~  
1740 ~~Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue~~  
1741 ~~Code in determining federal adjusted gross income; and]~~

1742 ~~[(c) the amount of any gain as defined in Section 644(b) of the Internal Revenue Code,~~  
1743 ~~to the extent deductible under Section 641(c) of the Internal Revenue Code in determining the~~  
1744 ~~federal taxable income of a trust.]~~

1745 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
1746 estate or trust:

1747 (a) the interest or ~~[dividends]~~ a dividend on obligations or securities of the United  
1748 States and its possessions or of any authority, commission, or instrumentality of the United  
1749 States, to the extent ~~[includable]~~ that interest or dividend is included in gross income for  
1750 federal income tax purposes for the taxable year but exempt from state income taxes under the  
1751 laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be  
1752 reduced by any interest on indebtedness incurred or continued to purchase or carry the  
1753 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in  
1754 the production of interest or dividend income described in this Subsection (2)(a) to the extent  
1755 that such expenses, including amortizable bond premiums, are deductible in determining  
1756 federal taxable income;

1757 ~~[(b) 1/2 of the net amount of any income tax paid or payable to the United States after~~  
1758 ~~all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the~~  
1759 ~~same taxable year; and]~~

1760 ~~[(c) income of an irrevocable resident trust if:]~~

1761 ~~[(i) the income would not be treated as state taxable income derived from Utah sources~~  
1762 ~~under Section 59-10-204 if received by a nonresident trust;]~~

1763 ~~[(ii) the trust first became a resident trust on or after January 1, 2004;]~~

1764 ~~[(iii) no assets of the trust were held, at any time after January 1, 2003, in another~~  
1765 ~~resident irrevocable trust created by the same settlor or the spouse of the same settlor;]~~  
1766 ~~[(iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);]~~  
1767 ~~[(v) the amount subtracted under this Subsection (2) is reduced to the extent the settlor~~  
1768 ~~or any other person is treated as an owner of any portion of the trust under Subtitle A,~~  
1769 ~~Subchapter J, Subpart E of the Internal Revenue Code; and]~~  
1770 ~~[(vi) the amount subtracted under this Subsection (2) is reduced by any interest on~~  
1771 ~~indebtedness incurred or continued to purchase or carry the assets generating the income~~  
1772 ~~described in this Subsection (2), and by any expenses incurred in the production of income~~  
1773 ~~described in this Subsection (2), to the extent that those expenses, including amortizable bond~~  
1774 ~~premiums, are deductible in determining federal taxable income.]~~  
1775 (b) if the conditions of Subsection (3)(a) are met, the amount of income of a resident or  
1776 nonresident estate or trust derived from a deceased Ute tribal member:  
1777 (i) during a time period that the Ute tribal member resided on homesteaded land  
1778 diminished from the Uintah and Ouray Reservation; and  
1779 (ii) from a source within the Uintah and Ouray Reservation;  
1780 (c) any amount:  
1781 (i) received by a resident or nonresident estate or trust;  
1782 (ii) that constitutes a refund of taxes imposed by:  
1783 (A) a state; or  
1784 (B) the District of Columbia; and  
1785 (iii) to the extent that amount is included in total income on that resident or nonresident  
1786 estate's or trust's federal tax return for estates and trusts for that taxable year;  
1787 (d) the amount of a railroad retirement benefit:  
1788 (i) paid:  
1789 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
1790 seq.;  
1791 (B) to a resident or nonresident estate or trust derived from a deceased resident or  
1792 nonresident individual; and  
1793 (C) for the taxable year; and  
1794 (ii) to the extent that railroad retirement benefit is included in total income on that

1795 resident or nonresident estate's or trust's federal tax return for estates and trusts;  
1796 (e) an amount:  
1797 (i) received by a resident or nonresident estate or trust if that amount is derived from a  
1798 deceased enrolled member of an American Indian tribe; and  
1799 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
1800 part on that amount in accordance with:  
1801 (A) federal law;  
1802 (B) a treaty; or  
1803 (C) a final decision issued by a court of competent jurisdiction; and  
1804 (f) any fiduciary adjustments required by Section 59-10-210.  
1805 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:  
1806 (i) the income is derived from a deceased Ute tribal member; and  
1807 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1808 requirements of this Subsection (3).  
1809 (b) The agreement described in Subsection (3)(a):  
1810 (i) may not:  
1811 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;  
1812 (B) provide a subtraction under this section greater than or different from the  
1813 subtraction described in Subsection (2)(b); or  
1814 (C) affect the power of the state to establish rates of taxation; and  
1815 (ii) shall:  
1816 (A) provide for the implementation of the subtraction described in Subsection (2)(b);  
1817 (B) be in writing;  
1818 (C) be signed by:  
1819 (I) the governor; and  
1820 (II) the chair of the Business Committee of the Ute tribe;  
1821 (D) be conditioned on obtaining any approval required by federal law; and  
1822 (E) state the effective date of the agreement.  
1823 (c) (i) The governor shall report to the commission by no later than February 1 of each  
1824 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is  
1825 in effect.

1826 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the  
1827 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or  
1828 after the January 1 following the termination of the agreement.

1829 (d) For purposes of Subsection (2)(b) and in accordance with Title 63, Chapter 46a,  
1830 Utah Administrative Rulemaking Act, the commission may make rules:

1831 (i) for determining whether income is derived from a source within the Uintah and  
1832 Ouray Reservation; and

1833 (ii) that are substantially similar to how federal adjusted gross income derived from  
1834 Utah sources is determined under Section 59-10-117.

1835 Section 32. Section **59-10-204** is amended to read:

1836 **59-10-204. State taxable income of nonresident estate or trust defined.**

1837 The state taxable income of a nonresident estate or trust shall be its [~~federal~~] state  
1838 taxable income as [defined] calculated in Section 59-10-201.1, derived from Utah sources  
1839 determined in accordance with the principles of Section 59-10-117, and adjusted as provided in  
1840 Section 59-10-207.

1841 Section 33. Section **59-10-205** is amended to read:

1842 **59-10-205. Tax on income derived from Utah sources.**

1843 A tax is imposed on the state taxable income, as [~~defined~~] calculated in Section  
1844 59-10-204, of every nonresident estate or trust in accordance with the [~~rates~~] rate prescribed in  
1845 Section 59-10-104 [~~for individuals filing separately~~]. The tax shall only be applied to income  
1846 derived from Utah sources as adjusted by Section 59-10-207, including such items from  
1847 another estate or trust of which the first estate or trust is a beneficiary.

1848 Section 34. Section **59-10-207** is amended to read:

1849 **59-10-207. Share of a nonresident estate or trust and beneficiaries in state taxable**  
1850 **income.**

1851 (1) The share of a nonresident estate or trust and its beneficiaries in items of income,  
1852 gain, loss, and deduction entering into the definition of distributable net income and the share  
1853 for purposes of Section 59-10-116 of a nonresident beneficiary of any estate or trust in estate or  
1854 trust income, gain, loss, and deduction shall be determined as follows:

1855 (a) To the amount of items of income, gain, loss, and deduction that enter into the  
1856 definition of distributable net income there shall be added or subtracted, as the case may be, the

1857 modifications described in Sections 59-10-202 and [~~59-10-209~~] 59-10-210 to the extent they  
1858 relate to items of income, gain, loss, and deduction that also enter into the definition of  
1859 distributable net income. No modification shall be made under this section that has the effect  
1860 of duplicating an item already reflected in the definition of distributable net income.

1861 (b) The amount determined under Subsection (1)(a) shall be allocated among the estate  
1862 or trust and its beneficiaries (including solely for the purpose of this allocation, resident  
1863 beneficiaries) in proportion to their respective shares of federal distributable net income. The  
1864 amounts so allocated shall have the same character as for federal income tax purposes.

1865 (c) If the estate or trust has no federal distributable net income for the taxable year, the  
1866 share of each beneficiary in the net amount determined under Subsection (1)(a) shall be in  
1867 proportion to his share of the estate or trust income for such year, under state law or the terms  
1868 of the governing instrument, that is required to be distributed currently and any other amounts  
1869 of such income distributed in such year. Any balance of such net income shall be allocated to  
1870 the estate or trust.

1871 (2) The commission may by rule establish such other method or methods of  
1872 determining the respective shares of the beneficiaries and of the estate or trust in its income  
1873 derived from sources in this state, and in the modifications related thereto, as may be  
1874 appropriate and equitable. The fiduciary may elect to use any other methods prescribed in this  
1875 Subsection (2) only when the allocation of such respective shares under this section would  
1876 result in an inequity in the allocation which is substantial both in amount and in relation to the  
1877 total amount of the modifications referred to in Subsection (1)(a).

1878 Section 35. Section **59-10-209.1** is enacted to read:

1879 **59-10-209.1. Adjustments to state taxable income.**

1880 (1) The commission shall allow an adjustment to federal taxable income or an addition  
1881 or subtraction required by Section 59-10-202 of a resident or nonresident estate or trust if the  
1882 resident or nonresident estate or trust would otherwise:

1883 (a) receive a double tax benefit under this chapter; or

1884 (b) suffer a double tax detriment under this chapter.

1885 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1886 commission may make rules to allow for the adjustment, addition, or subtraction required by  
1887 Subsection (1).

1888 Section 36. Section **59-10-210** is amended to read:

1889 **59-10-210. Fiduciary adjustments.**

1890 ~~[(1) The fiduciary adjustments are the amounts of the modifications described in~~  
1891 ~~Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of~~  
1892 ~~which the first estate or trust is a beneficiary.]~~

1893 (1) As provided in this section, a share of the fiduciary adjustments described in  
1894 Subsection (2) shall be added to or subtracted from:

1895 (a) federal taxable income of a resident or nonresident estate or trust; or

1896 (b) adjusted gross income of a resident or nonresident beneficiary of a resident or  
1897 nonresident estate or trust.

1898 (2) For purposes of Subsection (1), the fiduciary adjustments are the following  
1899 amounts:

1900 (a) the additions to and subtractions from federal taxable income of a resident or  
1901 nonresident estate or trust required by Section 59-10-202; and

1902 (b) any tax credit allowed by:

1903 (i) Part 10, Nonrefundable Tax Credit Act; or

1904 (ii) Part 11, Refundable Tax Credit Act.

1905 ~~[(2)]~~ (3) (a) The respective shares of an estate or trust and its beneficiaries ~~[including~~  
1906 ~~[solely] for the purpose of this allocation[;] a nonresident [beneficiaries)]~~ beneficiary, in the  
1907 state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal  
1908 distributable net income of the estate or trust.

1909 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net  
1910 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be  
1911 allocated in proportion to ~~[his]~~ that beneficiary's share of the estate or trust income for ~~[such]~~  
1912 the taxable year ~~[, which]~~ that is, under state law or the governing instrument, required to be  
1913 distributed currently plus any other amounts of ~~[such]~~ that income distributed in ~~[such]~~ that  
1914 taxable year. ~~[Any]~~

1915 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of  
1916 the fiduciary adjustments shall be allocated to the estate or trust.

1917 ~~[(3) The commission may by rule and upon such terms and conditions as it may~~  
1918 ~~prescribe, authorize the use of such other appropriate and equitable method or methods for~~

1919 ~~determining attribution and allocation of the fiduciary adjustments. The fiduciary may elect to~~  
 1920 ~~use any other methods prescribed in this subsection only when the allocation of such respective~~  
 1921 ~~fiduciary adjustments under this section would result in an inequity in the allocation which is~~  
 1922 ~~substantial both in amount and in relation to the total amount of the modifications referred to in~~  
 1923 ~~Subsection (1).]~~

1924 ~~[(4) The taxable income of an estate or trust shall be adjusted by the deduction of the~~  
 1925 ~~income of that estate or trust to the extent of and for so long as such income is distributed or is~~  
 1926 ~~distributable to or otherwise accrues to the benefit of a person who has been declared by a court~~  
 1927 ~~of competent jurisdiction to be mentally incompetent. The commission may promulgate rules~~  
 1928 ~~necessary to provide for this adjustment.]~~

1929 (4) (a) The commission shall allow a fiduciary to use a method for determining the  
 1930 allocation of the fiduciary adjustments described in Subsection (2) other than the method  
 1931 described in Subsection (3) if using the method described in Subsection (3) results in an  
 1932 inequity:

1933 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1934 (ii) if the inequity is substantial:

1935 (A) in amount; and

1936 (B) in relation to the total amount of the fiduciary adjustments described in Subsection

1937 (2).

1938 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 1939 commission may make rules authorizing a fiduciary to use a method for determining the  
 1940 allocation of the fiduciary adjustments described in Subsection (2) other than the method  
 1941 described in Subsection (3) if using the method described in Subsection (3) results in an  
 1942 inequity:

1943 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1944 (ii) if the inequity is substantial:

1945 (A) in amount; and

1946 (B) in relation to the total amount of the fiduciary adjustments described in Subsection

1947 (2).

1948 Section 37. Section **59-10-529** is amended to read:

1949 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

1950 (1) In cases where there has been an overpayment of any tax imposed by this chapter,  
1951 the amount of overpayment is credited as follows:

1952 (a) against any income tax then due from the taxpayer;

1953 (b) against:

1954 (i) the amount of any judgment against the taxpayer, including one ordering the  
1955 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims  
1956 Restitution Act, obtained through due process of law by any entity of state government; or

1957 (ii) any child support obligation which is due or past due, as determined by the Office  
1958 of Recovery Services in the Department of Human Services and after notice and an opportunity  
1959 for an adjudicative proceeding, as provided in Subsection (2); or

1960 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to  
1961 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of  
1962 competent jurisdiction has not approved an alternative form of payment. This bail may be  
1963 applied to any fine or forfeiture which is due and related to a warrant which is outstanding on  
1964 or after February 16, 1984, and in accordance with Subsections (3) and (4).

1965 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services  
1966 has sent written notice to the taxpayer's last-known address or the address on file under Section  
1967 62A-11-304.4, stating:

1968 (i) the amount of child support that is due or past due as of the date of the notice or  
1969 other specified date;

1970 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child  
1971 support specified in the notice; and

1972 (iii) that the taxpayer may contest the amount of past-due child support specified in the  
1973 notice by filing a written request for an adjudicative proceeding with the office within 15 days  
1974 of the notice being sent.

1975 (b) The Office of Recovery Services shall establish rules to implement this Subsection  
1976 (2), including procedures, in accordance with the other provisions of this section, to ensure  
1977 prompt reimbursement to the taxpayer of any amount of an overpayment of taxes which was  
1978 credited against a child support obligation in error, and to ensure prompt distribution of  
1979 properly credited funds to the obligee parent.

1980 (3) Subsection (1)(c) may be exercised only if:

- 1981 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,  
1982 appear, or otherwise satisfy the terms of a citation, summons, or court order; and
- 1983 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been  
1984 sent to the person's current address on file with the commission.
- 1985 (4) (a) The commission shall deliver the overpayment applied as bail to the court that  
1986 issued the warrant of arrest. The clerk of the court is authorized to endorse the check or  
1987 commission warrant of payment on behalf of the payees and deposit the monies in the court  
1988 treasury.
- 1989 (b) The court receiving the overpayment applied as bail shall order withdrawal of the  
1990 warrant for arrest of the taxpayer if the case is one for which a personal appearance of the  
1991 taxpayer is not required and if the dollar amount of the overpayment represents the full dollar  
1992 amount of bail. In all other cases, the court receiving the overpayment applied as bail is not  
1993 required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day  
1994 period, and the taxpayer may be arrested on the warrant. However, the bail amount shall be  
1995 reduced by the amount of tax overpayment received by the court.
- 1996 (c) If the taxpayer fails to respond to the notice described in Subsection (3), or to  
1997 resolve the warrant within 40 days after the notice was sent under that subsection, the  
1998 overpayment applied as bail is forfeited and notice of the forfeiture shall be mailed to the  
1999 taxpayer at the current address on file with the commission. The court may then issue another  
2000 warrant or allow the original warrant to remain in force if:
- 2001 (i) the taxpayer has not complied with an order of the court;  
2002 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a  
2003 personal appearance is required; or
- 2004 (iii) the taxpayer has paid partial but not full bail in a case for which a personal  
2005 appearance is not required.
- 2006 (5) If the alleged violations named in the warrant are later resolved in favor of the  
2007 taxpayer, the bail amount shall be remitted to the taxpayer.
- 2008 (6) Any balance shall be refunded immediately to the taxpayer.
- 2009 (7) (a) If a refund or credit is due because the amount of tax deducted and withheld  
2010 from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless  
2011 the taxpayer or his legal representative files with the commission a tax return claiming the

2012 refund or credit:

2013 (i) within three years from the due date of the return, plus the period of any extension  
2014 of time for filing the return provided for in Subsection (7)(c); or

2015 (ii) within two years from the date the tax was paid, whichever period is later.

2016 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit  
2017 of tax which has not been deducted and withheld from income is due, a credit or refund may  
2018 not be allowed or made after three years from the time the tax was paid, unless, before the  
2019 expiration of the period, a claim is filed by the taxpayer or his legal representative.

2020 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to  
2021 file a claim under Subsection (7)(a)(i) if:

2022 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and

2023 (ii) the commission and the taxpayer sign a written agreement:

2024 (A) authorizing the extension; and

2025 (B) providing for the length of the extension.

2026 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission  
2027 shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

2028 (i) the three-year period under Subsection (7)(b) has not expired; and

2029 (ii) the commission and the taxpayer sign a written agreement:

2030 (A) authorizing the extension; and

2031 (B) providing for the length of the extension.

2032 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines  
2033 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described  
2034 in this section which are outstanding on or after February 16, 1984.

2035 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the  
2036 tax to which the credit relates, the excess is considered an overpayment.

2037 (10) A claim for credit or refund of an overpayment which is attributable to the  
2038 application to the taxpayer of a net operating loss carryback shall be filed within three years  
2039 from the time the return was due for the taxable year of the loss.

2040 (11) If there has been an overpayment of the tax which is required to be deducted and  
2041 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent  
2042 that the amount of overpayment was not deducted and withheld by the employer.

2043 (12) If there is no tax liability for a period in which an amount is paid as income tax,  
2044 the amount is an overpayment.

2045 (13) If an income tax is assessed or collected after the expiration of the applicable  
2046 period of limitation, that amount is an overpayment.

2047 (14) (a) If a taxpayer is required to report a change or correction in [~~federal taxable~~]  
2048 adjusted gross income reported on [~~his~~] the taxpayer's federal income tax return, or to report a  
2049 change or correction which is treated in the same manner as if it were an overpayment for  
2050 federal income tax purposes, or to file an amended return with the commission, a claim for  
2051 credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two  
2052 years from the date the notice of the change, correction, or amended return was required to be  
2053 filed with the commission.

2054 (b) If the report or amended return is not filed within 90 days, interest on any resulting  
2055 refund or credit ceases to accrue after the 90-day period.

2056 (c) The amount of the credit or refund may not exceed the amount of the reduction in  
2057 tax attributable to the federal change, correction, or items amended on the taxpayer's amended  
2058 federal income tax return.

2059 (d) Except as specifically provided, this section does not affect the amount or the time  
2060 within which a claim for credit or refund may be filed.

2061 (15) No credit or refund may be allowed or made if the overpayment is less than \$1.

2062 (16) The amount of the credit or refund may not exceed the tax paid during the three  
2063 years immediately preceding the filing of the claim, or if no claim is filed, then during the three  
2064 years immediately preceding the allowance of the credit or refund.

2065 (17) In the case of an overpayment of tax by the employer under the withholding  
2066 provisions of this chapter, a refund or credit shall be made to the employer only to the extent  
2067 that the amount of the overpayment was not deducted and withheld from wages under the  
2068 provisions of this chapter.

2069 (18) If a taxpayer who is entitled to a refund under this chapter dies, the commission  
2070 may make payment to the duly appointed executor or administrator of the taxpayer's estate. If  
2071 there is no executor or administrator, payment may be made to those persons who establish  
2072 entitlement to inherit the property of the decedent in the proportions set out in Title 75, Utah  
2073 Uniform Probate Code.

2074 (19) Where an overpayment relates to adjustments to net income referred to in  
2075 Subsection 59-10-536~~(3)(c)~~ (5), credit may be allowed or a refund paid any time before the  
2076 expiration of the period within which a deficiency may be assessed.

2077 (20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate  
2078 and in the manner prescribed in Section 59-1-402.

2079 Section 38. Section **59-10-1001** is enacted to read:

2080 **Part 10. Nonrefundable Tax Credit Act**

2081 **59-10-1001. Title.**

2082 This part is known as the "Nonrefundable Tax Credit Act."

2083 Section 39. Section **59-10-1002** is enacted to read:

2084 **59-10-1002. Definitions.**

2085 As used in this part:

2086 (1) (a) Except as provided in Subsection (1)(b) or 59-10-1003(2), "claimant" means a  
2087 resident or nonresident person that has state taxable income under Part 1, Determination and  
2088 Reporting of Tax Liability and Information.

2089 (b) "Claimant" does not include an estate or trust.

2090 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident  
2091 estate or a resident estate that has state taxable income under Part 2, Trusts and Estates.

2092 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,  
2093 or trust may:

2094 (a) claim:

2095 (i) as provided by statute; and

2096 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability for a  
2097 taxable year; and

2098 (b) carry forward or carry back:

2099 (i) if allowed by statute; and

2100 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or  
2101 trust's tax liability under this chapter for a taxable year.

2102 (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust  
2103 or a resident trust that has state taxable income under Part 2, Trusts and Estates.

2104 Section 40. Section **59-10-1003**, which is renumbered from Section 59-10-106 is

2105 renumbered and amended to read:

2106 ~~[59-10-106].~~ **59-10-1003. Credit for tax paid to another state.**

2107 (1) ~~[A resident individual shall be allowed a]~~ Except as provided in Subsection (2), a  
 2108 claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due  
 2109 under this chapter equal to the amount of the tax imposed:

2110 (a) on ~~[him]~~ that claimant, estate, or trust for the taxable year;

2111 (b) by another state of the United States, the District of Columbia, or a possession of  
 2112 the United States~~;~~; and

2113 (c) on income:

2114 (i) derived from sources ~~[therein which]~~ within that other state of the United States,  
 2115 District of Columbia, or possession of the United States; and

2116 (ii) if that income is also subject to tax under this chapter.

2117 (2) A tax credit under this section may only be claimed by a:

2118 (a) resident claimant;

2119 (b) resident estate; or

2120 (c) resident trust.

2121 ~~[(2)]~~ (3) The application of the tax credit provided under this section ~~[shall]~~ may not  
 2122 operate to reduce the tax payable under this chapter to an amount less than would have been  
 2123 payable were the income from the other state disregarded.

2124 ~~[(3)]~~ (4) The tax credit provided by this section shall be computed and claimed in  
 2125 accordance with rules prescribed by the commission.

2126 Section 41. Section **59-10-1004** is enacted to read:

2127 **59-10-1004. Charitable contribution tax credit.**

2128 (1) Except as provided in Section 59-10-1007, for taxable years beginning on or after  
 2129 January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit:

2130 (a) in an amount equal to the product of:

2131 (i) the amount the claimant, estate, or trust subtracts as allowed by Section 170,  
 2132 Internal Revenue Code, for that taxable year:

2133 (A) for a claimant, on the claimant's federal individual income tax return; or

2134 (B) for an estate or trust, on the estate's or trust's federal tax return for estates and  
 2135 trusts;

2136 (ii) 50%; and  
2137 (iii) the tax rate percentage imposed by Section 59-10-104;  
2138 (b) as provided in this section; and  
2139 (c) against taxes otherwise due under this chapter.  
2140 (2) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
2141 this section.  
2142 Section 42. Section **59-10-1005** is enacted to read:  
2143 **59-10-1005. Homeowner tax credit -- Rulemaking authority.**  
2144 (1) For taxable years beginning on or after January 1, 2007, a claimant may claim a  
2145 nonrefundable tax credit:  
2146 (a) in an amount equal to the greater of:  
2147 (i) subject to Subsection (4), \$250 if the requirements of Subsection (3) are met; or  
2148 (ii) the product of:  
2149 (A) the amount the claimant subtracts as allowed by Section 163(h)(3), Internal  
2150 Revenue Code, for that taxable year on the claimant's federal individual income tax return;  
2151 (B) 50%; and  
2152 (C) the tax rate percentage imposed by Section 59-10-104;  
2153 (b) as provided in this section; and  
2154 (c) against taxes otherwise due under this chapter.  
2155 (2) A claimant may not carry forward or carry back a tax credit under this section.  
2156 (3) (a) Subject to the other provisions of this Subsection (3), a claimant may claim the  
2157 tax credit described in Subsection (1)(a)(i) if the claimant is an owner of a residence that is:  
2158 (i) located within this state; and  
2159 (ii) the primary residence of the claimant.  
2160 (b) If there are two or more owners of a residence described in Subsection (3)(a):  
2161 (i) only one tax credit may be claimed under this section for a taxable year; and  
2162 (ii) only one of the owners of the residence may claim the tax credit:  
2163 (A) as determined by the owners of the residence; and  
2164 (B) on that owner's return under this chapter for the taxable year.  
2165 (c) A claimant may claim a tax credit under this section for only one primary residence  
2166 in this state.

2167 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2168 commission may make rules determining what constitutes the primary residence of a claimant.

2169 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall  
2170 increase or decrease the dollar amount described in Subsection (1)(a)(i) by a percentage equal  
2171 to the percentage difference between the consumer price index for the preceding calendar year  
2172 and the consumer price index for calendar year 2006.

2173 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer  
2174 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

2175 Section 43. Section **59-10-1006** is enacted to read:

2176 **59-10-1006. Taxpayer tax credits.**

2177 (1) Except as provided in Section 59-10-1007 and subject to Subsections (3) and (4),  
2178 for taxable years beginning on or after January 1, 2007, a claimant may claim a nonrefundable  
2179 tax credit in an amount equal to the sum of:

2180 (a) an amount equal to:

2181 (i) (A) \$300 for a claimant who:

2182 (I) is a:

2183 (Aa) single individual; or

2184 (Bb) married individual who does not file a single return jointly with that individual's  
2185 spouse; and

2186 (II) files a single return; or

2187 (B) \$600 for a claimant who:

2188 (I) (Aa) is a husband and wife; and

2189 (Bb) files a single return jointly;

2190 (II) (Aa) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code; and

2191 (Bb) files a single return; or

2192 (III) (Aa) is a head of household as defined in Section 2(b), Internal Revenue Code;

2193 and

2194 (Bb) files a single return; and

2195 (ii) the product of:

2196 (A) \$100; and

2197 (B) the total number of personal exemptions the claimant is allowed to claim for the

2198 taxable year in accordance with Section 151, Internal Revenue Code;  
2199 (b) as provided in this section; and  
2200 (c) against taxes otherwise due under this chapter.  
2201 (2) A claimant may not carry forward or carry back a tax credit under this section.  
2202 (3) (a) The tax credit allowed by Subsection (1)(a) shall be reduced by \$.02 for each  
2203 dollar by which a claimant's adjusted gross income exceeds the product of:  
2204 (i) the amount of the tax credit the claimant is allowed under Subsection (1)(a); and  
2205 (ii) 30.  
2206 (b) For purposes of Subsection (3)(a), a fraction of a dollar of adjusted gross income  
2207 shall be rounded up to the next whole dollar of adjusted gross income.  
2208 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall  
2209 increase or decrease the dollar amounts described in Subsections (1)(a)(i)(A), (1)(a)(i)(B), and  
2210 (1)(a)(ii)(A) by a percentage equal to the percentage difference between the consumer price  
2211 index for the preceding calendar year and the consumer price index for calendar year 2006.  
2212 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer  
2213 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.  
2214 Section 44. Section **59-10-1007** is enacted to read:  
2215 **59-10-1007. Apportionment of certain tax credits.**  
2216 (1) As used in this section:  
2217 (a) "Adjusted income" means, for a taxable year, the sum of a nonresident estate's or a  
2218 nonresident trust's:  
2219 (i) federal taxable income, as defined in Section 641(a) and (b), Internal Revenue  
2220 Code; and  
2221 (ii) additions required by Subsections 59-10-202(1)(b) and (c).  
2222 (b) "Adjusted income derived from Utah sources" means, for a taxable year, the  
2223 adjusted income of a nonresident estate or nonresident trust derived from Utah sources as  
2224 determined in accordance with the principles of Section 59-10-117.  
2225 (c) "State income tax percentage" is as defined in Section 59-10-116.  
2226 (2) A nonresident person that claims a tax credit in accordance with Section  
2227 59-10-1004, 59-10-1005, or 59-10-1006 may only claim an apportioned amount of the tax  
2228 credit equal to the product of:

2229 (a) the nonresident individual's state income tax percentage; and  
2230 (b) the amount of the tax credit that the nonresident person would have been allowed to  
2231 claim but for the apportionment requirements of this section.

2232 (3) A nonresident estate or nonresident trust that claims a tax credit in accordance with  
2233 Section 59-10-1004 may only claim an apportioned amount of the tax credit equal to the  
2234 product of:

2235 (a) the nonresident estate's or nonresident trust's adjusted income derived from Utah  
2236 sources divided by the nonresident estate's or nonresident trust's adjusted income; and

2237 (b) the amount of the tax credit that the nonresident estate or nonresident trust would  
2238 have been allowed to claim but for the apportionment requirements of this section.

2239 Section 45. Section **59-10-1101** is enacted to read:

2240 **Part 11. Refundable Tax Credit Act**

2241 **59-10-1101. Title.**

2242 This part is known as the "Refundable Tax Credit Act."

2243 Section 46. Section **59-10-1102** is enacted to read:

2244 **59-10-1102. Definitions.**

2245 As used in this part:

2246 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a),  
2247 "claimant" means a resident or nonresident person.

2248 (b) "Claimant" does not include an estate or trust.

2249 (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident  
2250 estate or a resident estate.

2251 (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
2252 trust may claim:

2253 (a) as provided by statute; and

2254 (b) regardless of whether the claimant, estate, or trust has a tax liability under this  
2255 chapter for a taxable year.

2256 (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident  
2257 trust or a resident trust.

2258 Section 47. Section **59-10-1103**, which is renumbered from Section 59-10-108.2 is  
2259 renumbered and amended to read:

2260 ~~[59-10-108.2].~~ **59-10-1103. Tax credit for nonresident shareholders of S**  
 2261 **corporations.**

2262 (1) (a) A nonresident shareholder of an S corporation ~~[who is an individual]~~ may claim  
 2263 a refundable tax credit against the tax otherwise due under this chapter~~[-]~~ if that nonresident  
 2264 shareholder is a:

2265 (i) nonresident claimant;

2266 (ii) nonresident estate; or

2267 (iii) nonresident trust.

2268 (b) The tax credit described in Subsection (1)(a) is equal to the amount paid or  
 2269 withheld by the S corporation on behalf of the ~~[individual]~~ nonresident shareholder described  
 2270 in Subsection (1)(a) in accordance with Section 59-7-703.

2271 (2) A nonresident shareholder ~~[of an S corporation who is an individual and who]~~  
 2272 described in Subsection (1)(a) that has no other Utah source income may elect:

2273 (a) not to claim the tax credit provided in Subsection (1); and

2274 (b) not to file a ~~[Utah individual income]~~ tax return under this chapter for the taxable  
 2275 year.

2276 (3) If a nonresident shareholder described in Subsection (1)(a) may claim ~~[credits other~~  
 2277 ~~than the credit described in Subsection (1)]~~ a nonrefundable tax credit under Part 10,  
 2278 Nonrefundable Tax Credit Act, the nonresident shareholder described in Subsection (1)(a) shall  
 2279 file ~~[an individual income]~~ a tax return under this chapter to claim ~~[those credits]~~ that  
 2280 nonrefundable tax credit.

2281 Section 48. Section **59-13-202** is amended to read:

2282 **59-13-202. Definitions -- Refund of tax for agricultural uses on income and**  
 2283 **corporate franchise tax returns -- Application for permit for refund -- Division of**  
 2284 **Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

2285 (1) As used in this section, "refundable tax credit" or "tax credit" means a tax credit that  
 2286 a person may claim:

2287 (a) as provided by statute; and

2288 (b) regardless of whether the person has a tax liability under Chapter 7, Corporate  
 2289 Franchise and Income Taxes, for the taxable year for which the person claims the tax credit.

2290 ~~[(+)]~~ (2) Any person ~~[who]~~ that purchases and uses any motor fuel within the state for

2291 the purpose of operating or propelling stationary farm engines and self-propelled farm  
2292 machinery used for nonhighway agricultural uses, and ~~[who]~~ that has paid the tax on the motor  
2293 fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and  
2294 limitations provided under this part.

2295 ~~[(2)]~~ (3) (a) ~~[Every]~~ A person desiring a nonhighway agricultural use refund under this  
2296 part shall claim the refund as a refundable tax credit on the ~~[state income]~~ tax return ~~[or~~  
2297 ~~corporate franchise tax return]~~ the person files under Chapter 7, Corporate Franchise and  
2298 Income Taxes.

2299 (b) A person not subject to filing a ~~[Utah income tax return or corporate franchise]~~ tax  
2300 return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year  
2301 basis.

2302 (c) Any person claiming a refundable ~~[motor fuel]~~ tax credit under this section is  
2303 required to furnish any or all of the information outlined in this section upon request of the  
2304 commission. ~~[Credit]~~

2305 (d) A refundable tax credit under this section is allowed only on purchases on which  
2306 tax is paid during the taxable year covered by the tax return.

2307 ~~[(3)]~~ (4) In order to obtain a permit for a refund of motor fuel tax paid, an application  
2308 shall be filed containing:

2309 (a) the name of ~~[applicant]~~ the person;

2310 (b) the ~~[applicant's]~~ person's address;

2311 (c) location and number of acres owned and operated, location and number of acres  
2312 rented and operated, the latter of which shall be verified by a signed statement from the legal  
2313 owner;

2314 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

2315 (e) make, size, type of fuel used, and power rating of each piece of equipment using  
2316 fuel. If the ~~[applicant]~~ person is an operator of self-propelled or tractor-pulled farm machinery  
2317 with which the ~~[applicant]~~ person works for hire doing custom jobs for other farmers, the  
2318 application shall include information the commission requires and shall all be contained in, and  
2319 be considered part of, the original application. The ~~[applicant]~~ person shall also file with the  
2320 application a certificate from the county assessor showing each piece of equipment using fuel.  
2321 This original application and all information contained in it constitutes a permanent file with

2322 the commission in the name of the [applicant] person.

2323 ~~[(4)]~~ (5) Any person claiming the right to a refund of motor fuel tax paid shall file a  
2324 claim with the commission by April 15 of each year for the refund for the previous calendar  
2325 year. The claim shall state the name and address of the [claimant] person, the number of  
2326 gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the  
2327 motor fuel. The [applicant] person shall retain the original invoice to support the claim. No  
2328 more than one claim for a tax refund may be filed annually by each user of motor fuel  
2329 purchased for nonhighway agricultural uses.

2330 ~~[(5)]~~ (6) Upon commission approval of the claim for a refund, the Division of Finance  
2331 shall pay the amount found due to the [claimant] person. The total amount of claims for  
2332 refunds shall be paid from motor fuel taxes.

2333 ~~[(6)]~~ (7) The commission may promulgate rules to enforce this part, and may refuse to  
2334 accept as evidence of purchase or payment any instruments which show alteration or which fail  
2335 to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is  
2336 purchased for purposes other than transportation, and the date of purchase and delivery. If the  
2337 commission is not satisfied with the evidence submitted in connection with the claim, it may  
2338 reject the claim or require additional evidence.

2339 ~~[(7)]~~ (8) Any person aggrieved by the decision of the commission with respect to a  
2340 refundable tax credit or refund may file a request for agency action, requesting a hearing before  
2341 the commission.

2342 ~~[(8)]~~ (9) Any person ~~[who]~~ that makes any false claim, report, or statement, ~~[either]~~ as  
2343 claimant, agent, or creditor, with intent to defraud or secure a refund to which the [claimant]  
2344 person is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and  
2345 the commission shall initiate the filing of a complaint for alleged violations of this part. In  
2346 addition to these penalties, the person may not receive any refund as a claimant or as a creditor  
2347 of a claimant for refund for a period of five years.

2348 ~~[(9)]~~ (10) Refunds to which ~~[taxpayers are]~~ a person is entitled under this part shall be  
2349 paid from the Transportation Fund.

2350 Section 49. Section ~~62A-4a-607~~ is amended to read:

2351 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**  
2352 **parents.**

2353 (1) (a) The division and all child placing agencies licensed under this part shall  
2354 promote adoption when that is a possible and appropriate alternative for a child. Specifically,  
2355 in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of  
2356 all children in its custody who have a final plan for termination of parental rights pursuant to  
2357 Section 78-3a-312 or a primary permanency goal of adoption.

2358 (b) Beginning May 1, 2000, the division may not place a child for adoption, either  
2359 temporarily or permanently, with any individual or individuals who do not qualify for adoptive  
2360 placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

2361 (2) The division shall obtain or conduct research of prior adoptive families to  
2362 determine what families may do to be successful with their adoptive children and shall make  
2363 this research available to potential adoptive parents.

2364 (3) (a) A child placing agency licensed under this part shall inform each potential  
2365 adoptive parent with whom it is working that:

2366 (i) children in the custody of the state are available for adoption;

2367 (ii) Medicaid coverage for medical, dental, and mental health services may be available  
2368 for these children;

2369 ~~[(iii) tax benefits, including the tax credit provided for in Section 59-10-133, and  
2370 financial assistance may be available to defray the costs of adopting these children;]~~

2371 ~~[(iv)]~~ (iii) training and ongoing support may be available to the adoptive parents of  
2372 these children; and

2373 ~~[(v)]~~ (iv) information about individual children may be obtained by contacting the  
2374 division's offices or its Internet site as explained by the child placing agency.

2375 (b) A child placing agency shall:

2376 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;  
2377 and

2378 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in  
2379 accordance with Subsection (3)(d).

2380 (c) As a condition of licensure, the child placing agency shall certify to the Office of  
2381 Licensing at the time of license renewal that it has complied with the provisions of this section.

2382 (d) Before July 1, 2000, the division shall:

2383 (i) prepare a pamphlet that explains the information that is required by Subsection

2384 (3)(a); and

2385 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child  
2386 placing agencies.

2387 (e) The division shall respond to any inquiry made as a result of the notice provided in  
2388 Subsection (3)(a).

2389 Section 50. Section **63-38f-402** is amended to read:

2390 **63-38f-402. Definitions.**

2391 As used in this part:

2392 (1) "Business entity" means an entity under which business is conducted or transacted.

2393 ~~[(1)]~~ (2) "County applicant" means the governing authority of a county that meets the  
2394 requirements for designation as an enterprise zone under Section 63-38f-404.

2395 ~~[(2)]~~ (3) "Municipal applicant" means the governing authority of a city or town that  
2396 meets the requirements for designation as an enterprise zone under Section 63-38f-404.

2397 (4) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity  
2398 may:

2399 (a) claim:

2400 (i) as provided by statute; and

2401 (ii) in an amount that does not exceed the business entity's tax liability for a taxable  
2402 year; and

2403 (b) carry forward or carry back:

2404 (i) if allowed by statute; and

2405 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax  
2406 liability under Chapter 7, Corporate Franchise and Income Taxes, for the taxable year for  
2407 which the business entity claims the tax credit.

2408 ~~[(3)]~~ (5) "Tax incentives" or "tax benefits" means the nonrefundable tax credits  
2409 available under Section 63-38f-413.

2410 Section 51. Section **63-38f-412** is amended to read:

2411 **63-38f-412. Businesses qualifying for tax incentives.**

2412 The tax incentives described in this part are available only to a business [~~firm~~] entity for  
2413 which at least 51% of the employees employed at facilities of the [~~firm~~] business entity located  
2414 in the enterprise zone are individuals who, at the time of employment, reside in the county in

2415 which the enterprise zone is located.

2416 Section 52. Section **63-38f-413** is amended to read:

2417 **63-38f-413. State tax credits.**

2418 (1) Subject to the limitations of Subsections (2) through (4), the following [~~state~~  
2419 ~~nonrefundable tax credits against [individual income taxes or corporate franchise and income~~  
2420 ~~taxes]~~ a tax under Chapter 7, Corporate Franchise and Income Taxes, are applicable in an  
2421 enterprise zone:

2422 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time  
2423 position filled for not less than six months during a given tax year;

2424 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%  
2425 of:

2426 (i) the county average monthly nonagricultural payroll wage for the respective industry  
2427 as determined by the Department of Workforce Services; or

2428 (ii) if the county average monthly nonagricultural payroll wage is not available for the  
2429 respective industry, the total average monthly nonagricultural payroll wage in the respective  
2430 county where the enterprise zone is located;

2431 (c) an additional tax credit of \$750 may be claimed if the new position is in a business  
2432 that adds value to agricultural commodities through manufacturing or processing;

2433 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each  
2434 new employee who is insured under an employer-sponsored health insurance program if the  
2435 employer pays at least 50% of the premium cost for two consecutive years;

2436 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit  
2437 corporation, except that the credit claimed may not exceed \$100,000:

2438 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal  
2439 Revenue Code;

2440 (ii) whose primary purpose is community and economic development; and

2441 (iii) that has been accredited by the board of directors of the Utah Rural Development  
2442 Council;

2443 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the  
2444 enterprise zone that has been vacant for two years or more; and

2445 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%

2446 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable  
2447 property.

2448 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax  
2449 credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time  
2450 employee positions or less in each of its taxable years.

2451 (b) A business entity that received a tax credit for its full-time employee positions  
2452 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time  
2453 employee position under Subsections (1)(a) through (d) if:

2454 (i) the business entity creates a new full-time employee position;

2455 (ii) the total number of full-time employee positions at the business entity is greater  
2456 than the number of full-time employee positions previously claimed by the business entity  
2457 under Subsections (1)(a) through (d); and

2458 (iii) the total number of tax credits the business entity has claimed for its current  
2459 taxable year, including the new full-time employee position for which the business entity is  
2460 claiming a tax credit, is less than or equal to 30.

2461 (c) A business entity existing in an enterprise zone on the date of its designation shall  
2462 calculate the number of full-time positions based on the average number of employees reported  
2463 to the Department of Workforce Services.

2464 (d) Construction jobs are not eligible for the tax [~~credit~~] credits under Subsections  
2465 (1)(a) through (d).

2466 (3) If the amount of a tax credit under this section exceeds a business entity's tax  
2467 liability under this chapter for a taxable year, the amount of the tax credit exceeding the  
2468 liability may be carried forward for a period that does not exceed the next three taxable years.

2469 (4) (a) If a business entity is located in a county that met the requirements of  
2470 Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January  
2471 1, 1998, because the county was located in a metropolitan statistical area in more than one  
2472 state, the business entity:

2473 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,  
2474 but beginning before December 31, 1997;

2475 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning  
2476 on or after January 1, 1997, but beginning before December 31, 1997; and

- 2477 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,  
2478 1998, if the county is designated as an enterprise zone in accordance with this part.
- 2479 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business  
2480 entity:
- 2481 (i) may claim the tax credit by filing for the taxable year beginning on or after January  
2482 1, 1997, but beginning before December 31, 1997:
- 2483 [~~(A) an individual income tax return;~~]
- 2484 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 2485 (B) an amended [~~individual income tax~~] return under Title 59, Chapter 7, Corporate  
2486 Franchise and Income Taxes;
- 2487 (C) a [~~corporate franchise and income tax~~] return under Title 59, Chapter 10,  
2488 Individual Income Tax Act; or
- 2489 (D) an amended [~~corporate franchise and income tax~~] return under Title 59, Chapter  
2490 10, Individual Income Tax Act; and
- 2491 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,  
2492 1998, in accordance with Subsection (3).
- 2493 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a  
2494 business entity engaged in retail trade or by a public utilities business.
- 2495 (6) A business entity may not claim or carry forward a tax credit available under this  
2496 part for a taxable year during which the business entity has claimed the targeted business  
2497 income tax credit available under Section 63-38f-503.
- 2498 Section 53. Section **63-38f-501** is amended to read:
- 2499 **63-38f-501. Definitions.**
- 2500 As used in this part:
- 2501 (1) "Allocated cap amount" means the total amount of the targeted business income tax  
2502 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata  
2503 share of the total amount of \$300,000 for each fiscal year allowed under Subsection  
2504 63-38f-503(2).
- 2505 (2) "Business applicant" means a business that meets the criteria established in Section  
2506 63-38f-502.
- 2507 (3) "Community investment project" means a project that includes one or more of the

2508 following criteria in addition to the normal operations of the business applicant:

2509 (a) substantial new employment;

2510 (b) new capital development; or

2511 (c) a combination of both Subsections (3)(a) and (b).

2512 (4) "Community investment project period" means the total number of years that the  
2513 office determines a business applicant is eligible for a targeted business income tax credit for  
2514 each community investment project.

2515 (5) "Enterprise zone" means an area within a county or municipality that has been  
2516 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

2517 (6) "Local zone administrator" means a person:

2518 (a) designated by the governing authority of the county or municipal applicant as the  
2519 local zone administrator in an enterprise zone application; and

2520 (b) approved by the office as the local zone administrator.

2521 (7) "Refundable tax credit" means a tax credit that a business applicant may claim:

2522 (a) as provided in this part; and

2523 (b) regardless of whether the business applicant has a tax liability under Chapter 7,  
2524 Corporate Franchise and Income Taxes, for the taxable year for which the business applicant  
2525 claims the tax credit.

2526 [~~(7)~~] (8) "Targeted business income tax credit " means [~~an income~~] a refundable tax  
2527 credit available under Section 63-38f-503.

2528 [~~(8)~~] (9) "Targeted business income tax credit eligibility form" means a document  
2529 provided annually to the business applicant by the office that complies with the requirements of  
2530 Subsection 63-38f-503(8).

2531 Section 54. Section **63-38f-502** is amended to read:

2532 **63-38f-502. Application for targeted business income tax credits.**

2533 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant  
2534 may elect to claim a targeted business income tax credit available under Section 63-38f-503 if  
2535 the business applicant:

2536 (i) is located in:

2537 (A) an enterprise zone; and

2538 (B) a county with:

- 2539 (I) a population of less than 25,000; and  
2540 (II) an unemployment rate that for six months or more of each calendar year is at least  
2541 one percentage point higher than the state average;
- 2542 (ii) meets the requirements of Section 63-38f-412;  
2543 (iii) provides:
- 2544 (A) a community investment project within the enterprise zone; and  
2545 (B) a portion of the community investment project during each taxable year for which  
2546 the business applicant claims the targeted business tax incentive; and
- 2547 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is  
2548 not engaged in the following, as defined by the State Tax Commission by rule:
- 2549 (A) construction;  
2550 (B) retail trade; or  
2551 (C) public utility activities.
- 2552 (b) For a taxable year for which a business applicant claims a targeted business income  
2553 tax credit available under this part, the business applicant may not claim or carry forward a tax  
2554 credit available under Section 63-38f-413[;] or 59-7-610[, ~~or 59-10-108.7~~].
- 2555 (2) (a) A business applicant seeking to claim a targeted business income tax credit  
2556 under this part shall file an application as provided in Subsection (2)(b) with the local zone  
2557 administrator by no later than June 1 of the year in which the business applicant is seeking to  
2558 claim a targeted business income tax credit.
- 2559 (b) The application described in Subsection (2)(a) shall include:
- 2560 (i) any documentation required by the local zone administrator to demonstrate that the  
2561 business applicant meets the requirements of Subsection (1);
- 2562 (ii) a plan developed by the business applicant that outlines:
- 2563 (A) if the community investment project includes substantial new employment, the  
2564 projected number and anticipated wage level of the jobs that the business applicant plans to  
2565 create as the basis for qualifying for a targeted business income tax credit;
- 2566 (B) if the community investment project includes new capital development, a  
2567 description of the capital development the business applicant plans to make as the basis for  
2568 qualifying for a targeted business income tax credit; and
- 2569 (C) a description of how the business applicant's plan coordinates with:

2570 (I) the goals of the enterprise zone in which the business applicant is providing a  
2571 community investment project; and

2572 (II) the overall economic development goals of the county or municipality in which the  
2573 business applicant is providing a community investment project; and

2574 (iii) any additional information required by the local zone administrator.

2575 (3) (a) The local zone administrator shall:

2576 (i) evaluate an application filed under Subsection (2); and

2577 (ii) determine whether the business applicant is eligible for a targeted business income  
2578 tax credit.

2579 (b) If the local zone administrator determines that the business applicant is eligible for  
2580 a targeted business income tax credit, the local zone administrator shall:

2581 (i) certify that the business applicant is eligible for the targeted business income tax  
2582 credit;

2583 (ii) structure the targeted business income tax credit for the business applicant in  
2584 accordance with Section 63-38f-503; and

2585 (iii) monitor a business applicant to ensure compliance with this section.

2586 (4) A local zone administrator shall report to the office by no later than June 30 of each  
2587 year:

2588 (a) (i) any application approved by the local zone administrator during the last fiscal  
2589 year; and

2590 (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each  
2591 new business applicant; and

2592 (b) (i) the status of any existing business applicants that the local zone administrator  
2593 monitors; and

2594 (ii) any information required by the office to determine the status of an existing  
2595 business applicant.

2596 (5) (a) By July 15 of each year, the department shall notify the local zone administrator  
2597 of the allocated cap amount that each business applicant that the local zone administrator  
2598 monitors is eligible to claim.

2599 (b) By September 15 of each year, the local zone administrator shall notify, in writing,  
2600 each business applicant that the local zone administrator monitors of the allocated cap amount

2601 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim  
2602 for a taxable year.

2603 Section 55. Section **63-38f-503** is amended to read:

2604 **63-38f-503. Targeted business income tax credit structure -- Duties of the local**  
2605 **zone administrator -- Duties of the State Tax Commission.**

2606 (1) For taxable years beginning on or after January 1, 2002, a business applicant that is  
2607 certified under Subsection 63-38f-502(3) and issued a targeted business tax credit eligibility  
2608 form by the office under Subsection (8) may claim a refundable [~~income~~] tax credit:

2609 (a) against the business applicant's tax liability under[:~~(i) Title 59, Chapter 10,~~  
2610 ~~Individual Income Tax Act, or (ii)] Title 59, Chapter 7, Corporate Franchise and Income Taxes;~~  
2611 and

2612 (b) subject to requirements and limitations provided by this part.

2613 (2) The total amount of the targeted business income tax credits allowed under this part  
2614 for all business applicants may not exceed \$300,000 in any fiscal year.

2615 (3) (a) A targeted business income tax credit allowed under this part for each  
2616 community investment project provided by a business applicant may not:

2617 (i) be claimed by a business applicant for more than seven consecutive taxable years  
2618 from the date the business applicant first qualifies for a targeted business income tax credit on  
2619 the basis of a community investment project;

2620 (ii) be carried forward or carried back;

2621 (iii) exceed \$100,000 in total amount for the community investment project period  
2622 during which the business applicant is eligible to claim a targeted business income tax credit;  
2623 or

2624 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser  
2625 of:

2626 (A) 50% of the maximum amount allowed by the local zone administrator; or

2627 (B) the allocated cap amount determined by the office under Subsection 63-38f-502(5).

2628 (b) A business applicant may apply to the local zone administrator to claim a targeted  
2629 business income tax credit allowed under this part for each community investment project  
2630 provided by the business applicant as the basis for its eligibility for a targeted business income  
2631 tax credit.

2632 (4) Subject to other provisions of this section, the local zone administrator shall  
2633 establish for each business applicant that qualifies for a targeted business income tax credit:

2634 (a) criteria for maintaining eligibility for the targeted business income tax credit that  
2635 are reasonably related to the community investment project that is the basis for the business  
2636 applicant's targeted business income tax credit;

2637 (b) the maximum amount of the targeted business income tax credit the business  
2638 applicant is allowed for the community investment project period;

2639 (c) the time period over which the total amount of the targeted business income tax  
2640 credit may be claimed;

2641 (d) the maximum amount of the targeted business income tax credit that the business  
2642 applicant will be allowed to claim each year; and

2643 (e) requirements for a business applicant to report to the local zone administrator  
2644 specifying:

2645 (i) the frequency of the business applicant's reports to the local zone administrator,  
2646 which shall be made at least quarterly; and

2647 (ii) the information needed by the local zone administrator to monitor the business  
2648 applicant's compliance with this Subsection (4) or Section 63-38f-502 that shall be included in  
2649 the report.

2650 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted  
2651 business income tax credit under this part shall report to the local zone administrator.

2652 (6) The amount of a targeted business income tax credit that a business applicant is  
2653 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office  
2654 or the local zone administrator determines that the business applicant has failed to comply with  
2655 a requirement of Subsection (3) or Section 63-38f-502.

2656 (7) The office or local zone administrator may audit a business applicant to ensure:

2657 (a) eligibility for a targeted business income tax credit; or

2658 (b) compliance with Subsection (3) or Section 63-38f-502.

2659 (8) The office shall issue a targeted business income tax credit eligibility form in a  
2660 form jointly developed by the State Tax Commission and the office no later than 30 days after  
2661 the last day of the business applicant's taxable year showing:

2662 (a) the maximum amount of the targeted business income tax credit that the business

2663 applicant is eligible for that taxable year;

2664 (b) any reductions in the maximum amount of the targeted business income tax credit  
2665 because of failure to comply with a requirement of Subsection (3) or Section 63-38f-502;

2666 (c) the allocated cap amount that the business applicant may claim for that taxable  
2667 year; and

2668 (d) the actual amount of the targeted business income tax credit that the business  
2669 applicant may claim for that taxable year.

2670 (9) (a) A business applicant shall retain the targeted business income tax credit  
2671 eligibility form provided by the office under this Subsection (9).

2672 (b) The State Tax Commission may audit a business applicant to ensure:

2673 (i) eligibility for a targeted business income tax credit; or

2674 (ii) compliance with Subsection (3) or Section 63-38f-502.

2675 Section 56. Section **63-38f-1102** is amended to read:

2676 **63-38f-1102. Definitions.**

2677 As used in this part:

2678 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and  
2679 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other  
2680 organisms.

2681 (2) "Postconsumer waste material" means any product generated by a business or  
2682 consumer that has served its intended end use, and that has been separated from solid waste for  
2683 the purposes of collection, recycling, and disposition and that does not include secondary waste  
2684 material.

2685 (3) (a) "Recovered materials" means waste materials and by-products that have been  
2686 recovered or diverted from solid waste.

2687 (b) "Recovered materials" does not include those materials and by-products generated  
2688 from, and commonly reused within, an original manufacturing process.

2689 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and  
2690 the beneficial use of the materials and includes a series of activities by which materials that  
2691 would become or otherwise remain waste are diverted from the waste stream for collection,  
2692 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition  
2693 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of

2694 the materials as substitutes for goods made from virgin materials.

2695 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

2696 (5) "Recycling market development zone" or "zone" means an area designated by the  
2697 office as meeting the requirements of this part.

2698 (6) (a) "Secondary waste material" means industrial by-products that go to disposal  
2699 facilities and waste generated after completion of a manufacturing process.

2700 (b) "Secondary waste material" does not include internally generated scrap commonly  
2701 returned to industrial or manufacturing processes, such as home scrap and mill broke.

2702 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable  
2703 tax credits available under [~~Sections~~] Section 59-7-608 [~~and 59-10-108.7~~].

2704 Section 57. Section **63-38f-1110** is amended to read:

2705 **63-38f-1110. Recycling market development zones credit.**

2706 For a taxpayer within a recycling market development zone, there are allowed the  
2707 nonrefundable tax credits [~~against tax~~] as provided by [~~Sections~~] Section 59-7-610 [~~and~~  
2708 ~~59-10-108.7~~].

2709 Section 58. Section **63-38f-1203** is amended to read:

2710 **63-38f-1203. Definitions.**

2711 As used in this part:

2712 (1) "Board" means the Utah Capital Investment Board.

2713 (2) "Certificate" means a contract between the board and a designated investor under  
2714 which a contingent tax credit is available and issued to the designated investor.

2715 (3) "Commitment" means a written commitment by a designated purchaser to purchase  
2716 from the board certificates presented to the board for redemption by a designated investor.

2717 Each commitment shall state the dollar amount of contingent tax credits that the designated  
2718 purchaser has committed to purchase from the board.

2719 (4) "Contingent tax credit" means a contingent tax credit issued under this part that is  
2720 available against a tax [~~liabilities~~] liability imposed by Title 59, Chapter 7, Corporate Franchise  
2721 and Income Taxes, [~~and Chapter 10, Individual Income Tax Act,~~] if there are insufficient funds  
2722 in the redemption reserve and the board has not exercised other options for redemption under  
2723 Subsection 63-38f-1220(3)(b).

2724 (5) "Corporation" means the Utah Capital Investment Corporation created under

2725 Section 63-38f-1207.

2726 (6) "Designated investor" means:

2727 (a) a person who purchases an equity interest in the Utah fund of funds; or

2728 (b) a transferee of a certificate or contingent tax credit.

2729 (7) "Designated purchaser" means:

2730 (a) a person who enters into a written undertaking with the board to purchase a

2731 commitment; or

2732 (b) a transferee who assumes the obligations to make the purchase described in the

2733 commitment.

2734 (8) "Person" means an individual, partnership, limited liability company, corporation,

2735 association, organization, business trust, estate, trust, or any other legal or commercial entity.

2736 (9) "Redemption reserve" means the reserve established by the corporation to facilitate

2737 the cash redemption of certificates.

2738 (10) "Utah fund of funds" means a limited partnership or limited liability company

2739 established under Section 63-38f-1213 in which a designated investor purchases an equity

2740 interest.

2741 Section 59. Section **63-55-209** is amended to read:

2742 **63-55-209. Repeal dates, Title 9.**

2743 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
2744 repealed July 1, 2014.

2745 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

2746 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is  
2747 repealed July 1, 2010.

2748 (b) [~~Sections~~] Section 59-7-610 [~~and 59-10-108.7~~], regarding tax credits for certain  
2749 persons in recycling market development zones, are repealed for taxable years beginning on or  
2750 after January 1, 2011.

2751 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under  
2752 Section 59-7-610 [~~or 59-10-108.7~~]:

2753 (i) for the purchase price of machinery or equipment described in Section 59-7-610 [~~or~~  
2754 ~~59-10-108.7~~] if the machinery or equipment is purchased on or after July 1, 2010; or

2755 (ii) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],

2756 if the expenditure is made on or after July 1, 2010.

2757 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit  
2758 in accordance with Section 59-7-610 [~~or 59-10-108.7~~] if:

2759 (i) the person is entitled to a tax credit under Section 59-7-610 [~~or 59-10-108.7~~]; and

2760 (ii) (A) for the purchase price of machinery or equipment described in Section  
2761 59-7-610 [~~or 59-10-108.7~~], the machinery or equipment is purchased on or before June 30,  
2762 2010; or

2763 (B) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],  
2764 the expenditure is made on or before June 30, 2010.

2765 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July  
2766 1, 2008.

2767 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed  
2768 July 1, 2009.

2769 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

2770 Section 60. Section ~~63-55-259~~ is amended to read:

2771 **~~63-55-259. Repeal dates, Title 59.~~**

2772 (1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2006.

2773 (2) Section 59-9-102.5 is repealed December 31, 2010.

2774 [~~(3) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.~~]

2775 Section 61. Section ~~72-12-107~~ is amended to read:

2776 **~~72-12-107. Benefits of ride-sharing driver not taxable income.~~**

2777 Money and other benefits, other than salary, received by a driver in a ride-sharing  
2778 arrangement does not constitute income for the purpose of computing adjusted gross income  
2779 under Title 59, Chapter 10, Individual Income Tax.

2780 Section 62. **Repealer.**

2781 This bill repeals:

2782 Section ~~23-14-14.1~~, **Wolf Depredation and Management Restricted Account --**

2783 **Interest -- Use of contributions and interest.**

2784 Section ~~31A-32a-101~~, **Title and scope.**

2785 Section ~~31A-32a-102~~, **Definitions.**

2786 Section ~~31A-32a-103~~, **Establishing medical care savings accounts.**

- 2787 Section 31A-32a-104, Administration of medical care savings account.
- 2788 Section 31A-32a-105, Withdrawals -- Termination -- Transfers.
- 2789 Section 31A-32a-106, Regulation of account administrators -- Administration of
- 2790 tax deductions.
- 2791 Section 31A-32a-107, Penalties for noncompliance with tax requirements.
- 2792 Section 59-10-102, Declaration of intent.
- 2793 Section 59-10-104.1, Exemption from taxation.
- 2794 Section 59-10-105, Optional tax -- Calculation -- Commission authority to
- 2795 prescribed tax tables -- Exemption.
- 2796 Section 59-10-107, Credit for tax paid by estate or trust to another state.
- 2797 Section 59-10-108, Credit for cash contributions to sheltered workshops.
- 2798 Section 59-10-108.1, Tax credit for at-home parent.
- 2799 Section 59-10-108.5, Historic preservation credit.
- 2800 Section 59-10-108.7, Recycling market development zones tax credit.
- 2801 Section 59-10-109, Targeted jobs tax credit.
- 2802 Section 59-10-111, Federal taxable income defined.
- 2803 Section 59-10-112, State taxable income of resident individual.
- 2804 Section 59-10-127, Definitions -- Tax credit -- Cleaner burning fuels.
- 2805 Section 59-10-128, Tax credit -- Items using cleaner burning fuels.
- 2806 Section 59-10-129, Utah low-income housing tax credit.
- 2807 Section 59-10-130, Tutoring tax credits for disabled dependents.
- 2808 Section 59-10-131, Credits for research activities conducted in the state -- Carry
- 2809 forward -- Commission to report modification or repeal of federal credits -- Tax Review
- 2810 Commission study.
- 2811 Section 59-10-132, Credits for machinery, equipment, or both primarily used for
- 2812 conducting qualified research or basic research -- Carry forward -- Commission to report
- 2813 modification or repeal of federal credits -- Tax Review Commission study.
- 2814 Section 59-10-133, Tax credit for adoption of a child who has a special need.
- 2815 Section 59-10-134, Renewable energy systems tax credit -- Definitions -- Individual
- 2816 tax credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition
- 2817 to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of

2818 **Uniform School Fund.**

2819           Section **59-10-134.1**, Refundable tax credit for hand tools used in farming  
2820 **operations -- Procedures for refund -- Transfers from General Fund to Uniform School**  
2821 **Fund -- Rulemaking authority.**

2822           Section **59-10-134.2**, Definitions -- Nonrefundable tax credit for live organ  
2823 **donation expenses -- Rulemaking authority.**

2824           Section **59-10-135**, Removal of tax credit from tax return and prohibition on  
2825 **claiming or carrying forward a tax credit -- Conditions for removal and prohibition on**  
2826 **claiming or carrying forward a tax credit -- Commission reporting requirements.**

2827           Section **59-10-209**, Adjustments to state taxable income of resident estates or trusts  
2828 **and beneficiaries.**

2829           Section **59-10-530**, Nongame wildlife contribution -- Credit to Wildlife Resources  
2830 **Account.**

2831           Section **59-10-530.5**, Homeless contribution -- Credit to Pamela Atkinson Homeless  
2832 **Trust Account.**

2833           Section **59-10-546**, Application of former law.

2834           Section **59-10-547**, Election Campaign Fund designations -- Transfer from General  
2835 **Fund -- Form and procedure.**

2836           Section **59-10-548**, Election Campaign Fund -- Contents -- Disbursement and  
2837 **distribution -- Limitations on expenditures.**

2838           Section **59-10-549**, Contributions for education.

2839           Section **59-10-550**, Checkoff for children's organ transplants -- Credit to Kurt  
2840 **Oscarson Children's Organ Transplant Trust Account.**

2841           Section **59-10-550.1**, Contribution to Wolf Depredation and Management  
2842 **Restricted Account.**

2843           Section **59-10-551**, Removal of designation and prohibitions on collection for  
2844 **certain contributions on income tax form -- Conditions for removal and prohibitions on**  
2845 **collection -- Commission reporting requirements.**

2846           Section 63. **Effective date.**

2847           This bill takes effect for taxable years beginning on or after January 1, 2007.

2848           Section 64. **Revisor instructions.**

2849           It is the intent of the Legislature that, in preparing the Utah Code database for  
2850 publication, the Office of Legislative Research and General Counsel shall replace the  
2851 references in Section 59-10-136 from "this bill" to the bill's designated chapter number in the  
2852 Laws of Utah.

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**Legislative Review Note**  
**as of 2-7-06 7:14 PM**

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**

**State Impact**

Passage of this bill could result in a loss to the Uniform School Fund of \$15,000,000 in FY 2007 a loss of \$59,000,000 in FY 2008 and a loss of \$63,000,000 in FY 2009. There is also a potential loss of restricted revenues of approximately \$300,000 annually. The Tax Commission would require an appropriation of \$233,000 from the Uniform School Fund to implement the provisions of the bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Uniform School Fund	\$0	\$0	(\$15,000,000)	(\$59,000,000)
Uniform School Fund, One-	\$233,000	\$0	\$0	\$0
Restricted Funds	\$0	\$0	(\$300,000)	(\$300,000)
<b>TOTAL</b>	<b>\$233,000</b>	<b>\$0</b>	<b>(\$15,300,000)</b>	<b>(\$59,300,000)</b>

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**Individual and Business Impact**

There is a potential shift in tax burden among taxpayers.

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