

Senator Curtis S. Bramble proposes the following substitute bill:

TAX REVISIONS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: John Dougall

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 and modifies 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;
- ▶ repeals and reenacts tax credits for:
 - a tax paid to another state;
 - a nonresident shareholder of an S corporation; and
 - low-income housing;



- 26 ▶ provides income tax credits for:
- 27 • 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 provides an effective date.

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 **59-10-1008**, 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 **59-10-1007**, (Renumbered from 59-10-129, as last amended by Chapter 113, Laws of
- 113 Utah 2005)
- 114 **59-10-1103**, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of
- 115 Utah 2003)

116 REPEALS:

- 117 **23-14-14.1**, as enacted by Chapter 162, Laws of Utah 2003
- 118 **31A-32a-101**, as enacted by Chapter 131, Laws of Utah 1999

119 **31A-32a-102**, as last amended by Chapter 116, Laws of Utah 2001
120 **31A-32a-103**, as enacted by Chapter 131, Laws of Utah 1999
121 **31A-32a-104**, as enacted by Chapter 131, Laws of Utah 1999
122 **31A-32a-105**, as enacted by Chapter 131, Laws of Utah 1999
123 **31A-32a-106**, as last amended by Chapter 53, Laws of Utah 2001
124 **31A-32a-107**, as enacted by Chapter 131, Laws of Utah 1999
125 **59-10-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987
126 **59-10-104.1**, as enacted by Chapter 323, Laws of Utah 2001
127 **59-10-105**, as last amended by Chapter 323, Laws of Utah 2001
128 **59-10-107**, as renumbered and amended by Chapter 2, Laws of Utah 1987
129 **59-10-108**, as last amended by Chapter 73, Laws of Utah 2001
130 **59-10-108.1**, as enacted by Chapter 272, Laws of Utah 1999
131 **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995
132 **59-10-108.7**, as last amended by Chapter 148, Laws of Utah 2005
133 **59-10-109**, as last amended by Chapter 198, Laws of Utah 2003
134 **59-10-111**, as last amended by Chapter 96, Laws of Utah 1987
135 **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995
136 **59-10-127**, as last amended by Chapters 108 and 294, Laws of Utah 2005
137 **59-10-128**, as last amended by Chapter 198, Laws of Utah 2003
138 **59-10-130**, as last amended by Chapter 145, Laws of Utah 2002
139 **59-10-131**, as last amended by Chapter 59, Laws of Utah 1999
140 **59-10-132**, as last amended by Chapter 59, Laws of Utah 1999
141 **59-10-133**, as last amended by Chapter 263, Laws of Utah 2005
142 **59-10-134**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005
143 **59-10-134.1**, as enacted by Chapter 312, Laws of Utah 2003
144 **59-10-134.2**, as enacted by Chapter 290, Laws of Utah 2005
145 **59-10-135**, as enacted by Chapter 62, Laws of Utah 2002
146 **59-10-209**, as last amended by Chapter 345, Laws of Utah 1995
147 **59-10-530**, as last amended by Chapter 12, Laws of Utah 1997
148 **59-10-530.5**, as last amended by Chapter 132, Laws of Utah 2003
149 **59-10-546**, as renumbered and amended by Chapter 2, Laws of Utah 1987

- 150 **59-10-547**, as last amended by Chapter 269, Laws of Utah 1998
- 151 **59-10-548**, as last amended by Chapters 107 and 256, Laws of Utah 2002
- 152 **59-10-549**, as last amended by Chapter 208, Laws of Utah 2005
- 153 **59-10-550**, as last amended by Chapters 1 and 12, Laws of Utah 1997
- 154 **59-10-550.1**, as enacted by Chapter 162, Laws of Utah 2003
- 155 **59-10-551**, as last amended by Chapter 208, Laws of Utah 2005

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

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

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

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

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

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

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

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

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

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

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

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

185 ~~[(ii) pay for the initial costs of the State Tax Commission in implementing Section~~
 186 ~~59-10-530.5 from the account.]~~

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

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

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

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

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

201 **9-4-803. Creation of Pamela Atkinson Homeless Trust Account.**

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

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

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

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

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

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

212 **fund monies.**

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

214 (b) The fund consists of:

215 (i) appropriations to the fund;

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

217 (iii) interest earnings on cash balances; and

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

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

220 (d) The department may accept contributions from other public and private sources for
221 deposit into the fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

256 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

257 (1) The department shall:

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

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

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

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

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

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

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

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

273 (v) specifying repayment periods;

- 274 (vi) specifying procedures for:
275 (A) awarding loans and grants; and
276 (B) collecting loans; and
277 (vii) requiring all loan and grant applicants to:
278 (A) apply on forms provided by the department;
279 (B) agree in writing to use the clean fuel for which each vehicle is converted or
280 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
281 beginning from the time of conversion or purchase of the vehicle;
282 (C) agree in writing to notify the department if a vehicle converted or purchased using
283 loan or grant proceeds becomes inoperable through mechanical failure or accident and to
284 pursue a remedy outlined in department rules;
285 (D) provide reasonable data to the department on vehicles converted or purchased with
286 loan or grant proceeds; and
287 (E) submit vehicles converted or purchased with loan or grant proceeds to inspections
288 by the department as required in department rules and as necessary for administration of the
289 loan and grant program.
- 290 (2) (a) When developing repayment schedules for the loans, the department shall
291 consider the projected savings from use of the clean-fuel vehicle.
292 (b) A repayment schedule may not exceed ten years.
293 (c) Loans made from the fund for private sector vehicles shall be made at an interest
294 rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as
295 determined the month immediately preceding the closing date of the loan.
296 (d) Loans made from the fund for government vehicles shall be made at a zero interest
297 rate.
- 298 (3) The Division of Finance is responsible for collection of and accounting for the
299 loans and has custody of all loan documents, including all notes and contracts, evidencing the
300 indebtedness of the fund.

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

302 **19-2-104. Powers of board.**

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

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

308 (b) establishing air quality standards;

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

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

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

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

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

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

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

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

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

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

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

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

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

338 (3) The board may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

421 **22-3-505. Income taxes.**

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

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

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

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

- 429 (b) from principal to the extent that:
- 430 (i) receipts from the entity are allocated to principal; and
- 431 (ii) the trust's share of the entity's state taxable income as defined in Section
- 432 59-10-201.1 exceeds the total receipts described in Subsections (3)(a) and (3)(b)(i).
- 433 (4) For purposes of this section, receipts allocated to principal or income must be
- 434 reduced by the amount distributed to a beneficiary from principal or income for which the trust
- 435 receives a deduction in calculating the tax.

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

437 **26-18a-3. Purpose of committee.**

- 438 (1) The committee shall work to:
- 439 (a) provide financial assistance for initial medical expenses of children who need organ
- 440 transplants;
- 441 (b) obtain the assistance of volunteer and public service organizations; and
- 442 (c) fund activities as the committee designates for the purpose of educating the public
- 443 about the need for organ donors.
- 444 (2) (a) The committee is responsible for awarding financial assistance funded by the
- 445 trust account.
- 446 (b) The financial assistance awarded by the committee under Subsection (1)(a) shall be
- 447 in the form of interest free loans. The committee may establish terms for repayment of the
- 448 loans, including a waiver of the requirement to repay any awards if, in the committee's
- 449 judgment, repayment of the loan would impose an undue financial burden on the recipient.
- 450 (c) In making financial awards under Subsection (1)(a), the committee shall consider:
- 451 (i) need;
- 452 (ii) coordination with or enhancement of existing services or financial assistance,
- 453 including availability of insurance or other state aid;
- 454 (iii) the success rate of the particular organ transplant procedure needed by the child;
- 455 and
- 456 (iv) the extent of the threat to the child's life without the organ transplant.
- 457 (3) The committee may only provide the assistance described in this section to children
- 458 who have resided in Utah, or whose legal guardians have resided in Utah for at least six months
- 459 prior to the date of assistance under this section.

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

462 (b) The administrative costs shall be used for the costs associated with staffing the
463 committee [~~and for State Tax Commission costs in implementing Section 59-10-550~~].

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

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

468 **26-18a-4. Creation of Kurt Oscarson Children's Organ Transplant Trust**
469 **Account.**

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

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

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

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

480 **53B-8a-106. Account agreements.**

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

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

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

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

491 ~~[(d) The maximum amount of investments that may be subtracted from federal taxable~~
492 ~~income of a resident or nonresident individual under Subsection 59-10-114(2)(j) shall be~~
493 ~~\$1,510 for each individual beneficiary for the 2005 calendar year and an amount adjusted~~
494 ~~annually thereafter to reflect increases in the Consumer Price Index.]~~

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

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

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

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

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

508 (4) Each account agreement shall provide that:

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

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

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

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

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

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

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

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

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

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

529 (8) Each account agreement shall provide that:

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

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

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

536 **53B-8a-112. Tax considerations.**

537 (1) For tax purposes the property of the trust and its income are governed by Sections
538 59-7-105, 59-7-106, [~~59-10-114~~] and 59-10-201.

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

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

543 **59-2-102. Definitions.**

544 As used in this chapter and title:

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

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

552 (3) "Air contract service" means an air carrier operation available only to customers

553 who engage the services of the carrier through a contractual agreement and excess capacity on
554 any trip and is not available to the public at large.

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

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

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

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

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

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

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

572 (c) vehicles which are:

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

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

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

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

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

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

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

- 584 (i) a county; and
585 (ii) a school district.
- 586 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
587 by the overlapping boundaries of:
588 (i) the taxing entities described in Subsection (9)(a); and
589 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
590 and the boundaries of the city or town are identical; or
591 (B) a special service district if the boundaries of the school district under Subsection
592 (9)(a) are located entirely within the special service district.
- 593 (10) "Eligible judgment" means a final and unappealable judgment or order under
594 Section 59-2-1330:
595 (a) that became a final and unappealable judgment or order no more than 14 months
596 prior to the day on which the notice required by Subsection 59-2-919(4) is required to be
597 mailed; and
598 (b) for which a taxing entity's share of the final and unappealable judgment or order is
599 greater than or equal to the lesser of:
600 (i) \$5,000; or
601 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
602 previous fiscal year.
- 603 (11) (a) "Escaped property" means any property, whether personal, land, or any
604 improvements to the property, subject to taxation and is:
605 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
606 to the wrong taxpayer by the assessing authority;
607 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
608 comply with the reporting requirements of this chapter; or
609 (iii) undervalued because of errors made by the assessing authority based upon
610 incomplete or erroneous information furnished by the taxpayer.
- 611 (b) Property which is undervalued because of the use of a different valuation
612 methodology or because of a different application of the same valuation methodology is not
613 "escaped property."
- 614 (12) "Fair market value" means the amount at which property would change hands

615 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
616 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
617 market value" shall be determined using the current zoning laws applicable to the property in
618 question, except in cases where there is a reasonable probability of a change in the zoning laws
619 affecting that property in the tax year in question and the change would have an appreciable
620 influence upon the value.

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

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

630 (15) "Geothermal resource" means:

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

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

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

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

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

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

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

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

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

648 (ii) removal of the item would:

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

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

651 (b) "Improvement" includes:

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

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

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

655 and

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

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

658 (B) remains located on the land.

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

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

661 with Section 59-2-107;

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

663 (A) for stability only; or

664 (B) for an obvious temporary purpose;

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

666 (B) essential accessories to manufacturing equipment and machinery; [~~or~~]

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

668 damage to:

669 (A) the land; or

670 (B) the item; or

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

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

673 59-2-1503.

674 (18) "Intangible property" means:

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

676 including:

- 677 (i) moneys;
- 678 (ii) credits;
- 679 (iii) bonds;
- 680 (iv) stocks;
- 681 (v) representative property;
- 682 (vi) franchises;
- 683 (vii) licenses;
- 684 (viii) trade names;
- 685 (ix) copyrights; and
- 686 (x) patents; or
- 687 (b) a low-income housing tax credit.
- 688 (19) "Low-income housing tax credit" means:
- 689 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 690 or
- 691 (b) a low-income housing tax credit under:
- 692 (i) Section 59-7-607; or
- 693 (ii) Section [~~59-10-129~~] 59-10-1007.
- 694 (20) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 695 (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 696 valuable mineral.
- 697 (22) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 698 otherwise removing a mineral from a mine.
- 699 (23) (a) "Mobile flight equipment" means tangible personal property that is:
- 700 (i) owned or operated by an:
- 701 (A) air charter service;
- 702 (B) air contract service; or
- 703 (C) airline; and
- 704 (ii) (A) capable of flight;
- 705 (B) attached to an aircraft that is capable of flight; or
- 706 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 707 intended to be used:

- 708 (I) during multiple flights;
- 709 (II) during a takeoff, flight, or landing; and
- 710 (III) as a service provided by an air charter service, air contract service, or airline.

711 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
712 engine that is rotated:

- 713 (A) at regular intervals; and
- 714 (B) with an engine that is attached to the aircraft.

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

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

719 (25) "Personal property" includes:

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

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

723 (c) bridges and ferries;

724 (d) livestock which, for the purposes of the exemption provided under Section
725 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

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

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

730 (27) "Public utility," for purposes of this chapter, means the operating property of a
731 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
732 company, electrical corporation, telephone corporation, sewerage corporation, or heat
733 corporation where the company performs the service for, or delivers the commodity to, the
734 public generally or companies serving the public generally, or in the case of a gas corporation
735 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
736 consumers within the state for domestic, commercial, or industrial use. Public utility also
737 means the operating property of any entity or person defined under Section 54-2-1 except water
738 corporations.

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

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

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

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

743 all rights and privileges appertaining to these; and

744 (c) improvements.

745 (29) "Residential property," for the purposes of the reductions and adjustments under

746 this chapter, means any property used for residential purposes as a primary residence. It does

747 not include property used for transient residential use or condominiums used in rental pools.

748 (30) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of

749 miles calculated by the commission that is:

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

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

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

753 (ii) where an aircraft:

754 (A) takes off; or

755 (B) lands.

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

757 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate

758 to transport passengers, freight, merchandise, or other property for hire; or

759 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and

760 transports the vehicle owner's goods or property in furtherance of the owner's commercial

761 enterprise.

762 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which

763 are specified in Subsection (8)(c) as county-assessed commercial vehicles.

764 (32) "Taxable value" means fair market value less any applicable reduction allowed for

765 residential property under Section 59-2-103.

766 (33) "Tax area" means a geographic area created by the overlapping boundaries of one

767 or more taxing entities.

768 (34) "Taxing entity" means any county, city, town, school district, special taxing

769 district, or any other political subdivision of the state with the authority to levy a tax on

770 property.

771 (35) "Tax roll" means a permanent record of the taxes charged on property, as extended
772 on the assessment roll and may be maintained on the same record or records as the assessment
773 roll or may be maintained on a separate record properly indexed to the assessment roll. It
774 includes tax books, tax lists, and other similar materials.

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

776 **59-6-101. Definitions.**

777 As used in this chapter:

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

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

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

782 ~~(+)~~ (3) "Minerals" means either metalliferous minerals as defined in Section
783 59-2-102, nonmetalliferous minerals as defined in Section 59-2-102, or both.

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

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

789 (a) as provided by statute; and

790 (b) regardless of whether the claimant, estate, or trust has a tax liability for a tax
791 described in Subsection 59-6-102(3) for the taxable year for which the claimant, estate, or trust
792 claims the tax credit.

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

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

795 **59-6-102. Producer's obligation to deduct and withhold payments -- Amount --**
796 **Exempt payments -- Credit against tax.**

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

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

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

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

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

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

812 ~~[(i)]~~ (a) Chapter 7, Corporate Franchise and Income Taxes;

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

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

816 ~~[(iv)]~~ (d) Chapter 10, Individual Income Tax Act.

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

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

820 **59-7-607. Utah low-income housing tax credit.**

821 (1) As used in this section:

822 (a) "Allocation certificate" means:

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

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

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

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

832 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
833 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
834 company in the case of a limited liability company.

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

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

838 (i) prescribed by the commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

864 (d) (i) For the calendar year beginning on January 1, ~~[1995]~~ 2007, through the calendar
865 year beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing
866 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
867 Code, pursuant to this section ~~[and Section 59-10-129]~~ is an amount equal to the product of:

868 (A) 12.5 cents; and

869 (B) the population of Utah.

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

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

876 ~~[(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
877 based on:]~~

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

880 ~~[(ii) the level of area median income being served by the development;]~~

881 ~~[(iii) the need for the tax credit for the economic feasibility of the development; and]~~

882 ~~[(iv) the extended period for which the development commits to remain as affordable
883 housing.]~~

884 ~~[(4)]~~ (3) (a) The following may apply to the Utah Housing Corporation for a tax credit
885 under this section:

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

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

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

892 ~~[(5)]~~ (4) (a) The Utah Housing Corporation shall determine the amount of the tax credit
893 to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of

894 the Utah Housing Corporation.

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

897 (ii) The allocation certificate under Subsection [~~5~~] (4)(b)(i) shall specify the allowed
898 percentage of the federal low-income housing tax credit as determined by the Utah Housing
899 Corporation.

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

902 [~~6~~] (5) A housing sponsor shall provide a copy of the allocation certificate to each
903 taxpayer that is issued a special low-income housing tax credit certificate.

904 [~~7~~] (6) (a) A housing sponsor shall provide to the commission a list of:

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

906 (ii) for each taxpayer described in Subsection [~~7~~] (6)(a)(i), the amount of tax credit
907 listed on the special low-income housing tax credit certificate.

908 (b) A housing sponsor shall provide the list required by Subsection [~~7~~] (6)(a):

909 (i) to the commission;

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

911 (iii) with the housing sponsor's tax return for each taxable year for which the housing
912 sponsor issues a special low-income housing tax credit certificate described in this Subsection
913 [~~7~~] (6).

914 [~~8~~] (7) (a) All elections made by the taxpayer pursuant to Section 42, Internal
915 Revenue Code, shall apply to this section.

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

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

922 [~~9~~] (8) (a) Any tax credits returned to the Utah Housing Corporation in any year may
923 be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

924 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may

925 be carried over for allocation in the subsequent year.

926 ~~[(10)]~~ (9) (a) Amounts otherwise qualifying for the tax credit, but not allowable
 927 because the tax credit exceeds the tax, may be carried back three years or may be carried
 928 forward five years as a credit against the tax.

929 (b) Carryover tax credits under Subsection ~~[(10)]~~ (9)(a) shall be applied against the tax:

930 (i) before the application of the tax credits earned in the current year; and

931 (ii) on a first-earned first-used basis.

932 ~~[(11)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the
 933 commission.

934 ~~[(12)]~~ (11) The Utah Housing Corporation shall provide an annual report to the
 935 Revenue and Taxation Interim Committee which shall include at least:

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

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

938 ~~[(13)]~~ (12) The commission may, in consultation with the Utah Housing Corporation,
 939 promulgate rules to implement this section.

940 Section 15. Section **59-7-703** is amended to read:

941 **59-7-703. Payment or withholding of tax on behalf of nonresident shareholders --**
 942 **Rate.**

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

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

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

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

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

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

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

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

955 attributable to resident shareholders; and

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

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

958 (i) the nonresident shareholder may claim a credit on the nonresident shareholder's

959 return for the amount of tax paid or withheld by the S corporation on behalf of the nonresident

960 shareholder;

961 (ii) if the nonresident shareholder has no other Utah source income, the nonresident

962 shareholder may elect:

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

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

965 (iii) if the nonresident shareholder may claim credits other than the credit described in

966 Subsection (3)(a)(i), the nonresident shareholder shall file a return to claim those credits.

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

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

969 (4) Notwithstanding Subsection (2), the obligation to pay or withhold a tax under

970 Subsection (2) does not apply to an organization that is exempt under Subsection

971 59-7-102(1)(a) from the taxes imposed by this chapter.

972 (5) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

973 the commission shall by rule determine the rate at which an S corporation shall withhold for

974 nonresident shareholders.

975 (b) The rate described in Subsection (5)(a) shall be consistent with the composite tax

976 rate paid by partnerships.

977 (6) (a) If an S corporation fails to pay or withhold a tax as provided in this section, and

978 thereafter the income subject to payment or withholding is reported and the resulting tax is paid

979 by a nonresident shareholder, any tax required to be paid or withheld may not be collected from

980 the S corporation.

981 (b) A nonresident shareholder's payment under Subsection (6)(a) does not relieve the S

982 corporation from liability for penalties or interest associated with failure to pay or withhold a

983 tax as provided in this section.

984 (7) Penalties, refunds, assessments, and required records for S corporations shall be

985 governed by:

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

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

989 (8) (a) An S corporation shall furnish each nonresident shareholder a statement
990 showing:

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

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

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

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

997 (ii) on forms furnished by the commission.

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

999 **59-10-103. Definitions.**

1000 (1) As used in this chapter:

1001 [~~(a) "Adoption expenses" means:~~]

1002 [~~(i) any actual medical and hospital expenses of the mother of the adopted child which
1003 are incident to the child's birth;~~]

1004 [~~(ii) any welfare agency fees or costs;~~]

1005 [~~(iii) any child placement service fees or costs;~~]

1006 [~~(iv) any legal fees or costs; or~~]

1007 [~~(v) any other fees or costs relating to an adoption.]~~]

1008 [~~(b) "Adult with a disability" means an individual who:~~]

1009 [~~(i) is 18 years of age or older;~~]

1010 [~~(ii) is eligible for services under Title 62A, Chapter 5, Services to People with
1011 Disabilities; and]~~]

1012 [~~(iii) is not enrolled in:~~]

1013 [~~(A) an education program for students with disabilities that is authorized under
1014 Section 53A-15-301; or]~~]

1015 [~~(B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.]~~]

1016 [~~(c) (i) For purposes of Subsection 59-10-114(2)(m), "capital gain transaction" means a
1017 transaction that results in a:~~]

1018 ~~[(A) short-term capital gain; or]~~
1019 ~~[(B) long-term capital gain.]~~
1020 ~~[(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
1021 ~~the commission may by rule define the term "transaction."]~~
1022 ~~[(d) "Commercial domicile" means the principal place from which the trade or business~~
1023 ~~of a Utah small business corporation is directed or managed.]~~
1024 (a) "Adjusted gross income":
1025 (i) for a resident or nonresident individual, is as defined in Section 62, Internal
1026 Revenue Code; or
1027 (ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
1028 Internal Revenue Code.
1029 ~~[(e)]~~ (b) "Corporation" includes:
1030 (i) associations;
1031 (ii) joint stock companies; and
1032 (iii) insurance companies.
1033 ~~[(f) "Dependent child with a disability" means an individual 21 years of age or younger~~
1034 ~~who:]~~
1035 ~~[(i) (A) is diagnosed by a school district representative under rules adopted by the State~~
1036 ~~Board of Education as having a disability classified as:]~~
1037 ~~[(F) autism;]~~
1038 ~~[(H) deafness;]~~
1039 ~~[(III) preschool developmental delay;]~~
1040 ~~[(IV) dual sensory impairment;]~~
1041 ~~[(V) hearing impairment;]~~
1042 ~~[(VI) intellectual disability;]~~
1043 ~~[(VII) multidisability;]~~
1044 ~~[(VIII) orthopedic impairment;]~~
1045 ~~[(IX) other health impairment;]~~
1046 ~~[(X) traumatic brain injury; or]~~
1047 ~~[(XI) visual impairment;]~~
1048 ~~[(B) is not receiving residential services from:]~~

1049 ~~[(f) the Division of Services for People with Disabilities created under Section~~
1050 ~~62A-5-102; or]~~

1051 ~~[(H) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;~~
1052 ~~and]~~

1053 ~~[(C) is enrolled in:]~~

1054 ~~[(f) an education program for students with disabilities that is authorized under Section~~
1055 ~~53A-15-301; or]~~

1056 ~~[(H) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;~~
1057 ~~or]~~

1058 ~~[(ii) is identified under guidelines of the Department of Health as qualified for:]~~

1059 ~~[(A) Early Intervention; or]~~

1060 ~~[(B) Infant Development Services.]~~

1061 (c) "Distributable net income" is as defined in Section 643, Internal Revenue Code.

1062 ~~[(g)]~~ (d) "Employee" is as defined in Section 59-10-401.

1063 ~~[(h)]~~ (e) "Employer" is as defined in Section 59-10-401.

1064 (f) "Federal taxable income":

1065 (i) for a resident or nonresident individual, means taxable income as defined by Section
1066 63, Internal Revenue Code; or

1067 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
1068 (b), Internal Revenue Code.

1069 ~~[(i)]~~ (g) "Fiduciary" means:

1070 (i) a guardian;

1071 (ii) a trustee;

1072 (iii) an executor;

1073 (iv) an administrator;

1074 (v) a receiver;

1075 (vi) a conservator; or

1076 (vii) any person acting in any fiduciary capacity for any individual.

1077 ~~[(j)]~~ (h) "Homesteaded land diminished from the Uintah and Ouray Reservation"
1078 means the homesteaded land that was held to have been diminished from the Uintah and Ouray
1079 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

1080 ~~[(k)]~~ (i) "Individual" means a natural person and includes aliens and minors.

1081 ~~[(l)]~~ "Irrevocable trust" means a trust in which the settlor may not revoke or terminate
1082 all or part of the trust without the consent of a person who has a substantial beneficial interest
1083 in the trust and the interest would be adversely affected by the exercise of the settlor's power to
1084 revoke or terminate all or part of the trust.]

1085 ~~[(m)]~~ For purposes of Subsection 59-10-114(2)(m), "long-term capital gain" is as
1086 defined in Section 1222, Internal Revenue Code.]

1087 ~~[(n)]~~ (j) "Nonresident individual" means an individual who is not a resident of this
1088 state.

1089 ~~[(o)]~~ (k) "Nonresident trust" or "nonresident estate" means a trust or estate which is not
1090 a resident estate or trust.

1091 ~~[(p)]~~ (l) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
1092 unincorporated organization:

1093 (A) through or by means of which any business, financial operation, or venture is
1094 carried on; and

1095 (B) which is not, within the meaning of this chapter:

1096 (I) a trust;

1097 (II) an estate; or

1098 (III) a corporation.

1099 (ii) "Partnership" does not include any organization not included under the definition of
1100 "partnership" in Section 761, Internal Revenue Code.

1101 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
1102 organization described in Subsection (1)~~[(p)]~~(l)(i).

1103 ~~[(q)]~~ "Qualifying military service member" means a member of:]

1104 ~~[(i)]~~ The Utah Army National Guard;]

1105 ~~[(ii)]~~ The Utah Air National Guard; or]

1106 ~~[(iii)]~~ the following if the member is assigned to a unit that is located in the state:]

1107 ~~[(A)]~~ The Army Reserve;]

1108 ~~[(B)]~~ The Naval Reserve;]

1109 ~~[(C)]~~ The Air Force Reserve;]

1110 ~~[(D)]~~ The Marine Corps Reserve; or]

1111 ~~[(E) The Coast Guard Reserve.]~~

1112 ~~[(r) "Qualifying stock" means stock that is:]~~

1113 ~~[(i) (A) common; or]~~

1114 ~~[(B) preferred;]~~

1115 ~~[(ii) as defined by the commission by rule, originally issued to:]~~

1116 ~~[(A) a resident or nonresident individual; or]~~

1117 ~~[(B) a partnership if the resident or nonresident individual making a subtraction from~~

1118 ~~federal taxable income in accordance with Subsection 59-10-114(2)(m):]~~

1119 ~~[(f) was a partner when the stock was issued; and]~~

1120 ~~[(H) remains a partner until the last day of the taxable year for which the resident or~~

1121 ~~nonresident individual makes the subtraction from federal taxable income in accordance with~~

1122 ~~Subsection 59-10-114(2)(m); and]~~

1123 ~~[(iii) issued:]~~

1124 ~~[(A) by a Utah small business corporation;]~~

1125 ~~[(B) on or after January 1, 2003; and]~~

1126 ~~[(C) for:]~~

1127 ~~[(f) money; or]~~

1128 ~~[(H) other property, except for stock or securities.]~~

1129 ~~[(s)] (m) (i) "Resident individual" means:~~

1130 (A) an individual who is domiciled in this state for any period of time during the

1131 taxable year, but only for the duration of the period during which the individual is domiciled in

1132 this state; or

1133 (B) an individual who is not domiciled in this state but:

1134 (I) maintains a permanent place of abode in this state; and

1135 (II) spends in the aggregate 183 or more days of the taxable year in this state.

1136 (ii) For purposes of Subsection (1)~~[(s)](m)(i)(B)~~, a fraction of a calendar day shall be

1137 counted as a whole day.

1138 ~~[(t)] (n) "Resident estate" or "resident trust" is as defined in Section 75-7-103.~~

1139 ~~[(u) For purposes of Subsection 59-10-114(2)(m), "short-term capital gain" is as~~

1140 ~~defined in Section 1222, Internal Revenue Code.]~~

1141 ~~[(v) "Taxable income" and "state taxable income" are defined as provided in Sections~~

1142 ~~59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.]~~

1143 (o) "Taxable income" or "state taxable income":

1144 (i) subject to Subsection 59-10-302(2), for a resident individual, means the resident
 1145 individual's adjusted gross income after making the additions and subtractions required by
 1146 Sections 59-10-114 and 59-10-115;

1147 (ii) for a nonresident individual, is as defined in Section 59-10-116;

1148 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

1149 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

1150 ~~[(w)]~~ (p) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or
 1151 trust, whose income is subject in whole or part to the tax imposed by this chapter.

1152 ~~[(x)]~~ (q) "Uintah and Ouray Reservation" means the lands recognized as being included
 1153 within the Uintah and Ouray Reservation in:

1154 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

1155 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

1156 ~~[(y) (i) "Utah small business corporation" means a corporation that:]~~

1157 ~~[(A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue~~
 1158 ~~Code;]~~

1159 ~~[(B) except as provided in Subsection (1)(y)(ii), meets the requirements of Section~~
 1160 ~~1244(c)(1)(C), Internal Revenue Code, and]~~

1161 ~~[(C) has its commercial domicile in this state.]~~

1162 ~~[(ii) Notwithstanding Subsection (1)(y)(i)(B), the time period described in Section~~
 1163 ~~1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a~~
 1164 ~~corporation's aggregate gross receipts shall end on the last day of the taxable year for which the~~
 1165 ~~resident or nonresident individual makes a subtraction from federal taxable income in~~
 1166 ~~accordance with Subsection 59-10-114(2)(m).]~~

1167 ~~[(z)]~~ (r) "Ute tribal member" means a person who is enrolled as a member of the Ute
 1168 Indian Tribe of the Uintah and Ouray Reservation.

1169 ~~[(aa)]~~ (s) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

1170 ~~[(bb)]~~ (t) "Wages" is as defined in Section 59-10-401.

1171 (2) (a) Any term used in this chapter has the same meaning as when used in
 1172 comparable context in the laws of the United States relating to federal income taxes unless a

1173 different meaning is clearly required.

1174 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
 1175 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
 1176 federal income taxes that are in effect for the taxable year.

1177 (c) Any reference to a specific section of the Internal Revenue Code or other provision
 1178 of the laws of the United States relating to federal income taxes shall include any
 1179 corresponding or comparable provisions of the Internal Revenue Code as hereafter amended,
 1180 redesignated, or reenacted.

1181 Section 17. Section **59-10-104** is amended to read:

1182 **59-10-104. Tax basis -- Rates.**

1183 (1) ~~[Except as provided in Subsection (4), for]~~ For taxable years beginning on or after
 1184 January 1, ~~[2001]~~ 2007, a tax is imposed on the state taxable income~~[, as defined in Section~~
 1185 ~~59-10-112,]~~ of every resident individual as provided in this section.

1186 ~~[(2) For an individual, other than a husband and wife or head of household required to~~
 1187 ~~use the tax table under Subsection (3), the tax under this section is imposed in accordance with~~
 1188 ~~the following table:]~~

[If the state taxable income is:	The tax is:]
[Less than or equal to \$863	2.3% of the state taxable income]
Greater than \$863 but less than or equal	\$20, plus 3.3% of state taxable]
[to \$1,726	income greater than \$863]
Greater than \$1,726 but less than or equal	\$48, plus 4.2% of state taxable]
[to \$2,588	income greater than \$1,726]
Greater than \$2,588 but less than or equal	\$85, plus 5.2% of state taxable]
[to \$3,450	income greater than \$2,588]
[Greater than \$3,450 but less than or equal	\$129, plus 6% of state taxable]
[to \$4,313	income greater than \$3,450]
Greater than \$4,313	\$181, plus 7% of state taxable]
[income greater than \$4,313]

1201 ~~[(3) For a husband and wife filing a single return jointly, or a head of household as~~
 1202 ~~defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section~~
 1203 ~~is imposed in accordance with the following table:]~~

1204 [If the state taxable income is: _____ The tax is:]
 1205 [~~Less than or equal to \$1,726~~ _____ ~~2.3%~~ of the state taxable income]
 1206 [~~Greater than \$1,726 but less than or equal~~ _____ ~~\$40, plus 3.3%~~ of state taxable]
 1207 [~~to \$3,450~~ _____ ~~income greater than \$1,726~~]
 1208 [~~Greater than \$3,450 but less than or equal~~ _____ ~~\$97, plus 4.2%~~ of state taxable]
 1209 [~~to \$5,176~~ _____ ~~income greater than \$3,450~~]
 1210 [~~Greater than \$5,176 but less than or equal~~ _____ ~~\$169, plus 5.2%~~ of state taxable]
 1211 [~~to \$6,900~~ _____ ~~income greater than \$5,176~~]
 1212 [~~Greater than \$6,900 but less than or equal~~ _____ ~~\$259, plus 6%~~ of state taxable]
 1213 [~~to \$8,626~~ _____ ~~income greater than \$6,900~~]
 1214 [~~Greater than \$8,626~~ _____ ~~\$362, plus 7%~~ of state taxable]
 1215 [~~_____~~ _____ ~~income greater than \$8,626~~]

1216 [~~(4) This section does not apply to a resident individual exempt from taxation under~~
 1217 ~~Section 59-10-104.1.]~~

1218 (2) The tax imposed by this section is equal to the product of:
 1219 (a) a resident individual's state taxable income for the taxable year; and
 1220 (b) 4.95%.

1221 Section 18. Section **59-10-114** is amended to read:

1222 **59-10-114. Additions to and subtractions from adjusted gross income of an**
 1223 **individual.**

1224 (1) There shall be added to [~~federal taxable~~] adjusted gross income of a resident or
 1225 nonresident individual:

1226 (a) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher
 1227 Education Savings Incentive Program:

1228 (i) if the amount disbursed to the account owner is not expended for higher education
 1229 costs as defined in Section 53B-8a-102; and

1230 (ii) for the taxable year for which the amount described in Subsection (1)(a) is
 1231 disbursed;

1232 [~~(a) the amount of any income tax imposed by this or any predecessor Utah individual~~
 1233 ~~income tax law and the amount of any income tax imposed by the laws of another state, the~~
 1234 ~~District of Columbia, or a possession of the United States, to the extent deducted from federal~~

1235 ~~adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal~~
1236 ~~taxable income;]~~

1237 ~~[(b) a lump sum distribution that the taxpayer does not include in adjusted gross~~
1238 ~~income on the taxpayer's federal individual income tax return for the taxable year;]~~

1239 ~~[(c) for taxable years beginning on or after January 1, 2002, the amount of a child's~~
1240 ~~income calculated under Subsection (5) that:]~~

1241 ~~[(i) a parent elects to report on the parent's federal individual income tax return for the~~
1242 ~~taxable year; and]~~

1243 ~~[(ii) the parent does not include in adjusted gross income on the parent's federal~~
1244 ~~individual income tax return for the taxable year;]~~

1245 ~~[(d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue~~
1246 ~~Code;]~~

1247 ~~[(e) a withdrawal from a medical care savings account and any penalty imposed in the~~
1248 ~~taxable year if:]~~

1249 ~~[(i) the taxpayer did not deduct or include the amounts on the taxpayer's federal~~
1250 ~~individual income tax return pursuant to Section 220, Internal Revenue Code; and]~~

1251 ~~[(ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);]~~

1252 ~~[(f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher~~
1253 ~~Education Savings Incentive Program, in the year in which the amount is disbursed;]~~

1254 ~~[(g) except as provided in Subsection (6), for taxable years beginning on or after~~
1255 ~~January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after~~
1256 ~~January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by~~
1257 ~~one or more of the following entities:]~~

1258 ~~[(i) a state other than this state;]~~

1259 ~~[(ii) the District of Columbia;]~~

1260 ~~[(iii) a political subdivision of a state other than this state; or]~~

1261 ~~[(iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i)~~
1262 ~~through (iii);]~~

1263 ~~[(h)]~~ (b) any distribution received by a resident beneficiary of a resident trust of income
1264 that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable
1265 income of the trust pursuant to Subsection 59-10-202(2)(c); and

1266 [(i)] (c) any distribution received by a resident beneficiary of a nonresident trust of
1267 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
1268 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
1269 was not taxed at the trust level by any state, with undistributed distributable net income
1270 considered to be distributed from the most recently accumulated undistributed distributable net
1271 income.

1272 (2) There shall be subtracted from [~~federal taxable~~] adjusted gross income of a resident
1273 or nonresident individual:

1274 (a) the interest or dividends on obligations or securities of the United States and its
1275 possessions or of any authority, commission, or instrumentality of the United States, to the
1276 extent includable in gross income for federal income tax purposes but exempt from state
1277 income taxes under the laws of the United States, but the amount subtracted under this
1278 Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to
1279 purchase or carry the obligations or securities described in this Subsection (2)(a), and by any
1280 expenses incurred in the production of interest or dividend income described in this Subsection
1281 (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in
1282 determining federal taxable income;

1283 [~~(b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income~~
1284 ~~tax paid or payable to the United States after all allowable credits, as reported on the United~~
1285 ~~States individual income tax return of the taxpayer for the same taxable year; and]~~

1286 [~~(ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after~~
1287 ~~January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or~~
1288 ~~nonresident individual's United States individual income tax return allowed as a result of the~~
1289 ~~acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,~~
1290 ~~Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be~~
1291 ~~used in calculating the amount described in Subsection (2)(b)(i);]~~

1292 [~~(c) the amount of adoption expenses for one of the following taxable years as elected~~
1293 ~~by the resident or nonresident individual:]~~

1294 [~~(i) regardless of whether a court issues an order granting the adoption, the taxable year~~
1295 ~~in which the adoption expenses are:]~~

1296 [~~(A) paid; or]~~

1297 ~~[(B) incurred;]~~
1298 ~~[(ii) the taxable year in which a court issues an order granting the adoption; or]~~
1299 ~~[(iii) any year in which the resident or nonresident individual may claim the federal~~
1300 ~~adoption expenses credit under Section 23, Internal Revenue Code;]~~
1301 ~~[(d) amounts received by taxpayers under age 65 as retirement income which, for~~
1302 ~~purposes of this section, means pensions and annuities, paid from an annuity contract~~
1303 ~~purchased by an employer under a plan which meets the requirements of Section 404(a)(2);~~
1304 ~~Internal Revenue Code, or purchased by an employee under a plan which meets the~~
1305 ~~requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or~~
1306 ~~political subdivision thereof, or the District of Columbia, to the employee involved or the~~
1307 ~~surviving spouse;]~~
1308 ~~[(e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500~~
1309 ~~personal retirement exemption;]~~
1310 ~~[(f) 75% of the amount of the personal exemption, as defined and calculated in the~~
1311 ~~Internal Revenue Code, for each dependent child with a disability and adult with a disability~~
1312 ~~who is claimed as a dependent on a taxpayer's return;]~~
1313 ~~[(g) any amount included in federal taxable income that was received pursuant to any~~
1314 ~~federal law enacted in 1988 to provide reparation payments, as damages for human suffering,~~
1315 ~~to United States citizens and resident aliens of Japanese ancestry who were interned during~~
1316 ~~World War II;]~~
1317 ~~[(h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the~~
1318 ~~taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions;]~~
1319 ~~[(i) for:]~~
1320 ~~[(A) the taxpayer;]~~
1321 ~~[(B) the taxpayer's spouse; and]~~
1322 ~~[(C) the taxpayer's dependents; and]~~
1323 ~~[(ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or~~
1324 ~~213, Internal Revenue Code, in determining federal taxable income for the taxable year;]~~
1325 ~~[(i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a~~
1326 ~~contribution made during the taxable year on behalf of the taxpayer to a medical care savings~~
1327 ~~account and interest earned on a contribution to a medical care savings account established~~

1328 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the
1329 contribution is accepted by the account administrator as provided in the Medical Care Savings
1330 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal
1331 individual income tax return pursuant to Section 220, Internal Revenue Code; and]

1332 [~~(ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the~~
1333 ~~following:~~]

1334 [~~(A) the maximum contribution allowed under the Medical Care Savings Account Act~~
1335 ~~for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is~~
1336 ~~covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that~~
1337 ~~covers the other spouse, and each spouse has a medical care savings account; or]~~

1338 [~~(B) the maximum contribution allowed under the Medical Care Savings Account Act~~
1339 ~~for the tax year for taxpayers:]~~

1340 [~~(F) who do not file a joint return; or]~~

1341 [~~(H) who file a joint return, but do not qualify under Subsection (2)(i)(ii)(A);]~~

1342 [~~(j) the amount included in federal taxable income that was derived from money paid~~
1343 ~~by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education~~
1344 ~~Savings Incentive Program, not to exceed amounts determined under Subsection~~
1345 ~~53B-8a-106(1)(d), and investment income earned on account agreements entered into under~~
1346 ~~Section 53B-8a-106 that is included in federal taxable income, but only when the funds are~~
1347 ~~used for qualified higher education costs of the beneficiary;]~~

1348 [~~(k) for taxable years beginning on or after January 1, 2000, any amounts paid for~~
1349 ~~premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the~~
1350 ~~amounts paid for long-term care insurance were not deducted under Section 213, Internal~~
1351 ~~Revenue Code, in determining federal taxable income;]~~

1352 [~~(4)~~ (b) for taxable years beginning on or after January 1, 2000, if the conditions of
1353 Subsection [~~(4)~~ (3)](a) are met, the amount of income derived by a Ute tribal member:

1354 (i) during a time period that the Ute tribal member resides on homesteaded land
1355 diminished from the Uintah and Ouray Reservation; and

1356 (ii) from a source within the Uintah and Ouray Reservation;

1357 (c) an amount received by a resident or nonresident individual or distribution received
1358 by a resident or nonresident beneficiary of a resident trust:

- 1359 (i) if that amount or distribution constitutes a refund of taxes imposed by:
1360 (A) a state; or
1361 (B) the District of Columbia; and
1362 (ii) to the extent that amount or distribution is included in adjusted gross income for
1363 that taxable year on the federal individual income tax return of the resident or nonresident
1364 individual or resident or nonresident beneficiary of a resident trust;
1365 (d) the amount of a railroad retirement benefit:
1366 (i) paid:
1367 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
1368 seq.;
1369 (B) to a resident or nonresident individual; and
1370 (C) for the taxable year; and
1371 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
1372 that resident or nonresident individual's federal individual income tax return for that taxable
1373 year; and
1374 (e) an amount:
1375 (i) received by an enrolled member of an American Indian tribe; and
1376 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
1377 part on that amount in accordance with:
1378 (A) federal law;
1379 (B) a treaty; or
1380 (C) a final decision issued by a court of competent jurisdiction.
1381 ~~[(m) (i) for taxable years beginning on or after January 1, 2003, the total amount of a~~
1382 ~~resident or nonresident individual's short-term capital gain or long-term capital gain on a~~
1383 ~~capital gain transaction:]~~
1384 ~~[(A) that occurs on or after January 1, 2003;]~~
1385 ~~[(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:]~~
1386 ~~[(F) to purchase qualifying stock in a Utah small business corporation; and]~~
1387 ~~[(H) within a 12-month period after the day on which the capital gain transaction~~
1388 ~~occurs; and]~~
1389 ~~[(C) if, prior to the purchase of the qualifying stock described in Subsection~~

1390 ~~(2)(m)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the~~
1391 ~~Utah small business corporation that issued the qualifying stock; and]~~

1392 ~~[(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
1393 ~~the commission may make rules:]~~

1394 ~~[(A) defining the term "gross proceeds"; and]~~

1395 ~~[(B) for purposes of Subsection (2)(m)(i)(C), prescribing the circumstances under~~
1396 ~~which a resident or nonresident individual has an ownership interest in a Utah small business~~
1397 ~~corporation; and]~~

1398 ~~[(n) for the taxable year beginning on or after January 1, 2005, but beginning on or~~
1399 ~~before December 31, 2005, the first \$2,200 of income a qualifying military service member~~
1400 ~~receives:]~~

1401 ~~[(i) for service:]~~

1402 ~~[(A) as a qualifying military service member; or]~~

1403 ~~[(B) under an order into active service in accordance with Section 39-1-5; and]~~

1404 ~~[(ii) to the extent that income is included in adjusted gross income on that resident or~~
1405 ~~nonresident individual's federal individual income tax return for that taxable year:]~~

1406 ~~[(3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted~~
1407 ~~for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or~~
1408 ~~\$4,800, except that:]~~

1409 ~~[(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income~~
1410 ~~earned over \$32,000, the amount of the retirement income exemption that may be subtracted~~
1411 ~~shall be reduced by 50 cents;]~~

1412 ~~[(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income~~
1413 ~~earned over \$16,000, the amount of the retirement income exemption that may be subtracted~~
1414 ~~shall be reduced by 50 cents; and]~~

1415 ~~[(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over~~
1416 ~~\$25,000, the amount of the retirement income exemption that may be subtracted shall be~~
1417 ~~reduced by 50 cents:]~~

1418 ~~[(b) For purposes of Subsection (2)(e), the amount of the personal retirement~~
1419 ~~exemption shall be further reduced according to the following schedule:]~~

1420 ~~[(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income~~

1421 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50
1422 cents;]

1423 [~~(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income~~
1424 ~~earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50~~
1425 ~~cents; and]~~

1426 [~~(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over~~
1427 ~~\$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.]~~

1428 [~~(c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be~~
1429 ~~calculated by adding to federal adjusted gross income any interest income not otherwise~~
1430 ~~included in federal adjusted gross income.]~~

1431 [~~(d) For purposes of determining ownership of items of retirement income common~~
1432 ~~law doctrine will be applied in all cases even though some items may have originated from~~
1433 ~~service or investments in a community property state. Amounts received by the spouse of a~~
1434 ~~living retiree because of the retiree's having been employed in a community property state are~~
1435 ~~not deductible as retirement income of such spouse.]~~

1436 [~~(e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care~~
1437 ~~insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:]~~

1438 [~~(i) for an amount that is reimbursed or funded in whole or in part by the federal~~
1439 ~~government, the state, or an agency or instrumentality of the federal government or the state;~~
1440 ~~and]~~

1441 [~~(ii) for a taxpayer who is eligible to participate in a health plan maintained and funded~~
1442 ~~in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.]~~

1443 [~~(4)~~ (3) (a) A subtraction for an amount described in Subsection (2)[~~(4)~~](b) is allowed
1444 only if:

1445 (i) the taxpayer is a Ute tribal member; and

1446 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1447 requirements of this Subsection [~~(4)~~] (3).

1448 (b) The agreement described in Subsection [~~(4)~~] (3)(a):

1449 (i) may not:

1450 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1451 (B) provide a subtraction under this section greater than or different from the

1452 subtraction described in Subsection (2)~~(f)~~(b); or

1453 (C) affect the power of the state to establish rates of taxation; and

1454 (ii) shall:

1455 (A) provide for the implementation of the subtraction described in Subsection

1456 (2)~~(f)~~(b);

1457 (B) be in writing;

1458 (C) be signed by:

1459 (I) the governor; and

1460 (II) the chair of the Business Committee of the Ute tribe;

1461 (D) be conditioned on obtaining any approval required by federal law; and

1462 (E) state the effective date of the agreement.

1463 (c) (i) The governor shall report to the commission by no later than February 1 of each

1464 year regarding whether or not an agreement meeting the requirements of this Subsection ~~(4)~~

1465 (3) is in effect.

1466 (ii) If an agreement meeting the requirements of this Subsection ~~(4)~~ (3) is terminated,

1467 the subtraction permitted under Subsection (2)~~(f)~~(b) is not allowed for taxable years

1468 beginning on or after the January 1 following the termination of the agreement.

1469 (d) For purposes of Subsection (2)~~(f)~~(b) and in accordance with Title 63, Chapter 46a,

1470 Utah Administrative Rulemaking Act, the commission may make rules:

1471 (i) for determining whether income is derived from a source within the Uintah and

1472 Ouray Reservation; and

1473 (ii) that are substantially similar to how ~~[federal]~~ adjusted gross income derived from

1474 Utah sources is determined under Section 59-10-117.

1475 ~~[(5) (a) For purposes of this Subsection (5), "Form 8814" means:]~~

1476 ~~[(i) the federal individual income tax Form 8814, Parents' Election To Report Child's~~

1477 ~~Interest and Dividends; or]~~

1478 ~~[(ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by~~

1479 ~~the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to~~

1480 ~~2000 Form 8814 if for purposes of federal individual income taxes the information contained~~

1481 ~~on 2000 Form 8814 is reported on a form other than Form 8814; and]~~

1482 ~~[(B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter~~

1483 ~~46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form~~
1484 ~~as being substantially similar to 2000 Form 8814 if for purposes of federal individual income~~
1485 ~~taxes the information contained on 2000 Form 8814 is reported on a form other than Form~~
1486 ~~8814.]~~

1487 ~~[(b) The amount of a child's income added to adjusted gross income under Subsection~~
1488 ~~(1)(c) is equal to the difference between:]~~

1489 ~~[(i) the lesser of:]~~

1490 ~~[(A) the base amount specified on Form 8814; and]~~

1491 ~~[(B) the sum of the following reported on Form 8814:]~~

1492 ~~[(F) the child's taxable interest;]~~

1493 ~~[(H) the child's ordinary dividends; and]~~

1494 ~~[(H) the child's capital gain distributions; and]~~

1495 ~~[(ii) the amount not taxed that is specified on Form 8814.]~~

1496 ~~[(6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences~~
1497 ~~of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be~~
1498 ~~added to federal taxable income of a resident or nonresident individual if, as annually~~
1499 ~~determined by the commission:]~~

1500 ~~[(a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the~~
1501 ~~political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on~~
1502 ~~income on any part of the bonds, notes, and other evidences of indebtedness of this state; or]~~

1503 ~~[(b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose~~
1504 ~~a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of~~
1505 ~~this state:]~~

1506 ~~[(i) the entity; or]~~

1507 ~~[(ii) (A) the state in which the entity is located; or]~~

1508 ~~[(B) the District of Columbia, if the entity is located within the District of Columbia.]~~

1509 Section 19. Section **59-10-115** is amended to read:

1510 **59-10-115. Equitable adjustments.**

1511 ~~[(1) If any provision of the Internal Revenue Code requires the inclusion of an item of~~
1512 ~~gross income or the allowance of an item of deduction from gross income in the computation~~
1513 ~~of federal taxable income of the taxpayer for any taxable year beginning on or after the~~

1514 ~~effective date of this chapter, and if such item has been taken into account in computing the~~
1515 ~~taxable income of the taxpayer for state income tax purposes for any prior taxable year, the~~
1516 ~~commission shall make or allow such adjustments to the taxpayer's state taxable income as are~~
1517 ~~necessary to prevent the inclusion for a second time or the deduction for a second time of such~~
1518 ~~item for state income tax purposes.]~~

1519 ~~[(2) If in a return filed for any taxable year beginning on or after the effective date of~~
1520 ~~this chapter, the taxpayer reports gain or loss from the disposition of property or claims a~~
1521 ~~deduction for depreciation of property, and if his basis for gain or loss on the disposition of~~
1522 ~~such property or for allowance of the depreciation deduction for the exhaustion, wear, and tear~~
1523 ~~thereof (including a reasonable allowance for obsolescence) is different for federal income tax~~
1524 ~~purposes than it would be for state income tax purposes if the provisions of former Title 59,~~
1525 ~~Chapter 14, were applicable to such taxable year, the commission shall (anything in this~~
1526 ~~chapter to the contrary notwithstanding) allow or make such adjustment to state taxable income~~
1527 ~~of the taxpayer for such taxable year as will result in the use by the taxpayer of the same basis,~~
1528 ~~for such purpose, that he would be allowed or required to use in reporting such gain or loss or~~
1529 ~~claiming such depreciation deduction if the provisions of former Title 59, Chapter 14, were~~
1530 ~~applicable to the taxable year.]~~

1531 ~~[(3) If the taxpayer receives, in any taxable year beginning on or after the effective date~~
1532 ~~of this chapter, a distribution from an electing small business corporation, as defined by~~
1533 ~~Section 1371(b) of the Internal Revenue Code, of a net share of the corporation's undistributed~~
1534 ~~taxable income for a taxable year or years prior to the taxable year in which such distribution is~~
1535 ~~made, the commission shall make such adjustment to state taxable income as will prevent~~
1536 ~~escape from taxation by this state of such undistributed taxable income previously taxed to the~~
1537 ~~taxpayer for federal income tax purposes but not for state income tax purposes.]~~

1538 ~~[(4)] (1) The commission shall [by rule prescribe for adjustments] allow an adjustment~~
1539 ~~to [state taxable] adjusted gross income or an addition or subtraction required by Section~~
1540 ~~59-10-114 of [the] a taxpayer [in circumstances other than those specified by Subsections (1),~~
1541 ~~(2), and (3) of this section where, solely by reason of the enactment of this chapter,] if the~~
1542 ~~taxpayer would otherwise;~~

1543 ~~(a) receive [or have received] a double tax benefit under this part; or~~

1544 ~~(b) suffer [or have suffered] a double tax detriment under this part. [Anything in this~~

1545 section or this chapter to the contrary notwithstanding, the commission may not make any
 1546 adjustment pursuant to this section which will result in an increase or decrease of tax liability
 1547 the amount of which is less than \$25.]

1548 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 1549 commission may make rules to allow for the adjustment, addition, or subtraction required by
 1550 Subsection (1).

1551 Section 20. Section **59-10-116** is amended to read:

1552 **59-10-116. Definitions -- Tax on nonresident individual -- Calculation --**

1553 **Rulemaking authority.**

1554 (1) For purposes of this section:

1555 (a) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101[;].

1556 (b) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101[;].

1557 (c) "State income tax percentage" means a percentage equal to a nonresident
 1558 individual's [~~federal~~] adjusted gross income for the taxable year received from Utah sources, as
 1559 determined under Section 59-10-117, divided by the difference between:

1560 (i) the nonresident individual's total [~~federal~~] adjusted gross income for that taxable
 1561 year; and

1562 (ii) if the nonresident individual described in Subsection (1)(c)(i) is a servicemember,
 1563 the compensation the servicemember receives for military service if the servicemember is
 1564 serving in compliance with military orders[; and].

1565 (d) "State taxable income" means a nonresident individual's adjusted gross income
 1566 after making the additions and subtractions required by Sections 59-10-114 and 59-10-115.

1567 [~~(d)~~] (e) "Unapportioned state tax" means the product of the:

1568 (i) difference between:

1569 (A) a nonresident individual's [~~federal taxable income, as defined in Section~~
 1570 ~~59-10-111, with the modifications, subtractions, and adjustments provided for in Section~~
 1571 ~~59-10-114~~] state taxable income; and

1572 (B) if the nonresident individual described in Subsection (1)[~~(d)~~] (e)(i)(A) is a
 1573 servicemember, compensation the servicemember receives for military service if the
 1574 servicemember is serving in compliance with military orders; and

1575 (ii) tax rate imposed under Section 59-10-104.

1576 (2) [~~Except as provided in Subsection (3), a~~] A tax is imposed on a nonresident
1577 individual in an amount equal to the product of the nonresident individual's:

1578 (a) unapportioned state tax; and

1579 (b) state income tax percentage.

1580 [~~(3) This section does not apply to a nonresident individual exempt from taxation~~
1581 ~~under Section 59-10-104.1.~~]

1582 [(4)] (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
1583 Act, for purposes of Subsection (1), the commission may by rule define what constitutes
1584 compensation.

1585 Section 21. Section **59-10-117** is amended to read:

1586 **59-10-117. Federal adjusted gross income derived from Utah sources.**

1587 (1) For [~~the purpose~~] purposes of Section 59-10-116, [~~federal~~] adjusted gross income
1588 derived from Utah sources [~~shall include~~] includes those items includable in [~~federal "adjusted~~
1589 ~~gross income" (as defined by Section 62 of the Internal Revenue Code)~~] adjusted gross income
1590 attributable to or resulting from:

1591 (a) the ownership in this state of any interest in real or tangible personal property,
1592 [~~(f)including real property or property rights from which "gross income from mining," as~~
1593 ~~defined by Section 613(c) [of the], Internal Revenue Code, is derived[.];~~] or

1594 (b) the carrying on of a business, trade, profession, or occupation in this state.

1595 (2) For the purposes of Subsection (1):

1596 (a) income from intangible personal property, including annuities, dividends, interest,
1597 and gains from the disposition of intangible personal property shall constitute income derived
1598 from Utah sources only to the extent that such income is from property employed in a trade,
1599 business, profession, or occupation carried on in this state[.];

1600 (b) deductions with respect to capital losses, net long-term capital gains, and net
1601 operating losses shall be based solely on income, gain, loss, and deduction connected with Utah
1602 sources, under rules prescribed by the commission in accordance with Title 63, Chapter 46a,
1603 Utah Administrative Rulemaking Act, but otherwise shall be determined in the same manner as
1604 the corresponding federal deductions[.];

1605 (c) salaries, wages, commissions, and compensation for personal services rendered
1606 outside this state shall not be considered to be derived from Utah sources[.];

1607 (d) a nonresident shareholder's distributive share of ordinary income, gain, loss, and
1608 deduction derived from or connected with Utah sources shall be determined under Section
1609 59-10-118[-];

1610 (e) a nonresident, other than a dealer holding property primarily for sale to customers
1611 in the ordinary course of his trade or business, [~~shall~~] may not be considered to carry on a trade,
1612 business, profession, or occupation in this state solely by reason of the purchase or sale of
1613 property for [~~his~~] the nonresident's own account[-];

1614 (f) if a trade, business, profession, or occupation is carried on partly within and partly
1615 without this state, items of income, gain, loss, and deductions derived from or connected with
1616 Utah sources shall be determined in accordance with the provisions of Section 59-10-118[-];

1617 (g) a nonresident partner's distributive share of partnership income, gain, loss, and
1618 deduction derived from or connected with Utah sources shall be determined under Section
1619 59-10-303[-];

1620 (h) the share of a nonresident estate or trust and nonresident beneficiaries of any estate
1621 or trust in income, gain, loss, and deduction derived from or connected with Utah sources shall
1622 be determined under Section 59-10-207[-]; and

1623 (i) any dividend, interest, or distributive share of income, gain, or loss from a real
1624 estate investment trust, as defined in Section 59-7-116.5, distributed or allocated to a
1625 nonresident investor in the trust, including any shareholder, beneficiary, or owner of a
1626 beneficial interest in the trust, shall be income from intangible personal property under
1627 Subsection (2)(a), and shall constitute income derived from Utah sources only to the extent the
1628 nonresident investor is employing its beneficial interest in the trust in a trade, business,
1629 profession, or occupation carried on by the investor in this state.

1630 Section 22. Section **59-10-118.1** is enacted to read:

1631 **59-10-118.1. Filing status.**

1632 Except as provided in Section 59-10-119 and subject to Section 59-10-503, a resident
1633 or nonresident individual shall file a return under this chapter for a taxable year using the same
1634 filing status as the resident or nonresident individual uses for filing a federal individual income
1635 tax return for that same taxable year.

1636 Section 23. Section **59-10-119** is amended to read:

1637 **59-10-119. Returns by husband and wife, either or both of whom is a**

1638 **nonresident.**

1639 (1) If the [~~federal taxable~~] adjusted gross income of a husband and wife [~~both~~] who
1640 are nonresidents of this state[~~}]~~ is reported or determined on separate federal returns, [~~their~~] the
1641 state taxable [~~incomes in this state~~] income of that husband and wife shall be separately
1642 determined.

1643 (2) If the [~~federal taxable~~] adjusted gross income of a husband and wife [~~both~~] who
1644 are nonresidents[~~}]~~ of this state is reported or determined on a joint return [~~their tax~~], the state
1645 taxable income of that husband and wife shall be reported or determined in this state on a joint
1646 return.

1647 (3) (a) If either a husband or wife is a nonresident and the other a resident, separate
1648 taxes shall be determined on their separate state taxable incomes on such forms as the
1649 commission shall prescribe, unless both elect to determine their state taxable income as if both
1650 were residents.

1651 (b) If a husband and wife [~~(one being a resident, the other a nonresident)~~] described in
1652 Subsection (3)(a) file a joint federal income tax return, but determine their state taxable income
1653 separately, they shall compute their taxable incomes in this state as if their [~~federal taxable~~]
1654 adjusted gross incomes had been determined separately.

1655 Section 24. Section **59-10-120** is amended to read:

1656 **59-10-120. Change of status as resident or nonresident.**

1657 (1) If an individual changes [~~his~~] that individual's status during [~~his~~] the taxable year
1658 from resident to nonresident or from nonresident to resident, the commission may by rule
1659 require [~~him~~] that individual to file one return for the portion of the year during which [~~he~~] the
1660 individual is a resident and another return for the portion of the year during which [~~he~~] the
1661 individual is a nonresident.

1662 (2) Except as provided in Subsection (3), the state taxable income of the individual
1663 described in Subsection (1) shall be determined as provided in this chapter for residents and for
1664 nonresidents as if the individual's taxable year for federal income tax purposes were limited to
1665 the period of [~~his~~] the individual's resident and nonresident status respectively.

1666 (3) There shall be included in determining state taxable income from sources within or
1667 without this state, as the case may be, income, gain, loss, or deduction accrued prior to the
1668 change of status, even though not otherwise includable or allowable in respect of the period

1669 prior to such change, but the taxation or deduction of items received or accrued prior to the
1670 change of status shall not be affected by the change.

1671 Section 25. Section **59-10-121** is amended to read:

1672 **59-10-121. Proration when two returns required.**

1673 Where two returns are required to be filed as provided in Section 59-10-120[:(1)-
1674 ~~personal exemptions and the standard deduction as used on the federal return shall be prorated~~
1675 ~~between the two returns, under rules prescribed by the commission, to reflect the proportions of~~
1676 ~~the taxable year during which the individual was a resident and a nonresident, and (2)], the
1677 total of the taxes due [~~thereon shall~~] on those returns may not be less than would be due if the
1678 total of the state taxable incomes reported on the two returns were includable in one return.~~

1679 Section 26. Section **59-10-122** is amended to read:

1680 **59-10-122. Taxable year.**

1681 (1) For purposes of the tax imposed by this chapter, a taxpayer's taxable year shall be
1682 the same as [~~his~~] the taxpayer's taxable year for federal income tax purposes.

1683 (2) (a) If a taxpayer's taxable year is changed for federal income tax purposes, [~~his~~] the
1684 taxpayer's taxable year for purposes of the tax imposed by this chapter shall be similarly
1685 changed.

1686 (b) If a change in taxable year results in a taxable period of less than 12 months for
1687 federal income tax purposes, the same taxable period shall be used in computing the tax
1688 imposed by this chapter.

1689 Section 27. Section **59-10-123** is amended to read:

1690 **59-10-123. Accounting method.**

1691 (1) For purposes of the tax imposed by this chapter, a taxpayer's method of accounting
1692 shall be the same as the method employed for federal income tax purposes.

1693 (2) If a taxpayer's method of accounting is changed for federal income tax purposes,
1694 [~~his~~] the taxpayer's method of accounting shall be similarly changed and reflected in each
1695 return filed [~~for Utah individual income tax purposes~~] under this chapter for any taxable year
1696 for which [~~such~~] the change is reflected in [~~his~~] the taxpayer's return for federal income tax
1697 purposes.

1698 Section 28. Section **59-10-136** is enacted to read:

1699 **59-10-136. Carry forward of tax credits -- Rulemaking authority.**

1700 (1) Notwithstanding the repeal of a tax credit by this bill and subject to Subsection (2),
1701 a claimant, estate, or trust may carry forward a tax credit repealed by this bill if:

1702 (a) for a taxable year beginning before January 1, 2007, the claimant, estate, or trust is
1703 allowed to claim a tax credit repealed by this bill;

1704 (b) an amount of tax credit described in Subsection (1)(a) exceeds the claimant's,
1705 estate's, or trust's tax liability under this chapter for the taxable year for which the claimant,
1706 estate, or trust is allowed to claim the tax credit repealed by this bill; and

1707 (c) on the first day of the first taxable year beginning on or after January 1, 2007, there
1708 remains an amount of tax credit that the claimant is allowed to carry forward for a tax credit
1709 described in Subsection (1)(a).

1710 (2) If a claimant, estate, or trust may carry forward a tax credit in accordance with
1711 Subsection (1), the claimant, estate, or trust may carry forward the tax credit for a time period
1712 equal to the earlier of:

1713 (a) the number of taxable years required to carry forward the remaining amount of tax
1714 credit described in Subsection (1)(c); or

1715 (b) the number of taxable years that the claimant, estate, or trust would have been
1716 allowed to carry forward tax credit if the tax credit had not been repealed by this bill.

1717 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1718 commission may make rules for determining the number of taxable years that a claimant,
1719 estate, or trust would have been allowed to carry forward tax credit if the tax credit had not
1720 been repealed by this bill.

1721 Section 29. Section **59-10-201** is amended to read:

1722 **59-10-201. Taxation of resident trusts and estates.**

1723 (1) A tax determined in accordance with the [~~rates~~] rate prescribed by Section
1724 59-10-104 [~~for individuals filing separately~~] is imposed for each taxable year on the state
1725 taxable income of each resident estate or trust, except for trusts taxed as corporations.

1726 (2) A resident estate or trust shall be allowed the credit provided in Section
1727 [~~59-10-106~~] 59-10-1003, relating to an income tax imposed by another state, except that the
1728 limitation shall be computed by reference to the taxable income of the estate or trust.

1729 (3) The property of the trust established in Title 53B, Chapter 8a, Higher Education
1730 Savings Incentive Program, and its income from operations and investments are exempt from

1731 all taxation by the state under this chapter.

1732 Section 30. Section **59-10-201.1** is amended to read:

1733 **59-10-201.1. State taxable income of resident estate or trust defined.**

1734 The state taxable income of a resident estate or trust means its ~~[federal taxable]~~ adjusted
 1735 gross income ~~[as defined in Subsections (a) and (b), Section 641, Internal Revenue Code]~~, as
 1736 adjusted by Sections 59-10-202, ~~59-10-209.1~~, and ~~[59-10-209]~~ 59-10-210.

1737 Section 31. Section **59-10-202** is amended to read:

1738 **59-10-202. Additions to and subtractions from state taxable income of resident or**
 1739 **nonresident estate or trust.**

1740 (1) There shall be added to ~~[federal taxable]~~ adjusted gross income of a resident or
 1741 nonresident estate or trust~~[:]~~ any fiduciary adjustments required by Section 59-10-210.

1742 ~~[(a) the amount of any income tax imposed by this or any predecessor Utah individual~~
 1743 ~~income tax law and the amount of any income tax imposed by the laws of another state, the~~
 1744 ~~District of Columbia, or a possession of the United States, to the extent deducted from federal~~
 1745 ~~adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal~~
 1746 ~~taxable income;]~~

1747 ~~[(b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the~~
 1748 ~~Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue~~
 1749 ~~Code in determining federal adjusted gross income; and]~~

1750 ~~[(c) the amount of any gain as defined in Section 644(b) of the Internal Revenue Code,~~
 1751 ~~to the extent deductible under Section 641(c) of the Internal Revenue Code in determining the~~
 1752 ~~federal taxable income of a trust.]~~

1753 (2) There shall be subtracted from ~~[federal taxable]~~ adjusted gross income of a resident
 1754 or nonresident estate or trust:

1755 (a) the interest or ~~[dividends]~~ a dividend on obligations or securities of the United
 1756 States and its possessions or of any authority, commission, or instrumentality of the United
 1757 States, to the extent ~~[includable]~~ that interest or dividend is included in gross income for
 1758 federal income tax purposes for the taxable year but exempt from state income taxes under the
 1759 laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be
 1760 reduced by any interest on indebtedness incurred or continued to purchase or carry the
 1761 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in

1762 the production of interest or dividend income described in this Subsection (2)(a) to the extent
1763 that such expenses, including amortizable bond premiums, are deductible in determining
1764 federal taxable income;

1765 ~~[(b) 1/2 of the net amount of any income tax paid or payable to the United States after~~
1766 ~~all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the~~
1767 ~~same taxable year; and]~~

1768 [(e)] (b) income of an irrevocable resident trust if:

1769 (i) the income would not be treated as state taxable income derived from Utah sources
1770 under Section 59-10-204 if received by a nonresident trust;

1771 (ii) the trust first became a resident trust on or after January 1, 2004;

1772 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
1773 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

1774 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

1775 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the
1776 settlor or any other person is treated as an owner of any portion of the trust under Subtitle A,
1777 Subchapter J, Subpart E of the Internal Revenue Code; and

1778 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on
1779 indebtedness incurred or continued to purchase or carry the assets generating the income
1780 described in this Subsection (2)(b), and by any expenses incurred in the production of income
1781 described in this Subsection (2)(b), to the extent that those expenses, including amortizable
1782 bond premiums, are deductible in determining federal taxable income[-];

1783 (c) if the conditions of Subsection (3)(a) are met, the amount of income of a resident or
1784 nonresident estate or trust derived from a deceased Ute tribal member:

1785 (i) during a time period that the Ute tribal member resided on homesteaded land
1786 diminished from the Uintah and Ouray Reservation; and

1787 (ii) from a source within the Uintah and Ouray Reservation;

1788 (d) any amount:

1789 (i) received by a resident or nonresident estate or trust;

1790 (ii) that constitutes a refund of taxes imposed by:

1791 (A) a state; or

1792 (B) the District of Columbia; and

1793 (iii) to the extent that amount is included in adjusted gross income on that resident or
1794 nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;
1795 (e) the amount of a railroad retirement benefit:
1796 (i) paid:
1797 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
1798 seq.;
1799 (B) to a resident or nonresident estate or trust derived from a deceased resident or
1800 nonresident individual; and
1801 (C) for the taxable year; and
1802 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
1803 that resident or nonresident estate's or trust's federal tax return for estates and trusts;
1804 (f) an amount:
1805 (i) received by a resident or nonresident estate or trust if that amount is derived from a
1806 deceased enrolled member of an American Indian tribe; and
1807 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
1808 part on that amount in accordance with:
1809 (A) federal law;
1810 (B) a treaty; or
1811 (C) a final decision issued by a court of competent jurisdiction; and
1812 (g) any fiduciary adjustments required by Section 59-10-210.
1813 (3) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
1814 (i) the income is derived from a deceased Ute tribal member; and
1815 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1816 requirements of this Subsection (3).
1817 (b) The agreement described in Subsection (3)(a):
1818 (i) may not:
1819 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
1820 (B) provide a subtraction under this section greater than or different from the
1821 subtraction described in Subsection (2)(c); or
1822 (C) affect the power of the state to establish rates of taxation; and
1823 (ii) shall:

1824 (A) provide for the implementation of the subtraction described in Subsection (2)(c);
1825 (B) be in writing;
1826 (C) be signed by:
1827 (I) the governor; and
1828 (II) the chair of the Business Committee of the Ute tribe;
1829 (D) be conditioned on obtaining any approval required by federal law; and
1830 (E) state the effective date of the agreement.
1831 (c) (i) The governor shall report to the commission by no later than February 1 of each
1832 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
1833 in effect.
1834 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
1835 subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or
1836 after the January 1 following the termination of the agreement.
1837 (d) For purposes of Subsection (2)(c) and in accordance with Title 63, Chapter 46a,
1838 Utah Administrative Rulemaking Act, the commission may make rules:
1839 (i) for determining whether income is derived from a source within the Uintah and
1840 Ouray Reservation; and
1841 (ii) that are substantially similar to how federal adjusted gross income derived from
1842 Utah sources is determined under Section 59-10-117.
1843 Section 32. Section **59-10-204** is amended to read:
1844 **59-10-204. State taxable income of nonresident estate or trust defined.**
1845 The state taxable income of a nonresident estate or trust shall be its [~~federal~~] state
1846 taxable income as [~~defined~~] calculated in Section 59-10-201.1, derived from Utah sources
1847 determined in accordance with the principles of Section 59-10-117, and adjusted as provided in
1848 Section 59-10-207.
1849 Section 33. Section **59-10-205** is amended to read:
1850 **59-10-205. Tax on income derived from Utah sources.**
1851 A tax is imposed on the state taxable income, as [~~defined~~] calculated in Section
1852 59-10-204, of every nonresident estate or trust in accordance with the [~~rates~~] rate prescribed in
1853 Section 59-10-104 [~~for individuals filing separately~~]. The tax shall only be applied to income
1854 derived from Utah sources as adjusted by Section 59-10-207, including such items from

1855 another estate or trust of which the first estate or trust is a beneficiary.

1856 Section 34. Section **59-10-207** is amended to read:

1857 **59-10-207. Share of a nonresident estate or trust and beneficiaries in state taxable**
1858 **income.**

1859 (1) The share of a nonresident estate or trust and its beneficiaries in items of income,
1860 gain, loss, and deduction entering into the definition of distributable net income and the share
1861 for purposes of Section 59-10-116 of a nonresident beneficiary of any estate or trust in estate or
1862 trust income, gain, loss, and deduction shall be determined as follows:

1863 (a) To the amount of items of income, gain, loss, and deduction that enter into the
1864 definition of distributable net income there shall be added or subtracted, as the case may be, the
1865 modifications described in Sections 59-10-202 and [~~59-10-209~~] 59-10-210 to the extent they
1866 relate to items of income, gain, loss, and deduction that also enter into the definition of
1867 distributable net income. No modification shall be made under this section that has the effect
1868 of duplicating an item already reflected in the definition of distributable net income.

1869 (b) The amount determined under Subsection (1)(a) shall be allocated among the estate
1870 or trust and its beneficiaries (including solely for the purpose of this allocation, resident
1871 beneficiaries) in proportion to their respective shares of federal distributable net income. The
1872 amounts so allocated shall have the same character as for federal income tax purposes.

1873 (c) If the estate or trust has no federal distributable net income for the taxable year, the
1874 share of each beneficiary in the net amount determined under Subsection (1)(a) shall be in
1875 proportion to his share of the estate or trust income for such year, under state law or the terms
1876 of the governing instrument, that is required to be distributed currently and any other amounts
1877 of such income distributed in such year. Any balance of such net income shall be allocated to
1878 the estate or trust.

1879 (2) The commission may by rule establish such other method or methods of
1880 determining the respective shares of the beneficiaries and of the estate or trust in its income
1881 derived from sources in this state, and in the modifications related thereto, as may be
1882 appropriate and equitable. The fiduciary may elect to use any other methods prescribed in this
1883 Subsection (2) only when the allocation of such respective shares under this section would
1884 result in an inequity in the allocation which is substantial both in amount and in relation to the
1885 total amount of the modifications referred to in Subsection (1)(a).

1886 Section 35. Section **59-10-209.1** is enacted to read:

1887 **59-10-209.1. Adjustments to state taxable income.**

1888 (1) The commission shall allow an adjustment to adjusted gross income or an addition
 1889 or subtraction required by Section 59-10-202 of a resident or nonresident estate or trust if the
 1890 resident or nonresident estate or trust would otherwise:

1891 (a) receive a double tax benefit under this chapter; or

1892 (b) suffer a double tax detriment under this chapter.

1893 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 1894 commission may make rules to allow for the adjustment, addition, or subtraction required by
 1895 Subsection (1).

1896 Section 36. Section **59-10-210** is amended to read:

1897 **59-10-210. Fiduciary adjustments.**

1898 ~~[(1) The fiduciary adjustments are the amounts of the modifications described in~~
 1899 ~~Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of~~
 1900 ~~which the first estate or trust is a beneficiary.]~~

1901 (1) As provided in this section, a share of the fiduciary adjustments described in
 1902 Subsection (2) shall be added to or subtracted from adjusted gross income of:

1903 (a) a resident or nonresident estate or trust; or

1904 (b) a resident or nonresident beneficiary of a resident or nonresident estate or trust.

1905 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
 1906 amounts:

1907 (a) the additions to and subtractions from adjusted gross income of a resident or
 1908 nonresident estate or trust required by Section 59-10-202; and

1909 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

1910 (i) Section 59-6-102;

1911 (ii) Part 10, Nonrefundable Tax Credit Act; or

1912 (iii) Part 11, Refundable Tax Credit Act.

1913 ~~[(2)]~~ (3) (a) The respective shares of an estate or trust and its beneficiaries ~~[(including~~
 1914 ~~solely] for the purpose of this allocation[;] a nonresident~~ ~~[beneficiaries)]~~ beneficiary, in the
 1915 state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal
 1916 distributable net income of the estate or trust.

1917 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
1918 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
1919 allocated in proportion to ~~[his]~~ that beneficiary's share of the estate or trust income for ~~[such]~~
1920 the taxable year~~[-, which]~~ that is, under state law or the governing instrument, required to be
1921 distributed currently plus any other amounts of ~~[such]~~ that income distributed in ~~[such]~~ that
1922 taxable year. ~~[Any]~~

1923 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
1924 the fiduciary adjustments shall be allocated to the estate or trust.

1925 ~~[(3) The commission may by rule and upon such terms and conditions as it may~~
1926 ~~prescribe, authorize the use of such other appropriate and equitable method or methods for~~
1927 ~~determining attribution and allocation of the fiduciary adjustments. The fiduciary may elect to~~
1928 ~~use any other methods prescribed in this subsection only when the allocation of such respective~~
1929 ~~fiduciary adjustments under this section would result in an inequity in the allocation which is~~
1930 ~~substantial both in amount and in relation to the total amount of the modifications referred to in~~
1931 ~~Subsection (1).]~~

1932 ~~[(4) The taxable income of an estate or trust shall be adjusted by the deduction of the~~
1933 ~~income of that estate or trust to the extent of and for so long as such income is distributed or is~~
1934 ~~distributable to or otherwise accrues to the benefit of a person who has been declared by a court~~
1935 ~~of competent jurisdiction to be mentally incompetent. The commission may promulgate rules~~
1936 ~~necessary to provide for this adjustment.]~~

1937 (4) (a) The commission shall allow a fiduciary to use a method for determining the
1938 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1939 described in Subsection (3) if using the method described in Subsection (3) results in an
1940 inequity:

1941 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1942 (ii) if the inequity is substantial:

1943 (A) in amount; and

1944 (B) in relation to the total amount of the fiduciary adjustments described in Subsection

1945 (2).

1946 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1947 commission may make rules authorizing a fiduciary to use a method for determining the

1948 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1949 described in Subsection (3) if using the method described in Subsection (3) results in an
1950 inequity:

1951 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1952 (ii) if the inequity is substantial:

1953 (A) in amount; and

1954 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1955 (2).

1956 Section 37. Section **59-10-529** is amended to read:

1957 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

1958 (1) In cases where there has been an overpayment of any tax imposed by this chapter,
1959 the amount of overpayment is credited as follows:

1960 (a) against any income tax then due from the taxpayer;

1961 (b) against:

1962 (i) the amount of any judgment against the taxpayer, including one ordering the
1963 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims
1964 Restitution Act, obtained through due process of law by any entity of state government; or

1965 (ii) any child support obligation which is due or past due, as determined by the Office
1966 of Recovery Services in the Department of Human Services and after notice and an opportunity
1967 for an adjudicative proceeding, as provided in Subsection (2); or

1968 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to
1969 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of
1970 competent jurisdiction has not approved an alternative form of payment. This bail may be
1971 applied to any fine or forfeiture which is due and related to a warrant which is outstanding on
1972 or after February 16, 1984, and in accordance with Subsections (3) and (4).

1973 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services
1974 has sent written notice to the taxpayer's last-known address or the address on file under Section
1975 62A-11-304.4, stating:

1976 (i) the amount of child support that is due or past due as of the date of the notice or
1977 other specified date;

1978 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child

1979 support specified in the notice; and

1980 (iii) that the taxpayer may contest the amount of past-due child support specified in the
1981 notice by filing a written request for an adjudicative proceeding with the office within 15 days
1982 of the notice being sent.

1983 (b) The Office of Recovery Services shall establish rules to implement this Subsection
1984 (2), including procedures, in accordance with the other provisions of this section, to ensure
1985 prompt reimbursement to the taxpayer of any amount of an overpayment of taxes which was
1986 credited against a child support obligation in error, and to ensure prompt distribution of
1987 properly credited funds to the obligee parent.

1988 (3) Subsection (1)(c) may be exercised only if:

1989 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
1990 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

1991 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
1992 sent to the person's current address on file with the commission.

1993 (4) (a) The commission shall deliver the overpayment applied as bail to the court that
1994 issued the warrant of arrest. The clerk of the court is authorized to endorse the check or
1995 commission warrant of payment on behalf of the payees and deposit the monies in the court
1996 treasury.

1997 (b) The court receiving the overpayment applied as bail shall order withdrawal of the
1998 warrant for arrest of the taxpayer if the case is one for which a personal appearance of the
1999 taxpayer is not required and if the dollar amount of the overpayment represents the full dollar
2000 amount of bail. In all other cases, the court receiving the overpayment applied as bail is not
2001 required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day
2002 period, and the taxpayer may be arrested on the warrant. However, the bail amount shall be
2003 reduced by the amount of tax overpayment received by the court.

2004 (c) If the taxpayer fails to respond to the notice described in Subsection (3), or to
2005 resolve the warrant within 40 days after the notice was sent under that subsection, the
2006 overpayment applied as bail is forfeited and notice of the forfeiture shall be mailed to the
2007 taxpayer at the current address on file with the commission. The court may then issue another
2008 warrant or allow the original warrant to remain in force if:

2009 (i) the taxpayer has not complied with an order of the court;

2010 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a
2011 personal appearance is required; or

2012 (iii) the taxpayer has paid partial but not full bail in a case for which a personal
2013 appearance is not required.

2014 (5) If the alleged violations named in the warrant are later resolved in favor of the
2015 taxpayer, the bail amount shall be remitted to the taxpayer.

2016 (6) Any balance shall be refunded immediately to the taxpayer.

2017 (7) (a) If a refund or credit is due because the amount of tax deducted and withheld
2018 from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless
2019 the taxpayer or his legal representative files with the commission a tax return claiming the
2020 refund or credit:

2021 (i) within three years from the due date of the return, plus the period of any extension
2022 of time for filing the return provided for in Subsection (7)(c); or

2023 (ii) within two years from the date the tax was paid, whichever period is later.

2024 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit
2025 of tax which has not been deducted and withheld from income is due, a credit or refund may
2026 not be allowed or made after three years from the time the tax was paid, unless, before the
2027 expiration of the period, a claim is filed by the taxpayer or his legal representative.

2028 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to
2029 file a claim under Subsection (7)(a)(i) if:

2030 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and

2031 (ii) the commission and the taxpayer sign a written agreement:

2032 (A) authorizing the extension; and

2033 (B) providing for the length of the extension.

2034 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission
2035 shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

2036 (i) the three-year period under Subsection (7)(b) has not expired; and

2037 (ii) the commission and the taxpayer sign a written agreement:

2038 (A) authorizing the extension; and

2039 (B) providing for the length of the extension.

2040 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines

2041 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described
2042 in this section which are outstanding on or after February 16, 1984.

2043 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the
2044 tax to which the credit relates, the excess is considered an overpayment.

2045 (10) A claim for credit or refund of an overpayment which is attributable to the
2046 application to the taxpayer of a net operating loss carryback shall be filed within three years
2047 from the time the return was due for the taxable year of the loss.

2048 (11) If there has been an overpayment of the tax which is required to be deducted and
2049 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent
2050 that the amount of overpayment was not deducted and withheld by the employer.

2051 (12) If there is no tax liability for a period in which an amount is paid as income tax,
2052 the amount is an overpayment.

2053 (13) If an income tax is assessed or collected after the expiration of the applicable
2054 period of limitation, that amount is an overpayment.

2055 (14) (a) If a taxpayer is required to report a change or correction in federal taxable
2056 income reported on ~~his~~ the taxpayer's federal income tax return, or to report a change or
2057 correction which is treated in the same manner as if it were an overpayment for federal income
2058 tax purposes, or to file an amended return with the commission, a claim for credit or refund of
2059 any resulting overpayment of tax shall be filed by the taxpayer within two years from the date
2060 the notice of the change, correction, or amended return was required to be filed with the
2061 commission.

2062 (b) If the report or amended return is not filed within 90 days, interest on any resulting
2063 refund or credit ceases to accrue after the 90-day period.

2064 (c) The amount of the credit or refund may not exceed the amount of the reduction in
2065 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
2066 federal income tax return.

2067 (d) Except as specifically provided, this section does not affect the amount or the time
2068 within which a claim for credit or refund may be filed.

2069 (15) No credit or refund may be allowed or made if the overpayment is less than \$1.

2070 (16) The amount of the credit or refund may not exceed the tax paid during the three
2071 years immediately preceding the filing of the claim, or if no claim is filed, then during the three

2072 years immediately preceding the allowance of the credit or refund.

2073 (17) In the case of an overpayment of tax by the employer under the withholding
2074 provisions of this chapter, a refund or credit shall be made to the employer only to the extent
2075 that the amount of the overpayment was not deducted and withheld from wages under the
2076 provisions of this chapter.

2077 (18) If a taxpayer who is entitled to a refund under this chapter dies, the commission
2078 may make payment to the duly appointed executor or administrator of the taxpayer's estate. If
2079 there is no executor or administrator, payment may be made to those persons who establish
2080 entitlement to inherit the property of the decedent in the proportions set out in Title 75, Utah
2081 Uniform Probate Code.

2082 (19) Where an overpayment relates to adjustments to net income referred to in
2083 Subsection 59-10-536[~~(3)(c)~~] (5), credit may be allowed or a refund paid any time before the
2084 expiration of the period within which a deficiency may be assessed.

2085 (20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate
2086 and in the manner prescribed in Section 59-1-402.

2087 Section 38. Section **59-10-1001** is enacted to read:

2088 **Part 10. Nonrefundable Tax Credit Act**

2089 **59-10-1001. Title.**

2090 This part is known as the "Nonrefundable Tax Credit Act."

2091 Section 39. Section **59-10-1002** is enacted to read:

2092 **59-10-1002. Definitions.**

2093 As used in this part:

2094 (1) (a) Except as provided in Subsection (1)(b) or 59-10-1003(2), "claimant" means a
2095 resident person, part-year resident person, or nonresident person that has state taxable income
2096 under Part 1, Determination and Reporting of Tax Liability and Information.

2097 (b) "Claimant" does not include an estate or trust.

2098 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident
2099 estate, part-year resident estate, or resident estate that has state taxable income under Part 2,
2100 Trusts and Estates.

2101 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,
2102 or trust may:

- 2103 (a) claim:
- 2104 (i) as provided by statute; and
- 2105 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability
- 2106 under this chapter for a taxable year; and
- 2107 (b) carry forward or carry back:
- 2108 (i) if allowed by statute; and
- 2109 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or
- 2110 trust's tax liability under this chapter for a taxable year.
- 2111 (4) "Part-year resident estate or trust" means an estate or trust that changes residency
- 2112 status during a taxable year from:
- 2113 (a) resident to nonresident; or
- 2114 (b) nonresident to resident.
- 2115 (5) "Part-year resident person" means a person that changes residency status during a
- 2116 taxable year from:
- 2117 (a) resident to nonresident; or
- 2118 (b) nonresident to resident.
- 2119 (6) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust,
- 2120 part-year resident trust, or a resident trust that has state taxable income under Part 2, Trusts and
- 2121 Estates.
- 2122 Section 40. Section **59-10-1003**, which is renumbered from Section 59-10-106 is
- 2123 renumbered and amended to read:
- 2124 **~~[59-10-106].~~ 59-10-1003. Credit for tax paid to another state.**
- 2125 (1) ~~[A resident individual shall be allowed a]~~ Except as provided in Subsection (2) and
- 2126 Section 59-10-1008, a claimant, estate, or trust may claim a nonrefundable tax credit against
- 2127 the tax otherwise due under this chapter equal to the amount of the tax imposed:
- 2128 (a) on ~~[him]~~ that claimant, estate, or trust for the taxable year;
- 2129 (b) by another state of the United States, the District of Columbia, or a possession of
- 2130 the United States~~;~~; and
- 2131 (c) on income:
- 2132 (i) derived from sources ~~[therein which]~~ within that other state of the United States,
- 2133 District of Columbia, or possession of the United States; and

2134 (ii) if that income is also subject to tax under this chapter.

2135 (2) A tax credit under this section may only be claimed by a:

2136 (a) resident claimant or part-year resident claimant;

2137 (b) resident estate or part-year resident estate; or

2138 (c) resident trust or part-year resident trust.

2139 ~~[(2)]~~ (3) The application of the tax credit provided under this section [shall] may not
2140 operate to reduce the tax payable under this chapter to an amount less than would have been
2141 payable were the income from the other state disregarded.

2142 ~~[(3)]~~ (4) The tax credit provided by this section shall be computed and claimed in
2143 accordance with rules prescribed by the commission.

2144 Section 41. Section **59-10-1004** is enacted to read:

2145 **59-10-1004. Charitable contribution tax credit.**

2146 (1) Except as provided in Section 59-10-1008, for taxable years beginning on or after
2147 January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit:

2148 (a) in an amount equal to the product of:

2149 (i) the amount the claimant, estate, or trust subtracts as allowed by Section 170,

2150 Internal Revenue Code, for that taxable year:

2151 (A) for a claimant, on the claimant's federal individual income tax return; or

2152 (B) for an estate or trust, on the estate's or trust's federal tax return for estates and

2153 trusts;

2154 (ii) 50%; and

2155 (iii) the tax rate percentage imposed by Section 59-10-104;

2156 (b) as provided in this section; and

2157 (c) against taxes otherwise due under this chapter.

2158 (2) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2159 this section.

2160 Section 42. Section **59-10-1005** is enacted to read:

2161 **59-10-1005. Homeowner tax credit -- Rulemaking authority.**

2162 (1) Except as provided in Section 59-10-1008, for taxable years beginning on or after
2163 January 1, 2007, a claimant may claim a nonrefundable tax credit:

2164 (a) in an amount equal to the greater of:

- 2165 (i) subject to Subsection (4), \$250 if the requirements of Subsection (3) are met; or
2166 (ii) the product of:
2167 (A) the amount the claimant subtracts as allowed by Section 163(h)(3), Internal
2168 Revenue Code, for that taxable year on the claimant's federal individual income tax return;
2169 (B) 50%; and
2170 (C) the tax rate percentage imposed by Section 59-10-104;
2171 (b) as provided in this section; and
2172 (c) against taxes otherwise due under this chapter.
2173 (2) A claimant may not carry forward or carry back a tax credit under this section.
2174 (3) (a) Subject to the other provisions of this Subsection (3), a claimant may claim the
2175 tax credit described in Subsection (1)(a)(i) if the claimant is an owner of a residence that is:
2176 (i) located within this state; and
2177 (ii) the primary residence of the claimant.
2178 (b) If there are two or more owners of a residence described in Subsection (3)(a):
2179 (i) only one tax credit may be claimed under this section for a taxable year; and
2180 (ii) only one of the owners of the residence may claim the tax credit:
2181 (A) as determined by the owners of the residence; and
2182 (B) on that owner's return under this chapter for the taxable year.
2183 (c) A claimant may claim a tax credit under Subsection (1)(a)(i) for only one primary
2184 residence in this state.
2185 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2186 commission may make rules determining what constitutes the primary residence of a claimant.
2187 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall
2188 increase or decrease the dollar amount described in Subsection (1)(a)(i) by a percentage equal
2189 to the percentage difference between the consumer price index for the preceding calendar year
2190 and the consumer price index for calendar year 2006.
2191 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer
2192 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
2193 Section 43. Section **59-10-1006** is enacted to read:
2194 **59-10-1006. Taxpayer tax credits.**
2195 (1) Except as provided in Section 59-10-1008 and subject to Subsections (3) and (4),

2196 for taxable years beginning on or after January 1, 2007, a claimant may claim a nonrefundable
2197 tax credit in an amount equal to the sum of:

2198 (a) an amount equal to:

2199 (i) (A) \$400 for a claimant who:

2200 (I) is a single individual; and

2201 (II) files a single return;

2202 (B) \$450 for a claimant who:

2203 (I) is a married individual who does not file a single return jointly with that individual's
2204 spouse; and

2205 (II) files a single return;

2206 (C) \$650 for a claimant who:

2207 (I) is a head of household as defined in Section 2(b), Internal Revenue Code; and

2208 (II) files a single return; or

2209 (D) \$900 for a claimant who:

2210 (I) (Aa) is a husband and wife; and

2211 (Bb) files a single return jointly; or

2212 (II) (Aa) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code; and

2213 (Bb) files a single return; and

2214 (ii) the product of:

2215 (A) \$100; and

2216 (B) the total number of personal exemptions the claimant claims for the taxable year as
2217 allowed by Section 151, Internal Revenue Code;

2218 (b) as provided in this section; and

2219 (c) against taxes otherwise due under this chapter.

2220 (2) A claimant may not carry forward or carry back a tax credit under this section.

2221 (3) (a) The tax credit allowed by Subsection (1)(a) shall be reduced by \$.011 for each
2222 dollar by which a claimant's adjusted gross income exceeds the product of:

2223 (i) the amount of the tax credit the claimant is allowed under Subsection (1)(a); and

2224 (ii) 10.

2225 (b) For purposes of Subsection (3)(a), a fraction of a dollar of adjusted gross income
2226 shall be rounded up to the next whole dollar of adjusted gross income.

2227 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall
2228 increase or decrease the dollar amounts described in Subsections (1)(a)(i)(A), (1)(a)(i)(B), and
2229 (1)(a)(ii)(A) by a percentage equal to the percentage difference between the consumer price
2230 index for the preceding calendar year and the consumer price index for calendar year 2006.

2231 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer
2232 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

2233 Section 44. Section **59-10-1007**, which is renumbered from Section 59-10-129 is
2234 renumbered and amended to read:

2235 **[59-10-129]. 59-10-1007. Utah low-income housing tax credit.**

2236 (1) As used in this section:

2237 (a) "Allocation certificate" means:

2238 (i) the certificate prescribed by the commission and issued by the Utah Housing
2239 Corporation to each [taxpayer] claimant, estate, or trust that specifies the percentage of the
2240 annual federal low-income housing [tax] credit that each [taxpayer] claimant, estate, or trust
2241 may take as an annual tax credit against [state income] a tax imposed by this chapter; or

2242 (ii) a copy of the allocation certificate that the housing sponsor provides to the
2243 [taxpayer] claimant, estate, or trust.

2244 (b) "Building" means a qualified low-income building as defined in Section 42(c),
2245 Internal Revenue Code.

2246 (c) "Federal low-income housing [tax] credit" means the [tax] low-income housing
2247 credit under Section 42, Internal Revenue Code.

2248 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
2249 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
2250 company in the case of a limited liability company.

2251 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
2252 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

2253 (f) "Special low-income housing tax credit certificate" means a certificate:

2254 (i) prescribed by the commission;

2255 (ii) that a housing sponsor issues to a [taxpayer] claimant, estate, or trust for a taxable
2256 year; and

2257 (iii) that specifies the amount of a tax credit a [taxpayer] claimant, estate, or trust may

2258 claim under this section if the [~~taxpayer~~] claimant, estate, or trust meets the requirements of
2259 this section.

2260 [~~(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this~~
2261 ~~section which is the corporation in the case of a C corporation, the partners in the case of a~~
2262 ~~partnership, the shareholders in the case of an S corporation, and the members in the case of a~~
2263 ~~limited liability company.]~~

2264 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a
2265 nonrefundable tax credit against taxes otherwise due under this chapter for [~~taxpayers~~] a
2266 claimant, estate, or trust issued an allocation certificate.

2267 (b) The tax credit shall be in an amount equal to the greater of the amount of:

2268 (i) federal low-income housing [~~tax~~] credit to which the [~~taxpayer~~] claimant, estate, or
2269 trust is allowed during that year multiplied by the percentage specified in an allocation
2270 certificate issued by the Utah Housing Corporation; or

2271 (ii) tax credit specified in the special low-income housing tax credit certificate that the
2272 housing sponsor issues to the [~~taxpayer~~] claimant, estate, or trust as provided in Subsection
2273 (2)(c).

2274 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

2275 (i) the total amount of low-income housing tax credit under this section that:

2276 (A) a housing sponsor is allowed for a building; and

2277 (B) all of the [~~taxpayers~~] claimants, estates, and trusts may claim with respect to the
2278 building if the [~~taxpayers~~] claimants, estates, and trusts meet the requirements of this section;
2279 and

2280 (ii) the percentage of tax credit a [~~taxpayer~~] claimant, estate, or trust may claim:

2281 (A) under this section if the [~~taxpayer~~] claimant, estate, or trust meets the requirements
2282 of this section; and

2283 (B) as provided in the agreement between the [~~taxpayer~~] claimant, estate, or trust and
2284 the housing sponsor.

2285 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
2286 beginning on January 1, [~~2015~~] 2006, the aggregate annual tax credit that the Utah Housing
2287 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
2288 Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

2289 (A) 12.5 cents; and

2290 (B) the population of Utah.

2291 (ii) For purposes of this section, the population of Utah shall be determined in
2292 accordance with Section 146(j), Internal Revenue Code.

2293 ~~[(3)(a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
2294 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate
2295 the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.]~~

2296 ~~[(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
2297 based on:]~~

2298 ~~[(i) the number of affordable housing units to be created in Utah for low and moderate
2299 income persons in the residential housing development of which the building is a part;]~~

2300 ~~[(ii) the level of area median income being served by the development;]~~

2301 ~~[(iii) the need for the tax credit for the economic feasibility of the development; and]~~

2302 ~~[(iv) the extended period for which the development commits to remain as affordable
2303 housing.]~~

2304 ~~[(4)]~~ (3) (a) The following may apply to the Utah Housing Corporation for a tax credit
2305 under this section:

2306 (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has
2307 received an allocation of the federal low-income housing [tax] credit; or

2308 (ii) any applicant for an allocation of the federal low-income housing [tax] credit if that
2309 applicant is a claimant, estate, or trust.

2310 (b) The Utah Housing Corporation may not require fees for applications of the tax
2311 credit under this section in addition to those fees required for applications for the federal
2312 low-income housing [tax] credit.

2313 ~~[(5)]~~ (4) (a) The Utah Housing Corporation shall determine the amount of the tax credit
2314 to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of
2315 the Utah Housing Corporation.

2316 (b) (i) The Utah Housing Corporation:

2317 (A) shall allocate the tax credit to housing sponsors by issuing an allocation certificate
2318 to qualifying housing sponsors[-]; and

2319 (B) beginning on January 1, 2007, may not issue an allocation certificate under this

2320 section.

2321 (ii) The allocation certificate under Subsection [~~(5)~~] (4)(b)(i) shall specify the allowed
2322 percentage of the federal low-income housing [~~tax~~] credit as determined by the Utah Housing
2323 Corporation.

2324 (c) The percentage specified in an allocation certificate may not exceed 100% of the
2325 federal low-income housing [~~tax~~] credit.

2326 [~~(6)~~] (5) A housing sponsor shall provide a copy of the allocation certificate to each
2327 [~~taxpayer~~] claimant, estate, or trust that is issued a special low-income housing tax credit
2328 certificate.

2329 [~~(7)~~] (6) (a) A housing sponsor shall provide to the commission a list of:

2330 (i) the [~~taxpayers~~] claimants, estates, and trusts issued a special low-income housing
2331 tax credit certificate; and

2332 (ii) for each [~~taxpayer~~] claimant, estate, or trust described in Subsection [~~(7)~~] (6)(a)(i),
2333 the amount of tax credit listed on the special low-income housing tax credit certificate.

2334 (b) A housing sponsor shall provide the list required by Subsection [~~(7)~~] (6)(a):

2335 (i) to the commission;

2336 (ii) on a form provided by the commission; and

2337 (iii) with the housing sponsor's tax return for each taxable year for which the housing
2338 sponsor issues a special low-income housing tax credit certificate described in this Subsection
2339 [~~(7)~~] (6).

2340 [~~(8)~~] (7) (a) All elections made by the [~~taxpayer~~] claimant, estate, or trust pursuant to
2341 Section 42, Internal Revenue Code, shall apply to this section.

2342 (b) (i) If a [~~taxpayer~~] claimant, estate, or trust is required to recapture a portion of any
2343 federal low-income housing [~~tax~~] credit, the [~~taxpayer~~] claimant, estate, or trust shall also be
2344 required to recapture a portion of any state tax credits authorized by this section.

2345 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
2346 that equals the proportion the federal recapture amount bears to the original federal low-income
2347 housing [~~tax~~] credit amount subject to recapture.

2348 [~~(9)~~] (8) (a) Any tax credits returned to the Utah Housing Corporation in any year may
2349 be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

2350 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may

2351 be carried over for allocation in the subsequent year.

2352 ~~[(10)]~~ (9) (a) Amounts otherwise qualifying for the tax credit, but not allowable
 2353 because the tax credit exceeds the tax, may be carried back three years or may be carried
 2354 forward five years as a tax credit ~~[against the tax]~~.

2355 (b) Carryover tax credits under Subsection ~~[(10)]~~ (9)(a) shall be applied against the tax:

2356 (i) before the application of the tax credits earned in the current year; and

2357 (ii) on a first-earned first-used basis.

2358 ~~[(11)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the
 2359 commission.

2360 ~~[(12) The Utah Housing Corporation shall provide an annual report to the Revenue and
 2361 Taxation Interim Committee which shall include at least:]~~

2362 ~~[(a) the purpose and effectiveness of the tax credits; and]~~

2363 ~~[(b) the benefits of the tax credits to the state.]~~

2364 ~~[(13)]~~ (11) The commission may, in consultation with the Utah Housing Corporation,
 2365 promulgate rules to implement this section.

2366 Section 45. Section **59-10-1008** is enacted to read:

2367 **59-10-1008. Apportionment of certain tax credits.**

2368 (1) As used in this section:

2369 (a) "Military service" is as defined in Section 59-10-116.

2370 (b) "Servicemember" is as defined in Section 59-10-116.

2371 (c) "State income tax percentage for a nonresident person" has the same meaning as
 2372 "state income tax percentage" as defined in Section 59-10-116.

2373 (d) "State income tax percentage for a nonresident estate or trust" means, for a taxable
 2374 year, a fraction:

2375 (i) the numerator of which is the nonresident estate's or nonresident trust's adjusted
 2376 gross income for the taxable year received from Utah sources, as determined in accordance
 2377 with the principles of Section 59-10-117; and

2378 (ii) the denominator of which is the difference between:

2379 (A) the nonresident estate's or nonresident trust's total adjusted gross income for that
 2380 taxable year; and

2381 (B) if the nonresident estate or nonresident trust receives income during the taxable

2382 year that is derived from a deceased servicemember, the compensation derived from the
2383 deceased servicemember for military service if the deceased servicemember served in
2384 compliance with military orders.

2385 (e) "State income tax percentage for a part-year resident estate or trust" means, for a
2386 taxable year, a fraction:

2387 (i) the numerator of which is the sum of:

2388 (A) for the time period during the taxable year that the part-year resident estate or trust
2389 is a resident, the part-year resident estate's or trust's total adjusted gross income for that time
2390 period; and

2391 (B) for the time period during the taxable year that the part-year resident estate or trust
2392 is a nonresident, the part-year resident estate's or trust's adjusted gross income for that time
2393 period received from Utah sources, as determined in accordance with the principles of Section
2394 59-10-117; and

2395 (ii) the denominator of which is the difference between:

2396 (A) the part-year resident estate's or trust's total adjusted gross income for that taxable
2397 year; and

2398 (B) if the part-year resident estate or trust receives income during the taxable year that
2399 is derived from a deceased servicemember during the portion of the taxable year that the
2400 deceased servicemember was a nonresident, the compensation derived from the deceased
2401 servicemember;

2402 (I) for military service during the portion of the taxable year that the deceased
2403 servicemember was a nonresident; and

2404 (II) if the deceased servicemember served in compliance with military orders.

2405 (f) "State income tax percentage for a part-year resident person" means, for a taxable
2406 year, a fraction:

2407 (i) the numerator of which is the sum of:

2408 (A) for the time period during the taxable year that the part-year resident person is a
2409 resident, the part-year resident person's total adjusted gross income for that time period; and

2410 (B) for the time period during the taxable year that the part-year resident person is a
2411 nonresident, the part-year resident person's adjusted gross income for that time period received
2412 from Utah sources, as determined under Section 59-10-117; and

- 2413 (ii) the denominator of which is the difference between:
2414 (A) the part-year resident person's total adjusted gross income for that taxable year; and
2415 (B) if the part-year resident person is a servicemember, any compensation the
2416 servicemember receives for military service during the portion of the taxable year that the
2417 servicemember is a nonresident if the servicemember is serving in compliance with military
2418 orders.
- 2419 (2) A part-year resident person, part-year resident estate, or part-year resident trust that
2420 claims a tax credit in accordance with Section 59-10-1003 may only claim an apportioned
2421 amount of the tax credit as determined by the commission by rule made in accordance with
2422 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
- 2423 (3) A nonresident person, nonresident estate, nonresident trust, part-year resident estate
2424 or trust, or part-year resident person that claims a tax credit in accordance with Section
2425 59-10-1004, 59-10-1005, or 59-10-1006 may only claim an apportioned amount of the tax
2426 credit equal to:
- 2427 (a) for a nonresident person, the product of:
2428 (i) the state income tax percentage for the nonresident person; and
2429 (ii) the amount of the tax credit that the nonresident person would have been allowed
2430 to claim but for the apportionment requirements of this section;
- 2431 (b) for a nonresident estate or nonresident trust, the product of:
2432 (i) the state income tax percentage for the nonresident estate or trust; and
2433 (ii) the amount of the tax credit that the nonresident estate or nonresident trust would
2434 have been allowed to claim but for the apportionment requirements of this section;
- 2435 (c) for a part-year resident estate or trust, the product of:
2436 (i) the state income tax percentage for the part-year resident estate or trust; and
2437 (ii) the amount of the tax credit that the part-year resident estate or trust would have
2438 been allowed to claim but for the apportionment requirements of this section; or
- 2439 (d) for a part-year resident person, the product of:
2440 (i) the state income tax percentage for the part-year resident person; and
2441 (ii) the amount of the tax credit that the part-year resident person would have been
2442 allowed to claim but for the apportionment requirements of this section.
- 2443 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for

2444 purposes of Subsection (1), the commission may by rule define what constitutes compensation.

2445 Section 46. Section **59-10-1101** is enacted to read:

2446 **Part 11. Refundable Tax Credit Act**

2447 **59-10-1101. Title.**

2448 This part is known as the "Refundable Tax Credit Act."

2449 Section 47. Section **59-10-1102** is enacted to read:

2450 **59-10-1102. Definitions.**

2451 As used in this part:

2452 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a),

2453 "claimant" means a resident or nonresident person.

2454 (b) "Claimant" does not include an estate or trust.

2455 (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident

2456 estate or a resident estate.

2457 (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or

2458 trust may claim:

2459 (a) as provided by statute; and

2460 (b) regardless of whether the claimant, estate, or trust has a tax liability under this

2461 chapter for a taxable year.

2462 (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident

2463 trust or a resident trust.

2464 Section 48. Section **59-10-1103**, which is renumbered from Section 59-10-108.2 is

2465 renumbered and amended to read:

2466 **[59-10-108.2]. 59-10-1103. Tax credit for nonresident shareholders of S**

2467 **corporations.**

2468 (1) (a) A nonresident shareholder of an S corporation [~~who is an individual~~] may claim

2469 a refundable tax credit against the tax otherwise due under this chapter[-] if that nonresident

2470 shareholder is a:

2471 (i) nonresident claimant;

2472 (ii) nonresident estate; or

2473 (iii) nonresident trust.

2474 (b) The tax credit described in Subsection (1)(a) is equal to the amount paid or

2475 withheld by the S corporation on behalf of the ~~[individual]~~ nonresident shareholder described
 2476 in Subsection (1)(a) in accordance with Section 59-7-703.

2477 (2) A nonresident shareholder ~~[of an S corporation who is an individual and who]~~
 2478 described in Subsection (1)(a) that has no other Utah source income may elect:

2479 (a) not to claim the tax credit provided in Subsection (1); and

2480 (b) not to file a ~~[Utah individual income]~~ tax return under this chapter for the taxable
 2481 year.

2482 (3) If a nonresident shareholder described in Subsection (1)(a) may claim ~~[credits other~~
 2483 ~~than the credit described in Subsection (1)]~~ a nonrefundable tax credit under Part 10,
 2484 Nonrefundable Tax Credit Act, the nonresident shareholder described in Subsection (1)(a) shall
 2485 file ~~[an individual income]~~ a tax return under this chapter to claim ~~[those credits]~~ that
 2486 nonrefundable tax credit.

2487 Section 49. Section **59-13-202** is amended to read:

2488 **59-13-202. Definitions -- Refund of tax for agricultural uses on income and**
 2489 **corporate franchise tax returns -- Application for permit for refund -- Division of**
 2490 **Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

2491 (1) As used in this section, "refundable tax credit" or "tax credit" means a tax credit that
 2492 a person may claim:

2493 (a) as provided by statute; and

2494 (b) regardless of whether the person has a tax liability under Chapter 7, Corporate
 2495 Franchise and Income Taxes, for the taxable year for which the person claims the tax credit.

2496 ~~[(1)]~~ (2) Any person ~~[who]~~ that purchases and uses any motor fuel within the state for
 2497 the purpose of operating or propelling stationary farm engines and self-propelled farm
 2498 machinery used for nonhighway agricultural uses, and ~~[who]~~ that has paid the tax on the motor
 2499 fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and
 2500 limitations provided under this part.

2501 ~~[(2)]~~ (3) (a) ~~[Every]~~ A person desiring a nonhighway agricultural use refund under this
 2502 part shall claim the refund as a refundable tax credit on the ~~[state income]~~ tax return ~~[or~~
 2503 ~~corporate franchise tax return]~~ the person files under Chapter 7, Corporate Franchise and
 2504 Income Taxes.

2505 (b) A person not subject to filing a ~~[Utah income tax return or corporate franchise]~~ tax

2506 return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year
2507 basis.

2508 (c) Any person claiming a refundable [~~motor fuel~~] tax credit under this section is
2509 required to furnish any or all of the information outlined in this section upon request of the
2510 commission. [~~Credit~~]

2511 (d) A refundable tax credit under this section is allowed only on purchases on which
2512 tax is paid during the taxable year covered by the tax return.

2513 [~~(3)~~] (4) In order to obtain a permit for a refund of motor fuel tax paid, an application
2514 shall be filed containing:

2515 (a) the name of [~~applicant~~] the person;

2516 (b) the [~~applicant's~~] person's address;

2517 (c) location and number of acres owned and operated, location and number of acres
2518 rented and operated, the latter of which shall be verified by a signed statement from the legal
2519 owner;

2520 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

2521 (e) make, size, type of fuel used, and power rating of each piece of equipment using
2522 fuel. If the [~~applicant~~] person is an operator of self-propelled or tractor-pulled farm machinery
2523 with which the [~~applicant~~] person works for hire doing custom jobs for other farmers, the
2524 application shall include information the commission requires and shall all be contained in, and
2525 be considered part of, the original application. The [~~applicant~~] person shall also file with the
2526 application a certificate from the county assessor showing each piece of equipment using fuel.
2527 This original application and all information contained in it constitutes a permanent file with
2528 the commission in the name of the [~~applicant~~] person.

2529 [~~(4)~~] (5) Any person claiming the right to a refund of motor fuel tax paid shall file a
2530 claim with the commission by April 15 of each year for the refund for the previous calendar
2531 year. The claim shall state the name and address of the [~~claimant~~] person, the number of
2532 gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the
2533 motor fuel. The [~~applicant~~] person shall retain the original invoice to support the claim. No
2534 more than one claim for a tax refund may be filed annually by each user of motor fuel
2535 purchased for nonhighway agricultural uses.

2536 [~~(5)~~] (6) Upon commission approval of the claim for a refund, the Division of Finance

2537 shall pay the amount found due to the [~~claimant~~] person. The total amount of claims for
2538 refunds shall be paid from motor fuel taxes.

2539 [~~(6)~~] (7) The commission may promulgate rules to enforce this part, and may refuse to
2540 accept as evidence of purchase or payment any instruments which show alteration or which fail
2541 to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is
2542 purchased for purposes other than transportation, and the date of purchase and delivery. If the
2543 commission is not satisfied with the evidence submitted in connection with the claim, it may
2544 reject the claim or require additional evidence.

2545 [~~(7)~~] (8) Any person aggrieved by the decision of the commission with respect to a
2546 refundable tax credit or refund may file a request for agency action, requesting a hearing before
2547 the commission.

2548 [~~(8)~~] (9) Any person [~~who~~] that makes any false claim, report, or statement, [~~either~~] as
2549 claimant, agent, or creditor, with intent to defraud or secure a refund to which the [~~claimant~~]
2550 person is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and
2551 the commission shall initiate the filing of a complaint for alleged violations of this part. In
2552 addition to these penalties, the person may not receive any refund as a claimant or as a creditor
2553 of a claimant for refund for a period of five years.

2554 [~~(9)~~] (10) Refunds to which [~~taxpayers are~~] a person is entitled under this part shall be
2555 paid from the Transportation Fund.

2556 Section 50. Section **62A-4a-607** is amended to read:

2557 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**
2558 **parents.**

2559 (1) (a) The division and all child placing agencies licensed under this part shall
2560 promote adoption when that is a possible and appropriate alternative for a child. Specifically,
2561 in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of
2562 all children in its custody who have a final plan for termination of parental rights pursuant to
2563 Section 78-3a-312 or a primary permanency goal of adoption.

2564 (b) Beginning May 1, 2000, the division may not place a child for adoption, either
2565 temporarily or permanently, with any individual or individuals who do not qualify for adoptive
2566 placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

2567 (2) The division shall obtain or conduct research of prior adoptive families to

2568 determine what families may do to be successful with their adoptive children and shall make
2569 this research available to potential adoptive parents.

2570 (3) (a) A child placing agency licensed under this part shall inform each potential
2571 adoptive parent with whom it is working that:

2572 (i) children in the custody of the state are available for adoption;

2573 (ii) Medicaid coverage for medical, dental, and mental health services may be available
2574 for these children;

2575 [~~(iii) tax benefits, including the tax credit provided for in Section 59-10-133, and~~
2576 ~~financial assistance may be available to defray the costs of adopting these children;~~]

2577 [~~(iv)~~ (iii) training and ongoing support may be available to the adoptive parents of
2578 these children; and

2579 [~~(v)~~ (iv) information about individual children may be obtained by contacting the
2580 division's offices or its Internet site as explained by the child placing agency.

2581 (b) A child placing agency shall:

2582 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;
2583 and

2584 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in
2585 accordance with Subsection (3)(d).

2586 (c) As a condition of licensure, the child placing agency shall certify to the Office of
2587 Licensing at the time of license renewal that it has complied with the provisions of this section.

2588 (d) Before July 1, 2000, the division shall:

2589 (i) prepare a pamphlet that explains the information that is required by Subsection
2590 (3)(a); and

2591 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child
2592 placing agencies.

2593 (e) The division shall respond to any inquiry made as a result of the notice provided in
2594 Subsection (3)(a).

2595 Section 51. Section ~~63-38f-402~~ is amended to read:

2596 **63-38f-402. Definitions.**

2597 As used in this part:

2598 (1) "Business entity" means an entity under which business is conducted or transacted.

2599 [†] (2) "County applicant" means the governing authority of a county that meets the
 2600 requirements for designation as an enterprise zone under Section 63-38f-404.

2601 [‡] (3) "Municipal applicant" means the governing authority of a city or town that
 2602 meets the requirements for designation as an enterprise zone under Section 63-38f-404.

2603 (4) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity
 2604 may:

2605 (a) claim:

2606 (i) as provided by statute; and

2607 (ii) in an amount that does not exceed the business entity's tax liability for a taxable
 2608 year; and

2609 (b) carry forward or carry back:

2610 (i) if allowed by statute; and

2611 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax
 2612 liability under Title 59, Chapter 7, Corporate Franchise and Income Taxes, for the taxable year
 2613 for which the business entity claims the tax credit.

2614 [‡] (5) "Tax incentives" or "tax benefits" means the nonrefundable tax credits
 2615 available under Section 63-38f-413.

2616 Section 52. Section **63-38f-412** is amended to read:

2617 **63-38f-412. Businesses qualifying for tax incentives.**

2618 The tax incentives described in this part are available only to a business [~~firm~~] entity for
 2619 which at least 51% of the employees employed at facilities of the [~~firm~~] business entity located
 2620 in the enterprise zone are individuals who, at the time of employment, reside in the county in
 2621 which the enterprise zone is located.

2622 Section 53. Section **63-38f-413** is amended to read:

2623 **63-38f-413. State tax credits.**

2624 (1) Subject to the limitations of Subsections (2) through (4), the following [~~state~~]
 2625 nonrefundable tax credits against [~~individual income taxes or corporate franchise and income~~
 2626 ~~taxes~~] a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, are applicable in
 2627 an enterprise zone:

2628 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
 2629 position filled for not less than six months during a given tax year;

2630 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%
2631 of:

2632 (i) the county average monthly nonagricultural payroll wage for the respective industry
2633 as determined by the Department of Workforce Services; or

2634 (ii) if the county average monthly nonagricultural payroll wage is not available for the
2635 respective industry, the total average monthly nonagricultural payroll wage in the respective
2636 county where the enterprise zone is located;

2637 (c) an additional tax credit of \$750 may be claimed if the new position is in a business
2638 that adds value to agricultural commodities through manufacturing or processing;

2639 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
2640 new employee who is insured under an employer-sponsored health insurance program if the
2641 employer pays at least 50% of the premium cost for two consecutive years;

2642 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
2643 corporation, except that the credit claimed may not exceed \$100,000:

2644 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
2645 Revenue Code;

2646 (ii) whose primary purpose is community and economic development; and

2647 (iii) that has been accredited by the board of directors of the Utah Rural Development
2648 Council;

2649 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
2650 enterprise zone that has been vacant for two years or more; and

2651 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
2652 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
2653 property.

2654 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax
2655 credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time
2656 employee positions or less in each of its taxable years.

2657 (b) A business entity that received a tax credit for its full-time employee positions
2658 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time
2659 employee position under Subsections (1)(a) through (d) if:

2660 (i) the business entity creates a new full-time employee position;

2661 (ii) the total number of full-time employee positions at the business entity is greater
2662 than the number of full-time employee positions previously claimed by the business entity
2663 under Subsections (1)(a) through (d); and

2664 (iii) the total number of tax credits the business entity has claimed for its current
2665 taxable year, including the new full-time employee position for which the business entity is
2666 claiming a tax credit, is less than or equal to 30.

2667 (c) A business entity existing in an enterprise zone on the date of its designation shall
2668 calculate the number of full-time positions based on the average number of employees reported
2669 to the Department of Workforce Services.

2670 (d) Construction jobs are not eligible for the tax [~~credit~~] credits under Subsections
2671 (1)(a) through (d).

2672 (3) If the amount of a tax credit under this section exceeds a business entity's tax
2673 liability under this chapter for a taxable year, the amount of the tax credit exceeding the
2674 liability may be carried forward for a period that does not exceed the next three taxable years.

2675 (4) (a) If a business entity is located in a county that met the requirements of
2676 Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January
2677 1, 1998, because the county was located in a metropolitan statistical area in more than one
2678 state, the business entity:

2679 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,
2680 but beginning before December 31, 1997;

2681 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning
2682 on or after January 1, 1997, but beginning before December 31, 1997; and

2683 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,
2684 1998, if the county is designated as an enterprise zone in accordance with this part.

2685 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business
2686 entity:

2687 (i) may claim the tax credit by filing for the taxable year beginning on or after January
2688 1, 1997, but beginning before December 31, 1997:

2689 [~~(A) an individual income tax return;~~]

2690 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

2691 (B) an amended [individual income tax] return under Title 59, Chapter 7, Corporate

2692 Franchise and Income Taxes;

2693 (C) a [~~corporate franchise and income tax~~] return under Title 59, Chapter 10,

2694 Individual Income Tax Act; or

2695 (D) an amended [~~corporate franchise and income tax~~] return under Title 59, Chapter

2696 10, Individual Income Tax Act; and

2697 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,
2698 1998, in accordance with Subsection (3).

2699 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a
2700 business entity engaged in retail trade or by a public utilities business.

2701 (6) A business entity may not claim or carry forward a tax credit available under this
2702 part for a taxable year during which the business entity has claimed the targeted business
2703 income tax credit available under Section 63-38f-503.

2704 Section 54. Section **63-38f-501** is amended to read:

2705 **63-38f-501. Definitions.**

2706 As used in this part:

2707 (1) "Allocated cap amount" means the total amount of the targeted business income tax
2708 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
2709 share of the total amount of \$300,000 for each fiscal year allowed under Subsection
2710 63-38f-503(2).

2711 (2) "Business applicant" means a business that meets the criteria established in Section
2712 63-38f-502.

2713 (3) "Community investment project" means a project that includes one or more of the
2714 following criteria in addition to the normal operations of the business applicant:

2715 (a) substantial new employment;

2716 (b) new capital development; or

2717 (c) a combination of both Subsections (3)(a) and (b).

2718 (4) "Community investment project period" means the total number of years that the
2719 office determines a business applicant is eligible for a targeted business income tax credit for
2720 each community investment project.

2721 (5) "Enterprise zone" means an area within a county or municipality that has been
2722 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

2723 (6) "Local zone administrator" means a person:
 2724 (a) designated by the governing authority of the county or municipal applicant as the
 2725 local zone administrator in an enterprise zone application; and
 2726 (b) approved by the office as the local zone administrator.

2727 (7) "Refundable tax credit" means a tax credit that a business applicant may claim:
 2728 (a) as provided in this part; and
 2729 (b) regardless of whether the business applicant has a tax liability under Title 59,
 2730 Chapter 7, Corporate Franchise and Income Taxes, for the taxable year for which the business
 2731 applicant claims the tax credit.

2732 [~~(7)~~] (8) "Targeted business income tax credit " means [~~an income~~] a refundable tax
 2733 credit available under Section 63-38f-503.

2734 [~~(8)~~] (9) "Targeted business income tax credit eligibility form" means a document
 2735 provided annually to the business applicant by the office that complies with the requirements of
 2736 Subsection 63-38f-503(8).

2737 Section 55. Section **63-38f-502** is amended to read:

2738 **63-38f-502. Application for targeted business income tax credits.**

2739 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
 2740 may elect to claim a targeted business income tax credit available under Section 63-38f-503 if
 2741 the business applicant:

- 2742 (i) is located in:
 - 2743 (A) an enterprise zone; and
 - 2744 (B) a county with:
 - 2745 (I) a population of less than 25,000; and
 - 2746 (II) an unemployment rate that for six months or more of each calendar year is at least
 - 2747 one percentage point higher than the state average;
 - 2748 (ii) meets the requirements of Section 63-38f-412;
 - 2749 (iii) provides:
 - 2750 (A) a community investment project within the enterprise zone; and
 - 2751 (B) a portion of the community investment project during each taxable year for which
 - 2752 the business applicant claims the targeted business tax incentive; and

2753 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is

2754 not engaged in the following, as defined by the State Tax Commission by rule:

2755 (A) construction;

2756 (B) retail trade; or

2757 (C) public utility activities.

2758 (b) For a taxable year for which a business applicant claims a targeted business income
2759 tax credit available under this part, the business applicant may not claim or carry forward a tax
2760 credit available under Section 63-38f-413[;] or 59-7-610[, ~~or 59-10-108.7~~].

2761 (2) (a) A business applicant seeking to claim a targeted business income tax credit
2762 under this part shall file an application as provided in Subsection (2)(b) with the local zone
2763 administrator by no later than June 1 of the year in which the business applicant is seeking to
2764 claim a targeted business income tax credit.

2765 (b) The application described in Subsection (2)(a) shall include:

2766 (i) any documentation required by the local zone administrator to demonstrate that the
2767 business applicant meets the requirements of Subsection (1);

2768 (ii) a plan developed by the business applicant that outlines:

2769 (A) if the community investment project includes substantial new employment, the
2770 projected number and anticipated wage level of the jobs that the business applicant plans to
2771 create as the basis for qualifying for a targeted business income tax credit;

2772 (B) if the community investment project includes new capital development, a
2773 description of the capital development the business applicant plans to make as the basis for
2774 qualifying for a targeted business income tax credit; and

2775 (C) a description of how the business applicant's plan coordinates with:

2776 (I) the goals of the enterprise zone in which the business applicant is providing a
2777 community investment project; and

2778 (II) the overall economic development goals of the county or municipality in which the
2779 business applicant is providing a community investment project; and

2780 (iii) any additional information required by the local zone administrator.

2781 (3) (a) The local zone administrator shall:

2782 (i) evaluate an application filed under Subsection (2); and

2783 (ii) determine whether the business applicant is eligible for a targeted business income
2784 tax credit.

2785 (b) If the local zone administrator determines that the business applicant is eligible for
2786 a targeted business income tax credit, the local zone administrator shall:

2787 (i) certify that the business applicant is eligible for the targeted business income tax
2788 credit;

2789 (ii) structure the targeted business income tax credit for the business applicant in
2790 accordance with Section 63-38f-503; and

2791 (iii) monitor a business applicant to ensure compliance with this section.

2792 (4) A local zone administrator shall report to the office by no later than June 30 of each
2793 year:

2794 (a) (i) any application approved by the local zone administrator during the last fiscal
2795 year; and

2796 (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each
2797 new business applicant; and

2798 (b) (i) the status of any existing business applicants that the local zone administrator
2799 monitors; and

2800 (ii) any information required by the office to determine the status of an existing
2801 business applicant.

2802 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
2803 of the allocated cap amount that each business applicant that the local zone administrator
2804 monitors is eligible to claim.

2805 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
2806 each business applicant that the local zone administrator monitors of the allocated cap amount
2807 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
2808 for a taxable year.

2809 Section 56. Section **63-38f-503** is amended to read:

2810 **63-38f-503. Targeted business income tax credit structure -- Duties of the local**
2811 **zone administrator -- Duties of the State Tax Commission.**

2812 (1) For taxable years beginning on or after January 1, 2002, a business applicant that is
2813 certified under Subsection 63-38f-502(3) and issued a targeted business tax credit eligibility
2814 form by the office under Subsection (8) may claim a refundable [~~income~~] tax credit:

2815 (a) against the business applicant's tax liability under[:(i) Title 59, Chapter 10,

2816 ~~Individual Income Tax Act, or (ii)]~~ Title 59, Chapter 7, Corporate Franchise and Income Taxes;
2817 and

2818 (b) subject to requirements and limitations provided by this part.

2819 (2) The total amount of the targeted business income tax credits allowed under this part
2820 for all business applicants may not exceed \$300,000 in any fiscal year.

2821 (3) (a) A targeted business income tax credit allowed under this part for each
2822 community investment project provided by a business applicant may not:

2823 (i) be claimed by a business applicant for more than seven consecutive taxable years
2824 from the date the business applicant first qualifies for a targeted business income tax credit on
2825 the basis of a community investment project;

2826 (ii) be carried forward or carried back;

2827 (iii) exceed \$100,000 in total amount for the community investment project period
2828 during which the business applicant is eligible to claim a targeted business income tax credit;
2829 or

2830 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
2831 of:

2832 (A) 50% of the maximum amount allowed by the local zone administrator; or

2833 (B) the allocated cap amount determined by the office under Subsection 63-38f-502(5).

2834 (b) A business applicant may apply to the local zone administrator to claim a targeted
2835 business income tax credit allowed under this part for each community investment project
2836 provided by the business applicant as the basis for its eligibility for a targeted business income
2837 tax credit.

2838 (4) Subject to other provisions of this section, the local zone administrator shall
2839 establish for each business applicant that qualifies for a targeted business income tax credit:

2840 (a) criteria for maintaining eligibility for the targeted business income tax credit that
2841 are reasonably related to the community investment project that is the basis for the business
2842 applicant's targeted business income tax credit;

2843 (b) the maximum amount of the targeted business income tax credit the business
2844 applicant is allowed for the community investment project period;

2845 (c) the time period over which the total amount of the targeted business income tax
2846 credit may be claimed;

2847 (d) the maximum amount of the targeted business income tax credit that the business
2848 applicant will be allowed to claim each year; and

2849 (e) requirements for a business applicant to report to the local zone administrator
2850 specifying:

2851 (i) the frequency of the business applicant's reports to the local zone administrator,
2852 which shall be made at least quarterly; and

2853 (ii) the information needed by the local zone administrator to monitor the business
2854 applicant's compliance with this Subsection (4) or Section 63-38f-502 that shall be included in
2855 the report.

2856 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
2857 business income tax credit under this part shall report to the local zone administrator.

2858 (6) The amount of a targeted business income tax credit that a business applicant is
2859 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
2860 or the local zone administrator determines that the business applicant has failed to comply with
2861 a requirement of Subsection (3) or Section 63-38f-502.

2862 (7) The office or local zone administrator may audit a business applicant to ensure:

2863 (a) eligibility for a targeted business income tax credit; or

2864 (b) compliance with Subsection (3) or Section 63-38f-502.

2865 (8) The office shall issue a targeted business income tax credit eligibility form in a
2866 form jointly developed by the State Tax Commission and the office no later than 30 days after
2867 the last day of the business applicant's taxable year showing:

2868 (a) the maximum amount of the targeted business income tax credit that the business
2869 applicant is eligible for that taxable year;

2870 (b) any reductions in the maximum amount of the targeted business income tax credit
2871 because of failure to comply with a requirement of Subsection (3) or Section 63-38f-502;

2872 (c) the allocated cap amount that the business applicant may claim for that taxable
2873 year; and

2874 (d) the actual amount of the targeted business income tax credit that the business
2875 applicant may claim for that taxable year.

2876 (9) (a) A business applicant shall retain the targeted business income tax credit
2877 eligibility form provided by the office under this Subsection (9).

2878 (b) The State Tax Commission may audit a business applicant to ensure:

2879 (i) eligibility for a targeted business income tax credit; or

2880 (ii) compliance with Subsection (3) or Section 63-38f-502.

2881 Section 57. Section **63-38f-1102** is amended to read:

2882 **63-38f-1102. Definitions.**

2883 As used in this part:

2884 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
2885 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
2886 organisms.

2887 (2) "Postconsumer waste material" means any product generated by a business or
2888 consumer that has served its intended end use, and that has been separated from solid waste for
2889 the purposes of collection, recycling, and disposition and that does not include secondary waste
2890 material.

2891 (3) (a) "Recovered materials" means waste materials and by-products that have been
2892 recovered or diverted from solid waste.

2893 (b) "Recovered materials" does not include those materials and by-products generated
2894 from, and commonly reused within, an original manufacturing process.

2895 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
2896 the beneficial use of the materials and includes a series of activities by which materials that
2897 would become or otherwise remain waste are diverted from the waste stream for collection,
2898 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
2899 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
2900 the materials as substitutes for goods made from virgin materials.

2901 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

2902 (5) "Recycling market development zone" or "zone" means an area designated by the
2903 office as meeting the requirements of this part.

2904 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
2905 facilities and waste generated after completion of a manufacturing process.

2906 (b) "Secondary waste material" does not include internally generated scrap commonly
2907 returned to industrial or manufacturing processes, such as home scrap and mill broke.

2908 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable

2909 tax credits available under [~~Sections~~] Section 59-7-608 [~~and 59-10-108.7~~].

2910 Section 58. Section **63-38f-1110** is amended to read:

2911 **63-38f-1110. Recycling market development zones credit.**

2912 For a taxpayer within a recycling market development zone, there are allowed the
2913 nonrefundable tax credits [~~against tax~~] as provided by [~~Sections~~] Section 59-7-610 [~~and~~
2914 ~~59-10-108.7~~].

2915 Section 59. Section **63-38f-1203** is amended to read:

2916 **63-38f-1203. Definitions.**

2917 As used in this part:

2918 (1) "Board" means the Utah Capital Investment Board.

2919 (2) "Certificate" means a contract between the board and a designated investor under
2920 which a contingent tax credit is available and issued to the designated investor.

2921 (3) "Commitment" means a written commitment by a designated purchaser to purchase
2922 from the board certificates presented to the board for redemption by a designated investor.
2923 Each commitment shall state the dollar amount of contingent tax credits that the designated
2924 purchaser has committed to purchase from the board.

2925 (4) "Contingent tax credit" means a contingent tax credit issued under this part that is
2926 available against a tax [~~liabilities~~] liability imposed by Title 59, Chapter 7, Corporate Franchise
2927 and Income Taxes, [~~and Chapter 10, Individual Income Tax Act,~~] if there are insufficient funds
2928 in the redemption reserve and the board has not exercised other options for redemption under
2929 Subsection 63-38f-1220(3)(b).

2930 (5) "Corporation" means the Utah Capital Investment Corporation created under
2931 Section 63-38f-1207.

2932 (6) "Designated investor" means:

2933 (a) a person who purchases an equity interest in the Utah fund of funds; or

2934 (b) a transferee of a certificate or contingent tax credit.

2935 (7) "Designated purchaser" means:

2936 (a) a person who enters into a written undertaking with the board to purchase a
2937 commitment; or

2938 (b) a transferee who assumes the obligations to make the purchase described in the
2939 commitment.

2940 (8) "Person" means an individual, partnership, limited liability company, corporation,
2941 association, organization, business trust, estate, trust, or any other legal or commercial entity.

2942 (9) "Redemption reserve" means the reserve established by the corporation to facilitate
2943 the cash redemption of certificates.

2944 (10) "Utah fund of funds" means a limited partnership or limited liability company
2945 established under Section 63-38f-1213 in which a designated investor purchases an equity
2946 interest.

2947 Section 60. Section ~~63-55-209~~ is amended to read:

2948 **~~63-55-209. Repeal dates, Title 9.~~**

2949 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
2950 repealed July 1, 2014.

2951 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

2952 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is
2953 repealed July 1, 2010.

2954 (b) [~~Sections~~] Section 59-7-610 [~~and 59-10-108.7~~], regarding tax credits for certain
2955 persons in recycling market development zones, are repealed for taxable years beginning on or
2956 after January 1, 2011.

2957 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under
2958 Section 59-7-610 [~~or 59-10-108.7~~]:

2959 (i) for the purchase price of machinery or equipment described in Section 59-7-610 [~~or~~
2960 ~~59-10-108.7~~] if the machinery or equipment is purchased on or after July 1, 2010; or

2961 (ii) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],
2962 if the expenditure is made on or after July 1, 2010.

2963 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit
2964 in accordance with Section 59-7-610 [~~or 59-10-108.7~~] if:

2965 (i) the person is entitled to a tax credit under Section 59-7-610 [~~or 59-10-108.7~~]; and

2966 (ii) (A) for the purchase price of machinery or equipment described in Section
2967 59-7-610 [~~or 59-10-108.7~~], the machinery or equipment is purchased on or before June 30,
2968 2010; or

2969 (B) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],
2970 the expenditure is made on or before June 30, 2010.

2971 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July
2972 1, 2008.

2973 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed
2974 July 1, 2009.

2975 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.
2976 Section 61. Section **63-55-259** is amended to read:

2977 **63-55-259. Repeal dates, Title 59.**

2978 (1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2006.

2979 (2) Section 59-9-102.5 is repealed December 31, 2010.

2980 [~~(3) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.~~]

2981 Section 62. Section **72-12-107** is amended to read:

2982 **72-12-107. Benefits of ride-sharing driver not taxable income.**

2983 Money and other benefits, other than salary, received by a driver in a ride-sharing
2984 arrangement does not constitute income for the purpose of computing adjusted gross income
2985 under Title 59, Chapter 10, Individual Income Tax.

2986 Section 63. **Repealer.**

2987 This bill repeals:

2988 Section **23-14-14.1, Wolf Depredation and Management Restricted Account --**

2989 **Interest -- Use of contributions and interest.**

2990 Section **31A-32a-101, Title and scope.**

2991 Section **31A-32a-102, Definitions.**

2992 Section **31A-32a-103, Establishing medical care savings accounts.**

2993 Section **31A-32a-104, Administration of medical care savings account.**

2994 Section **31A-32a-105, Withdrawals -- Termination -- Transfers.**

2995 Section **31A-32a-106, Regulation of account administrators -- Administration of**
2996 **tax deductions.**

2997 Section **31A-32a-107, Penalties for noncompliance with tax requirements.**

2998 Section **59-10-102, Declaration of intent.**

2999 Section **59-10-104.1, Exemption from taxation.**

3000 Section **59-10-105, Optional tax -- Calculation -- Commission authority to**
3001 **prescribed tax tables -- Exemption.**

- 3002 Section 59-10-107, Credit for tax paid by estate or trust to another state.
- 3003 Section 59-10-108, Credit for cash contributions to sheltered workshops.
- 3004 Section 59-10-108.1, Tax credit for at-home parent.
- 3005 Section 59-10-108.5, Historic preservation credit.
- 3006 Section 59-10-108.7, Recycling market development zones tax credit.
- 3007 Section 59-10-109, Targeted jobs tax credit.
- 3008 Section 59-10-111, Federal taxable income defined.
- 3009 Section 59-10-112, State taxable income of resident individual.
- 3010 Section 59-10-127, Definitions -- Tax credit -- Cleaner burning fuels.
- 3011 Section 59-10-128, Tax credit -- Items using cleaner burning fuels.
- 3012 Section 59-10-130, Tutoring tax credits for disabled dependents.
- 3013 Section 59-10-131, Credits for research activities conducted in the state -- Carry
- 3014 forward -- Commission to report modification or repeal of federal credits -- Tax Review
- 3015 Commission study.
- 3016 Section 59-10-132, Credits for machinery, equipment, or both primarily used for
- 3017 conducting qualified research or basic research -- Carry forward -- Commission to report
- 3018 modification or repeal of federal credits -- Tax Review Commission study.
- 3019 Section 59-10-133, Tax credit for adoption of a child who has a special need.
- 3020 Section 59-10-134, Renewable energy systems tax credit -- Definitions -- Individual
- 3021 tax credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition
- 3022 to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of
- 3023 Uniform School Fund.
- 3024 Section 59-10-134.1, Refundable tax credit for hand tools used in farming
- 3025 operations -- Procedures for refund -- Transfers from General Fund to Uniform School
- 3026 Fund -- Rulemaking authority.
- 3027 Section 59-10-134.2, Definitions -- Nonrefundable tax credit for live organ
- 3028 donation expenses -- Rulemaking authority.
- 3029 Section 59-10-135, Removal of tax credit from tax return and prohibition on
- 3030 claiming or carrying forward a tax credit -- Conditions for removal and prohibition on
- 3031 claiming or carrying forward a tax credit -- Commission reporting requirements.
- 3032 Section 59-10-209, Adjustments to state taxable income of resident estates or trusts

3033 **and beneficiaries.**

3034 Section **59-10-530, Nongame wildlife contribution -- Credit to Wildlife Resources**
3035 **Account.**

3036 Section **59-10-530.5, Homeless contribution -- Credit to Pamela Atkinson Homeless**
3037 **Trust Account.**

3038 Section **59-10-546, Application of former law.**

3039 Section **59-10-547, Election Campaign Fund designations -- Transfer from General**
3040 **Fund -- Form and procedure.**

3041 Section **59-10-548, Election Campaign Fund -- Contents -- Disbursement and**
3042 **distribution -- Limitations on expenditures.**

3043 Section **59-10-549, Contributions for education.**

3044 Section **59-10-550, Checkoff for children's organ transplants -- Credit to Kurt**
3045 **Oscarson Children's Organ Transplant Trust Account.**

3046 Section **59-10-550.1, Contribution to Wolf Depredation and Management**
3047 **Restricted Account.**

3048 Section **59-10-551, Removal of designation and prohibitions on collection for**
3049 **certain contributions on income tax form -- Conditions for removal and prohibitions on**
3050 **collection -- Commission reporting requirements.**

3051 Section 64. **Effective date.**

3052 (1) Except as provided in Subsection (2), this bill takes effect for taxable years
3053 beginning on or after January 1, 2007.

3054 (2) The amendments in this bill to the following have retrospective operation for
3055 taxable years beginning on or after January 1, 2004:

3056 (a) Subsection 59-10-103(1)(c); and

3057 (b) Subsection 59-10-114(1)(c).

3058 Section 65. **Revisor instructions.**

3059 It is the intent of the Legislature that, in preparing the Utah Code database for
3060 publication, the Office of Legislative Research and General Counsel shall replace the
3061 references in Section 59-10-136 from "this bill" to the bill's designated chapter number in the
3062 Laws of Utah.

AMENDED NOTE

State Impact

Passage of this bill could result in a loss to the Uniform School Fund of \$32,450,000 in FY 2007 a loss of \$82,185,000 in FY 2008. 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>FY 2008</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
Uniform School Fund	\$0	\$0	(\$32,450,000)	(\$82,185,000)
Uniform School Fund, One-	\$233,000	\$0	\$0	\$0
Restricted Funds	\$0	\$0	(\$300,000)	(\$300,000)
TOTAL	<u><u>\$233,000</u></u>	<u><u>\$0</u></u>	<u><u>(\$32,750,000)</u></u>	<u><u>(\$82,485,000)</u></u>

Individual and Business Impact

There is a potential shift in tax burden among taxpayers.

LEGISLATIVE ACTION***Recommendation***

The Analyst recommends that the Subcommittee approve ongoing funding of \$110,000 General Fund to address the increased workload growth.

Supplemental Appropriation Recommendation

In conjunction with the FY 2007 appropriation recommendation made above, the Analyst recommends that the Subcommittee approve a Supplemental Appropriation of \$70,000 one-time General Fund for FY 2006. This will enable the Office of the Medical Examiner to continue current operations without requiring a shift of funds from other programs within the Department.