

Representative John Dougall proposes the following substitute bill:

TAX REVISIONS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

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 This bill coordinates with H.B. 71 by merging technical amendments.

47 This bill coordinates with S.B. 37 by superseding technical and substantive

48 amendments.

49 **Utah Code Sections Affected:**

50 AMENDS:

51 **9-4-802**, as last amended by Chapter 132, Laws of Utah 2003

52 **9-4-803**, as last amended by Chapter 132, Laws of Utah 2003

53 **19-1-403**, as last amended by Chapter 108 and renumbered and amended by Chapter

54 294, Laws of Utah 2005

55 **19-1-404**, as renumbered and amended by Chapter 294, Laws of Utah 2005

56 **19-2-104**, as last amended by Chapter 131, Laws of Utah 2003

- 57 **22-3-505**, as enacted by Chapter 285, Laws of Utah 2004
- 58 **26-18a-3**, as last amended by Chapter 1, Laws of Utah 1997
- 59 **26-18a-4**, as last amended by Chapter 1, Laws of Utah 1997
- 60 **53B-8a-106**, as last amended by Chapter 109, Laws of Utah 2005
- 61 **53B-8a-112**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session
- 62 **59-2-102**, as last amended by Chapters 162, 243, 281 and 303, Laws of Utah 2004
- 63 **59-6-101**, as last amended by Chapter 3, Laws of Utah 1988
- 64 **59-6-102**, as last amended by Chapter 28, Laws of Utah 2002
- 65 **59-7-607**, as last amended by Chapter 113, Laws of Utah 2005
- 66 **59-7-614**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005
- 67 **59-7-703**, as last amended by Chapter 110, Laws of Utah 2003
- 68 **59-10-103**, as last amended by Chapter 241, Laws of Utah 2005
- 69 **59-10-104**, as last amended by Chapters 323 and 324, Laws of Utah 2001
- 70 **59-10-114**, as last amended by Chapters 109 and 241, Laws of Utah 2005
- 71 **59-10-115**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 72 **59-10-116**, as last amended by Chapter 79, Laws of Utah 2004
- 73 **59-10-117**, as last amended by Chapters 311 and 345, Laws of Utah 1995
- 74 **59-10-119**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 75 **59-10-120**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 76 **59-10-121**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 77 **59-10-122**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 78 **59-10-123**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 79 **59-10-201**, as last amended by Chapter 109, Laws of Utah 2005
- 80 **59-10-201.1**, as enacted by Chapter 345, Laws of Utah 1995
- 81 **59-10-202**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session
- 82 **59-10-204**, as last amended by Chapter 345, Laws of Utah 1995
- 83 **59-10-205**, as last amended by Chapter 345, Laws of Utah 1995
- 84 **59-10-207**, as last amended by Chapter 345, Laws of Utah 1995
- 85 **59-10-210**, as last amended by Chapter 345, Laws of Utah 1995
- 86 **59-10-529**, as last amended by Chapter 35, Laws of Utah 2002
- 87 **59-13-202**, as last amended by Chapter 86, Laws of Utah 2000

- 88 **62A-4a-607**, as last amended by Chapter 327, Laws of Utah 2001
- 89 **63-38f-402**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 90 **63-38f-412**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 91 **63-38f-413**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 92 **63-38f-501**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 93 **63-38f-502**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 94 **63-38f-503**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 95 **63-38f-1102**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 96 **63-38f-1110**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 97 **63-38f-1203**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 98 **63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004
- 99 **63-55-259**, as last amended by Chapters 232 and 289, Laws of Utah 2005
- 100 **72-12-107**, as renumbered and amended by Chapter 270, Laws of Utah 1998

101 ENACTS:

- 102 **59-10-118.1**, Utah Code Annotated 1953
- 103 **59-10-136**, Utah Code Annotated 1953
- 104 **59-10-209.1**, Utah Code Annotated 1953
- 105 **59-10-1001**, Utah Code Annotated 1953
- 106 **59-10-1002**, Utah Code Annotated 1953
- 107 **59-10-1004**, Utah Code Annotated 1953
- 108 **59-10-1005**, Utah Code Annotated 1953
- 109 **59-10-1006**, Utah Code Annotated 1953
- 110 **59-10-1008**, Utah Code Annotated 1953
- 111 **59-10-1101**, Utah Code Annotated 1953
- 112 **59-10-1102**, Utah Code Annotated 1953

113 RENUMBERS AND AMENDS:

- 114 **59-10-1003**, (Renumbered from 59-10-106, as renumbered and amended by Chapter 2,
- 115 Laws of Utah 1987)
- 116 **59-10-1007**, (Renumbered from 59-10-129, as last amended by Chapter 113, Laws of
- 117 Utah 2005)
- 118 **59-10-1103**, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of

119 Utah 2003)

120 REPEALS:

121 **23-14-14.1**, as enacted by Chapter 162, Laws of Utah 2003

122 **31A-32a-101**, as enacted by Chapter 131, Laws of Utah 1999

123 **31A-32a-102**, as last amended by Chapter 116, Laws of Utah 2001

124 **31A-32a-103**, as enacted by Chapter 131, Laws of Utah 1999

125 **31A-32a-104**, as enacted by Chapter 131, Laws of Utah 1999

126 **31A-32a-105**, as enacted by Chapter 131, Laws of Utah 1999

127 **31A-32a-106**, as last amended by Chapter 53, Laws of Utah 2001

128 **31A-32a-107**, as enacted by Chapter 131, Laws of Utah 1999

129 **59-10-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987

130 **59-10-104.1**, as enacted by Chapter 323, Laws of Utah 2001

131 **59-10-105**, as last amended by Chapter 323, Laws of Utah 2001

132 **59-10-107**, as renumbered and amended by Chapter 2, Laws of Utah 1987

133 **59-10-108**, as last amended by Chapter 73, Laws of Utah 2001

134 **59-10-108.1**, as enacted by Chapter 272, Laws of Utah 1999

135 **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995

136 **59-10-108.7**, as last amended by Chapter 148, Laws of Utah 2005

137 **59-10-109**, as last amended by Chapter 198, Laws of Utah 2003

138 **59-10-111**, as last amended by Chapter 96, Laws of Utah 1987

139 **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995

140 **59-10-127**, as last amended by Chapters 108 and 294, Laws of Utah 2005

141 **59-10-128**, as last amended by Chapter 198, Laws of Utah 2003

142 **59-10-130**, as last amended by Chapter 145, Laws of Utah 2002

143 **59-10-131**, as last amended by Chapter 59, Laws of Utah 1999

144 **59-10-132**, as last amended by Chapter 59, Laws of Utah 1999

145 **59-10-133**, as last amended by Chapter 263, Laws of Utah 2005

146 **59-10-134**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005

147 **59-10-134.1**, as enacted by Chapter 312, Laws of Utah 2003

148 **59-10-134.2**, as enacted by Chapter 290, Laws of Utah 2005

149 **59-10-135**, as enacted by Chapter 62, Laws of Utah 2002

- 150 **59-10-209**, as last amended by Chapter 345, Laws of Utah 1995
- 151 **59-10-530**, as last amended by Chapter 12, Laws of Utah 1997
- 152 **59-10-530.5**, as last amended by Chapter 132, Laws of Utah 2003
- 153 **59-10-546**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 154 **59-10-547**, as last amended by Chapter 269, Laws of Utah 1998
- 155 **59-10-548**, as last amended by Chapters 107 and 256, Laws of Utah 2002
- 156 **59-10-549**, as last amended by Chapter 208, Laws of Utah 2005
- 157 **59-10-550**, as last amended by Chapters 1 and 12, Laws of Utah 1997
- 158 **59-10-550.1**, as enacted by Chapter 162, Laws of Utah 2003
- 159 **59-10-551**, as last amended by Chapter 208, Laws of Utah 2005

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

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

163 **9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Pamela**
 164 **Atkinson Homeless Trust Account.**

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

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

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

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

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

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

180 (c) give priority for funding to programs that serve the homeless who are mentally ill

181 and who are in families with children.

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

185 (b) The committee may~~[(+)]~~ expend up to 3% of its annual appropriation for
186 administrative costs associated with the allocation of funds from the Pamela Atkinson
187 Homeless Trust Account, and up to 2% of its annual appropriation for marketing the account
188 and soliciting donations to the account~~[-and].~~

189 ~~[(ii) pay for the initial costs of the State Tax Commission in implementing Section
190 59-10-530.5 from the account.]~~

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

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

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

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

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

205 **9-4-803. Creation of Pamela Atkinson Homeless Trust Account.**

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

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

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

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

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

215 **19-1-403. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with**
216 **fund monies.**

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

218 (b) The fund consists of:

219 (i) appropriations to the fund;

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

221 (iii) interest earnings on cash balances; and

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

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

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

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

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

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

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

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

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

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

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

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

240 or

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

243 is requested.

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

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

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

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

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

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

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

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

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

260 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

261 (1) The department shall:

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

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

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

268 (ii) limiting the amount of a grant given to any person claiming a tax credit under

269 Section 59-7-605 [~~or 59-10-127~~] for the motor vehicle for which a grant is requested to assure
270 that the sum of the tax credit and grant does not exceed:

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

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

273 (iii) limiting the number of motor vehicles per fleet operator that may be eligible for a

274 grant in a year;

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

277 (v) specifying repayment periods;

278 (vi) specifying procedures for:

279 (A) awarding loans and grants; and

280 (B) collecting loans; and

281 (vii) requiring all loan and grant applicants to:

282 (A) apply on forms provided by the department;

283 (B) agree in writing to use the clean fuel for which each vehicle is converted or
284 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
285 beginning from the time of conversion or purchase of the vehicle;

286 (C) agree in writing to notify the department if a vehicle converted or purchased using
287 loan or grant proceeds becomes inoperable through mechanical failure or accident and to
288 pursue a remedy outlined in department rules;

289 (D) provide reasonable data to the department on vehicles converted or purchased with
290 loan or grant proceeds; and

291 (E) submit vehicles converted or purchased with loan or grant proceeds to inspections
292 by the department as required in department rules and as necessary for administration of the
293 loan and grant program.

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

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

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

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

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

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

306 **19-2-104. Powers of board.**

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

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

312 (b) establishing air quality standards;

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

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

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

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

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

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

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

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

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

335 (i) implementing lead-based paint remediation training, certification, and performance

336 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
337 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

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

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

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

342 (3) The board may:

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

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

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

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

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

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

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

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

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

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

366 (k) collect and disseminate information and conduct educational and training programs

367 relating to air contamination and air pollution;

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

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

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

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

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

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

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

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

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

393 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work
394 involving friable asbestos-containing materials, or asbestos inspections; [or]

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

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

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

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

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

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

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

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

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

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

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

425 **22-3-505. Income taxes.**

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

428 (2) A tax required to be paid by a trustee based on receipts allocated to principal must

429 be paid from principal, even if the tax is called an income tax by the taxing authority.

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

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

433 (b) from principal to the extent that:

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

435 (ii) the trust's share of the entity's state taxable income as defined in Section
436 59-10-201.1 exceeds the total receipts described in Subsections (3)(a) and (3)(b)(i).

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

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

441 **26-18a-3. Purpose of committee.**

442 (1) The committee shall work to:

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

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

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

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

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

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

455 (i) need;

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

458 (iii) the success rate of the particular organ transplant procedure needed by the child;

459 and

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

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

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

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

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

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

472 **26-18a-4. Creation of Kurt Oscarson Children's Organ Transplant Trust**
473 **Account.**

474 (1) There is created a restricted account within the General Fund pursuant to Section
475 51-5-4 known as the Kurt Oscarson Children's Organ Transplant Trust Account. Private
476 contributions received under this section [~~and Section 59-10-550~~] shall be deposited into the
477 trust account to be used only for the programs and purposes described in Section 26-18a-3.

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

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

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

484 **53B-8a-106. Account agreements.**

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

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

490 (b) Account agreements may be amended to provide for adjusted levels of payments

491 based upon changed circumstances or changes in educational plans.

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

495 ~~[(d) The maximum amount of investments that may be subtracted from federal taxable
496 income of a resident or nonresident individual under Subsection 59-10-114(2)(j) shall be
497 \$1,510 for each individual beneficiary for the 2005 calendar year and an amount adjusted
498 annually thereafter to reflect increases in the Consumer Price Index.]~~

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

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

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

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

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

512 (4) Each account agreement shall provide that:

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

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

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

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

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

521 (b) if admitted, be determined a resident for tuition purposes by the institution of

522 higher education, unless the account agreement is vested;

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

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

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

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

533 (8) Each account agreement shall provide that:

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

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

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

540 **53B-8a-112. Tax considerations.**

541 (1) For tax purposes the property of the trust and its income are governed by Sections
542 59-7-105, 59-7-106, [~~59-10-114;~~] and 59-10-201.

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

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

547 **59-2-102. Definitions.**

548 As used in this chapter and title:

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

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

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

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

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

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

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

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

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

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

576 (c) vehicles which are:

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

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

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

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

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

583 (vi) used exclusively to transport students or their instructors to or from any private,

584 public, or religious school or school activities.

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

- 588 (i) a county; and
- 589 (ii) a school district.

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

- 592 (i) the taxing entities described in Subsection (9)(a); and
- 593 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
594 and the boundaries of the city or town are identical; or
- 595 (B) a special service district if the boundaries of the school district under Subsection
596 (9)(a) are located entirely within the special service district.

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

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

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

- 604 (i) \$5,000; or
- 605 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
606 previous fiscal year.

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

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

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

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

615 (b) Property which is undervalued because of the use of a different valuation
616 methodology or because of a different application of the same valuation methodology is not
617 "escaped property."

618 (12) "Fair market value" means the amount at which property would change hands
619 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
620 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
621 market value" shall be determined using the current zoning laws applicable to the property in
622 question, except in cases where there is a reasonable probability of a change in the zoning laws
623 affecting that property in the tax year in question and the change would have an appreciable
624 influence upon the value.

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

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

634 (15) "Geothermal resource" means:

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

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

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

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

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

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

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

649 (i) (A) attachment to land is essential to the operation or use of the item; and
650 (B) the manner of attachment to land suggests that the item will remain attached to the
651 land in the same place over the useful life of the item; or

652 (ii) removal of the item would:
653 (A) cause substantial damage to the item; or
654 (B) require substantial alteration or repair of a structure to which the item is attached.

655 (b) "Improvement" includes:
656 (i) an accessory to an item described in Subsection (17)(a) if the accessory is:
657 (A) essential to the operation of the item described in Subsection (17)(a); and
658 (B) installed solely to serve the operation of the item described in Subsection (17)(a);

659 and
660 (ii) an item described in Subsection (17)(a) that:
661 (A) is temporarily detached from the land for repairs; and
662 (B) remains located on the land.

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

664 (i) an item considered to be personal property pursuant to rules made in accordance
665 with Section 59-2-107;

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

667 (A) for stability only; or
668 (B) for an obvious temporary purpose;

669 (iii) (A) manufacturing equipment and machinery; or
670 (B) essential accessories to manufacturing equipment and machinery; [~~or~~]

671 (iv) an item attached to the land in a manner that facilitates removal without substantial
672 damage to:

673 (A) the land; or
674 (B) the item; or

675 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
676 transportable factory-built housing unit is considered to be personal property under Section

677 59-2-1503.

678 (18) "Intangible property" means:

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

680 including:

681 (i) moneys;

682 (ii) credits;

683 (iii) bonds;

684 (iv) stocks;

685 (v) representative property;

686 (vi) franchises;

687 (vii) licenses;

688 (viii) trade names;

689 (ix) copyrights; and

690 (x) patents; or

691 (b) a low-income housing tax credit.

692 (19) "Low-income housing tax credit" means:

693 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

694 or

695 (b) a low-income housing tax credit under:

696 (i) Section 59-7-607; or

697 (ii) Section [~~59-10-129~~] 59-10-1007.

698 (20) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

699 (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous

700 valuable mineral.

701 (22) "Mining" means the process of producing, extracting, leaching, evaporating, or

702 otherwise removing a mineral from a mine.

703 (23) (a) "Mobile flight equipment" means tangible personal property that is:

704 (i) owned or operated by an:

705 (A) air charter service;

706 (B) air contract service; or

707 (C) airline; and

708 (ii) (A) capable of flight;
709 (B) attached to an aircraft that is capable of flight; or
710 (C) contained in an aircraft that is capable of flight if the tangible personal property is
711 intended to be used:

712 (I) during multiple flights;
713 (II) during a takeoff, flight, or landing; and
714 (III) as a service provided by an air charter service, air contract service, or airline.

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

717 (A) at regular intervals; and
718 (B) with an engine that is attached to the aircraft.

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

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

723 (25) "Personal property" includes:

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

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

727 (c) bridges and ferries;

728 (d) livestock which, for the purposes of the exemption provided under Section
729 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

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

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

734 (27) "Public utility," for purposes of this chapter, means the operating property of a
735 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
736 company, electrical corporation, telephone corporation, sewerage corporation, or heat
737 corporation where the company performs the service for, or delivers the commodity to, the
738 public generally or companies serving the public generally, or in the case of a gas corporation

739 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
740 consumers within the state for domestic, commercial, or industrial use. Public utility also
741 means the operating property of any entity or person defined under Section 54-2-1 except water
742 corporations.

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

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

745 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
746 individuals or corporations growing or being on the lands of this state or the United States, and
747 all rights and privileges appertaining to these; and

748 (c) improvements.

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

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

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

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

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

757 (ii) where an aircraft:

758 (A) takes off; or

759 (B) lands.

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

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

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

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

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

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

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

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

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

780 **59-6-101. Definitions.**

781 As used in this chapter:

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

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

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

786 ~~[(1)]~~ (3) "Minerals" means either metalliferous minerals as defined in Section
787 59-2-102, nonmetalliferous minerals as defined in Section 59-2-102, or both.

788 ~~[(2)]~~ (4) "Producer" means any person who produces or extracts minerals from deposits
789 in this state or who is the first purchaser of minerals produced or extracted from deposits in this
790 state.

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

793 (a) as provided by statute; and

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

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

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

799 **59-6-102. Producer's obligation to deduct and withhold payments -- Amount --**
800 **Exempt payments -- Credit against tax.**

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

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

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

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

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

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

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

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

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

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

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

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

824 **59-7-607. Utah low-income housing tax credit.**

825 (1) As used in this section:

826 (a) "Allocation certificate" means:

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

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

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

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

836 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
837 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
838 company in the case of a limited liability company.

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

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

842 (i) prescribed by the commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

872 (A) 12.5 cents; and

873 (B) the population of Utah.

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

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

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

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

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

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

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

888 ~~[(4)]~~ (3) (a) The following may apply to the Utah Housing Corporation for a tax credit
889 under this section:

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

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

893 (b) The Utah Housing Corporation may not require fees for applications of the tax

894 credit under this section in addition to those fees required for applications for the federal
895 low-income housing tax credit.

896 ~~[(5)]~~ (4) (a) The Utah Housing Corporation shall determine the amount of the tax credit
897 to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of
898 the Utah Housing Corporation.

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

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

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

906 ~~[(6)]~~ (5) A housing sponsor shall provide a copy of the allocation certificate to each
907 taxpayer that is issued a special low-income housing tax credit certificate.

908 ~~[(7)]~~ (6) (a) A housing sponsor shall provide to the commission a list of:

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

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

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

913 (i) to the commission;

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

915 (iii) with the housing sponsor's tax return for each taxable year for which the housing
916 sponsor issues a special low-income housing tax credit certificate described in this Subsection
917 ~~[(7)]~~ (6).

918 ~~[(8)]~~ (7) (a) All elections made by the taxpayer pursuant to Section 42, Internal
919 Revenue Code, shall apply to this section.

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

923 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
924 that equals the proportion the federal recapture amount bears to the original federal low-income

925 housing tax credit amount subject to recapture.

926 ~~[(9)]~~ (8) (a) Any tax credits returned to the Utah Housing Corporation in any year may
927 be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

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

930 ~~[(10)]~~ (9) (a) Amounts otherwise qualifying for the tax credit, but not allowable
931 because the tax credit exceeds the tax, may be carried back three years or may be carried
932 forward five years as a credit against the tax.

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

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

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

936 ~~[(11)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the
937 commission.

938 ~~[(12)]~~ (11) The Utah Housing Corporation shall provide an annual report to the
939 Revenue and Taxation Interim Committee which shall include at least:

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

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

942 ~~[(13)]~~ (12) The commission may, in consultation with the Utah Housing Corporation,
943 promulgate rules to implement this section.

944 Section 15. Section **59-7-614** is amended to read:

945 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
946 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
947 **authority -- Reimbursement of Uniform School Fund.**

948 (1) As used in this section:

949 (a) "Active solar system":

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

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

955 (b) "Biomass system" means any system of apparatus and equipment capable of

956 converting organic plant, wood, or waste products into electrical and thermal energy and
957 transferring these forms of energy by a separate apparatus to the point of use or storage.

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

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

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

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

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

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

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

975 [~~(h)~~ "Individual taxpayer" means any person who is a taxpayer as defined in Section
976 59-10-103 and an individual as defined in Section 59-10-103.]

977 [(~~+~~)] (h) "Passive solar system":

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

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

984 [(~~+~~)] (i) "Residential energy system" means any active solar, passive solar, wind, or
985 hydroenergy system used to supply energy to or for any residential unit.

986 [(~~+~~)] (j) "Residential unit" means any house, condominium, apartment, or similar

987 dwelling unit which serves as a dwelling for a person, group of persons, or a family but does
988 not include property subject to a fee under:

- 989 (i) Section 59-2-404;
- 990 (ii) Section 59-2-405;
- 991 (iii) Section 59-2-405.1;
- 992 (iv) Section 59-2-405.2; or
- 993 (v) Section 59-2-405.3.

994 ~~[(H)]~~ (k) "Utah Geological Survey" means the Utah Geological Survey established in
995 Section 63-73-5.

996 ~~[(m)]~~ (l) "Wind system" means a system of apparatus and equipment capable of
997 intercepting and converting wind energy into mechanical or electrical energy and transferring
998 these forms of energy by a separate apparatus to the point of use or storage.

999 (2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
1000 before December 31, 2006, a business entity that purchases and completes or participates in the
1001 financing of a residential energy system to supply all or part of the energy required for a
1002 residential unit owned or used by the business entity and situated in Utah is entitled to a tax
1003 credit as provided in this Subsection (2)(a).

1004 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a
1005 residential energy system installed with respect to each residential unit it owns or uses,
1006 including installation costs, against any tax due under this chapter for the taxable year in which
1007 the energy system is completed and placed in service.

1008 (B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000
1009 per residential unit.

1010 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
1011 completed and placed in service on or after January 1, 2001, but on or before December 31,
1012 2006.

1013 ~~[(iii) If a business entity sells a residential unit to an individual taxpayer prior to
1014 making a claim for the tax credit under this Subsection (2)(a), the business entity may:]~~

1015 ~~[(A) assign its right to this tax credit to the individual taxpayer; and]~~

1016 ~~[(B) if the business entity assigns its right to the tax credit to an individual taxpayer
1017 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the~~

1018 individual taxpayer had completed or participated in the costs of the residential energy system
1019 under Section 59-10-134.]

1020 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
1021 before December 31, 2006, a business entity that purchases or participates in the financing of a
1022 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

1023 (A) the commercial energy system supplies all or part of the energy required by
1024 commercial units owned or used by the business entity; or

1025 (B) the business entity sells all or part of the energy produced by the commercial
1026 energy system as a commercial enterprise.

1027 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any
1028 commercial energy system installed, including installation costs, against any tax due under this
1029 chapter for the taxable year in which the commercial energy system is completed and placed in
1030 service.

1031 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000
1032 per commercial unit.

1033 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
1034 system completed and placed in service on or after January 1, 2001, but on or before December
1035 31, 2006.

1036 (iii) A business entity that leases a commercial energy system installed on a
1037 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
1038 confirm that the lessor irrevocably elects not to claim the credit.

1039 (iv) Only the principal recovery portion of the lease payments, which is the cost
1040 incurred by a business entity in acquiring a commercial energy system, excluding interest
1041 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

1042 (v) A business entity that leases a commercial energy system is eligible to use the tax
1043 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
1044 of the lease.

1045 (c) (i) A tax credit under this section may be claimed for the taxable year in which the
1046 energy system is completed and placed in service.

1047 (ii) Additional energy systems or parts of energy systems may be claimed for
1048 subsequent years.

1049 (iii) If the amount of a tax credit under this section exceeds a business entity's tax
1050 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
1051 may be carried over for a period which does not exceed the next four taxable years.

1052 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
1053 credits provided under the laws or rules and regulations of the United States.

1054 (b) (i) The Utah Geological Survey may set standards for residential and commercial
1055 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
1056 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
1057 nonrenewable energy resources in an appropriate and economic manner.

1058 (ii) A tax credit may not be taken under Subsection (2) until the Utah Geological
1059 Survey has certified that the energy system has been completely installed and is a viable system
1060 for saving or production of energy from renewable resources.

1061 (c) The Utah Geological Survey and the commission are authorized to promulgate rules
1062 in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are
1063 necessary to implement this section.

1064 (d) The Uniform School Fund shall be reimbursed by transfers from the General Fund
1065 for any credits taken under this section.

1066 Section 16. Section **59-7-703** is amended to read:

1067 **59-7-703. Payment or withholding of tax on behalf of nonresident shareholders --**
1068 **Rate.**

1069 (1) As used in this section, "return" means:

1070 (a) if a nonresident shareholder is required to file a return under this chapter, a return
1071 filed under this chapter; or

1072 (b) if a nonresident shareholder is required to file a return under Chapter 10, Individual
1073 Income Tax Act, a return filed under Chapter 10, Individual Income Tax Act.

1074 (2) (a) Except as provided in Subsection (4), an S corporation shall pay or withhold a
1075 tax on behalf of any nonresident shareholder.

1076 (b) The amount paid or withheld by an S corporation under Subsection (2)(a) shall be
1077 determined by:

1078 (i) calculating the items of income or loss from federal form 1120S, Schedule K;

1079 (ii) applying the apportionment formula to determine the amount apportioned to Utah;

1080 (iii) reducing the amount apportioned to Utah by the percentage of ownership
1081 attributable to resident shareholders; and
1082 (iv) applying the rate to the remaining balance.

1083 (3) (a) For a nonresident shareholder who is required to file a return under this chapter:
1084 (i) the nonresident shareholder may claim a credit on the nonresident shareholder's
1085 return for the amount of tax paid or withheld by the S corporation on behalf of the nonresident
1086 shareholder;
1087 (ii) if the nonresident shareholder has no other Utah source income, the nonresident
1088 shareholder may elect:
1089 (A) not to claim the credit provided under Subsection (3)(a)(i); and
1090 (B) not to file a return for the taxable year; and
1091 (iii) if the nonresident shareholder may claim credits other than the credit described in
1092 Subsection (3)(a)(i), the nonresident shareholder shall file a return to claim those credits.

1093 (b) If a nonresident shareholder is required to file a return under Chapter 10, Individual
1094 Income Tax Act, the nonresident shareholder is subject to Section [~~59-10-108.2~~] 59-10-1103.

1095 (4) Notwithstanding Subsection (2), the obligation to pay or withhold a tax under
1096 Subsection (2) does not apply to an organization that is exempt under Subsection
1097 59-7-102(1)(a) from the taxes imposed by this chapter.

1098 (5) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1099 the commission shall by rule determine the rate at which an S corporation shall withhold for
1100 nonresident shareholders.
1101 (b) The rate described in Subsection (5)(a) shall be consistent with the composite tax
1102 rate paid by partnerships.

1103 (6) (a) If an S corporation fails to pay or withhold a tax as provided in this section, and
1104 thereafter the income subject to payment or withholding is reported and the resulting tax is paid
1105 by a nonresident shareholder, any tax required to be paid or withheld may not be collected from
1106 the S corporation.
1107 (b) A nonresident shareholder's payment under Subsection (6)(a) does not relieve the S
1108 corporation from liability for penalties or interest associated with failure to pay or withhold a
1109 tax as provided in this section.

1110 (7) Penalties, refunds, assessments, and required records for S corporations shall be

1111 governed by:

1112 (a) this chapter if a nonresident shareholder is subject to this chapter; or

1113 (b) Chapter 10, Individual Income Tax Act, if a nonresident shareholder is subject to
1114 Chapter 10, Individual Income Tax Act.

1115 (8) (a) An S corporation shall furnish each nonresident shareholder a statement
1116 showing:

1117 (i) the amount of the nonresident shareholder's share of the corporate earnings from
1118 Utah sources; and

1119 (ii) the amount of the withholding from the nonresident shareholder's share of the
1120 corporate earnings from Utah sources.

1121 (b) An S corporation shall pay the commission the amount withheld under this section:

1122 (i) by the due date of the corporation's return, not including extensions; and

1123 (ii) on forms furnished by the commission.

1124 Section 17. Section **59-10-103** is amended to read:

1125 **59-10-103. Definitions.**

1126 (1) As used in this chapter:

1127 [~~(a) "Adoption expenses" means:~~]

1128 [~~(i) any actual medical and hospital expenses of the mother of the adopted child which
1129 are incident to the child's birth;~~]

1130 [~~(ii) any welfare agency fees or costs;~~]

1131 [~~(iii) any child placement service fees or costs;~~]

1132 [~~(iv) any legal fees or costs; or~~]

1133 [~~(v) any other fees or costs relating to an adoption.~~]

1134 [~~(b) "Adult with a disability" means an individual who:~~]

1135 [~~(i) is 18 years of age or older;~~]

1136 [~~(ii) is eligible for services under Title 62A, Chapter 5, Services to People with
1137 Disabilities; and~~]

1138 [~~(iii) is not enrolled in:~~]

1139 [~~(A) an education program for students with disabilities that is authorized under
1140 Section 53A-15-301; or~~]

1141 [~~(B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.]~~]

1142 ~~[(c) (i) For purposes of Subsection 59-10-114(2)(m), "capital gain transaction" means a~~
1143 ~~transaction that results in a:]~~
1144 ~~[(A) short-term capital gain; or]~~
1145 ~~[(B) long-term capital gain:]~~
1146 ~~[(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
1147 ~~the commission may by rule define the term "transaction."]~~
1148 ~~[(d) "Commercial domicile" means the principal place from which the trade or business~~
1149 ~~of a Utah small business corporation is directed or managed:]~~
1150 (a) "Adjusted gross income":
1151 (i) for a resident or nonresident individual, is as defined in Section 62, Internal
1152 Revenue Code; or
1153 (ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
1154 Internal Revenue Code.
1155 ~~[(e)]~~ (b) "Corporation" includes:
1156 (i) associations;
1157 (ii) joint stock companies; and
1158 (iii) insurance companies.
1159 ~~[(f) "Dependent child with a disability" means an individual 21 years of age or younger~~
1160 ~~who:]~~
1161 ~~[(i) (A) is diagnosed by a school district representative under rules adopted by the State~~
1162 ~~Board of Education as having a disability classified as:]~~
1163 ~~[(I) autism;]~~
1164 ~~[(II) deafness;]~~
1165 ~~[(III) preschool developmental delay;]~~
1166 ~~[(IV) dual sensory impairment;]~~
1167 ~~[(V) hearing impairment;]~~
1168 ~~[(VI) intellectual disability;]~~
1169 ~~[(VII) multidisability;]~~
1170 ~~[(VIII) orthopedic impairment;]~~
1171 ~~[(IX) other health impairment;]~~
1172 ~~[(X) traumatic brain injury; or]~~

1173 [~~(XI)~~ visual impairment;]
1174 [~~(B)~~ is not receiving residential services from;]
1175 [~~(f)~~ the Division of Services for People with Disabilities created under Section
1176 62A-5-102; or]
1177 [~~(H)~~ a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
1178 and]
1179 [~~(C)~~ is enrolled in;]
1180 [~~(f)~~ an education program for students with disabilities that is authorized under Section
1181 53A-15-301; or]
1182 [~~(H)~~ a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
1183 or]
1184 [~~(ii)~~ is identified under guidelines of the Department of Health as qualified for;]
1185 [~~(A)~~ Early Intervention; or]
1186 [~~(B)~~ Infant Development Services;]
1187 (c) "Distributable net income" is as defined in Section 643, Internal Revenue Code.
1188 [~~(g)~~ (d) "Employee" is as defined in Section 59-10-401.
1189 [~~(h)~~ (e) "Employer" is as defined in Section 59-10-401.
1190 (f) "Federal taxable income":
1191 (i) for a resident or nonresident individual, means taxable income as defined by Section
1192 63, Internal Revenue Code; or
1193 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
1194 (b), Internal Revenue Code.
1195 [~~(i)~~ (g) "Fiduciary" means:
1196 (i) a guardian;
1197 (ii) a trustee;
1198 (iii) an executor;
1199 (iv) an administrator;
1200 (v) a receiver;
1201 (vi) a conservator; or
1202 (vii) any person acting in any fiduciary capacity for any individual.
1203 [~~(j)~~ (h) "Homesteaded land diminished from the Uintah and Ouray Reservation"

1204 means the homesteaded land that was held to have been diminished from the Uintah and Ouray
1205 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

1206 ~~[(k)]~~ (i) "Individual" means a natural person and includes aliens and minors.

1207 ~~[(l)]~~ "Irrevocable trust" means a trust in which the settlor may not revoke or terminate
1208 all or part of the trust without the consent of a person who has a substantial beneficial interest
1209 in the trust and the interest would be adversely affected by the exercise of the settlor's power to
1210 revoke or terminate all or part of the trust.]

1211 ~~[(m)]~~ For purposes of Subsection 59-10-114(2)(m), "long-term capital gain" is as
1212 defined in Section 1222, Internal Revenue Code.]

1213 ~~[(n)]~~ (j) "Nonresident individual" means an individual who is not a resident of this
1214 state.

1215 ~~[(o)]~~ (k) "Nonresident trust" or "nonresident estate" means a trust or estate which is not
1216 a resident estate or trust.

1217 ~~[(p)]~~ (l) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
1218 unincorporated organization:

1219 (A) through or by means of which any business, financial operation, or venture is
1220 carried on; and

1221 (B) which is not, within the meaning of this chapter:

1222 (I) a trust;

1223 (II) an estate; or

1224 (III) a corporation.

1225 (ii) "Partnership" does not include any organization not included under the definition of
1226 "partnership" in Section 761, Internal Revenue Code.

1227 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
1228 organization described in Subsection (1)~~[(p)]~~(l)(i).

1229 ~~[(q)]~~ "Qualifying military service member" means a member of:]

1230 ~~[(i)]~~ The Utah Army National Guard;]

1231 ~~[(ii)]~~ The Utah Air National Guard; or]

1232 ~~[(iii)]~~ the following if the member is assigned to a unit that is located in the state:]

1233 ~~[(A)]~~ The Army Reserve;]

1234 ~~[(B)]~~ The Naval Reserve;]

1235 [~~(C)~~ The Air Force Reserve;]

1236 [~~(D)~~ The Marine Corps Reserve; or]

1237 [~~(E)~~ The Coast Guard Reserve.]

1238 [~~(r)~~ "Qualifying stock" means stock that is:]

1239 [~~(i)~~ (A) common; or]

1240 [~~(B)~~ preferred;]

1241 [~~(ii)~~ as defined by the commission by rule, originally issued to:]

1242 [~~(A)~~ a resident or nonresident individual; or]

1243 [~~(B)~~ a partnership if the resident or nonresident individual making a subtraction from

1244 federal taxable income in accordance with Subsection 59-10-114(2)(m):]

1245 [~~(f)~~ was a partner when the stock was issued; and]

1246 [~~(H)~~ remains a partner until the last day of the taxable year for which the resident or

1247 nonresident individual makes the subtraction from federal taxable income in accordance with

1248 Subsection 59-10-114(2)(m); and]

1249 [~~(iii)~~ issued:]

1250 [~~(A)~~ by a Utah small business corporation;]

1251 [~~(B)~~ on or after January 1, 2003; and]

1252 [~~(C)~~ for:]

1253 [~~(f)~~ money; or]

1254 [~~(H)~~ other property, except for stock or securities.]

1255 [~~(s)~~] (m) (i) "Resident individual" means:

1256 (A) an individual who is domiciled in this state for any period of time during the

1257 taxable year, but only for the duration of the period during which the individual is domiciled in

1258 this state; or

1259 (B) an individual who is not domiciled in this state but:

1260 (I) maintains a permanent place of abode in this state; and

1261 (II) spends in the aggregate 183 or more days of the taxable year in this state.

1262 (ii) For purposes of Subsection (1)[~~(s)~~](m)(i)(B), a fraction of a calendar day shall be

1263 counted as a whole day.

1264 [~~(t)~~] (n) "Resident estate" or "resident trust" is as defined in Section 75-7-103.

1265 [~~(u)~~ For purposes of Subsection 59-10-114(2)(m), "short-term capital gain" is as

1266 defined in Section 1222, Internal Revenue Code.]

1267 ~~[(v) "Taxable income" and "state taxable income" are defined as provided in Sections~~
1268 ~~59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.]~~

1269 (o) "Taxable income" or "state taxable income":

1270 (i) subject to Subsection 59-10-302(2), for a resident individual, means the resident
1271 individual's adjusted gross income after making the additions and subtractions required by
1272 Sections 59-10-114 and 59-10-115;

1273 (ii) for a nonresident individual, is as defined in Section 59-10-116;

1274 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

1275 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

1276 ~~[(w)]~~ (p) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or
1277 trust, whose income is subject in whole or part to the tax imposed by this chapter.

1278 ~~[(x)]~~ (q) "Uintah and Ouray Reservation" means the lands recognized as being included
1279 within the Uintah and Ouray Reservation in:

1280 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

1281 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

1282 ~~[(y) (i) "Utah small business corporation" means a corporation that:]~~

1283 ~~[(A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue~~
1284 ~~Code;]~~

1285 ~~[(B) except as provided in Subsection (1)(y)(ii), meets the requirements of Section~~
1286 ~~1244(c)(1)(C), Internal Revenue Code; and]~~

1287 ~~[(C) has its commercial domicile in this state.]~~

1288 ~~[(ii) Notwithstanding Subsection (1)(y)(i)(B), the time period described in Section~~
1289 ~~1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a~~
1290 ~~corporation's aggregate gross receipts shall end on the last day of the taxable year for which the~~
1291 ~~resident or nonresident individual makes a subtraction from federal taxable income in~~
1292 ~~accordance with Subsection 59-10-114(2)(m).]~~

1293 ~~[(z)]~~ (r) "Ute tribal member" means a person who is enrolled as a member of the Ute
1294 Indian Tribe of the Uintah and Ouray Reservation.

1295 ~~[(aa)]~~ (s) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

1296 ~~[(bb)]~~ (t) "Wages" is as defined in Section 59-10-401.

1297 (2) (a) Any term used in this chapter has the same meaning as when used in
 1298 comparable context in the laws of the United States relating to federal income taxes unless a
 1299 different meaning is clearly required.

1300 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
 1301 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
 1302 federal income taxes that are in effect for the taxable year.

1303 (c) Any reference to a specific section of the Internal Revenue Code or other provision
 1304 of the laws of the United States relating to federal income taxes shall include any
 1305 corresponding or comparable provisions of the Internal Revenue Code as hereafter amended,
 1306 redesignated, or reenacted.

1307 Section 18. Section **59-10-104** is amended to read:

1308 **59-10-104. Tax basis -- Rates.**

1309 (1) [~~Except as provided in Subsection (4), for~~] For taxable years beginning on or after
 1310 January 1, [~~2001~~] 2007, a tax is imposed on the state taxable income[~~, as defined in Section~~
 1311 ~~59-10-112,~~] of every resident individual as provided in this section.

1312 [~~(2) For an individual, other than a husband and wife or head of household required to~~
 1313 ~~use the tax table under Subsection (3), the tax under this section is imposed in accordance with~~
 1314 ~~the following table:~~]

1315	[If the state taxable income is: _____]	The tax is:]
1316	[Less than or equal to \$863 _____]	2.3% of the state taxable income]
1317	[Greater than \$863 but less than or equal _____]	\$20, plus 3.3% of state taxable]
1318	[to \$1,726 _____]	income greater than \$863]
1319	[Greater than \$1,726 but less than or equal _____]	\$48, plus 4.2% of state taxable]
1320	[to \$2,588 _____]	income greater than \$1,726]
1321	[Greater than \$2,588 but less than or equal _____]	\$85, plus 5.2% of state taxable]
1322	[to \$3,450 _____]	income greater than \$2,588]
1323	[Greater than \$3,450 but less than or equal _____]	\$129, plus 6% of state taxable]
1324	[to \$4,313 _____]	income greater than \$3,450]
1325	[Greater than \$4,313 _____]	\$181, plus 7% of state taxable]
1326	[_____]	income greater than \$4,313]

1327 [(3) For a husband and wife filing a single return jointly, or a head of household as

1328 defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section
 1329 is imposed in accordance with the following table:]

1330	[If the state taxable income is: _____]	The tax is:]
1331	[Less than or equal to \$1,726 _____]	2.3% of the state taxable income]
1332	[Greater than \$1,726 but less than or equal _____]	\$40, plus 3.3% of state taxable]
1333	[to \$3,450 _____]	income greater than \$1,726]
1334	[Greater than \$3,450 but less than or equal _____]	\$97, plus 4.2% of state taxable]
1335	[to \$5,176 _____]	income greater than \$3,450]
1336	[Greater than \$5,176 but less than or equal _____]	\$169, plus 5.2% of state taxable]
1337	[to \$6,900 _____]	income greater than \$5,176]
1338	[Greater than \$6,900 but less than or equal _____]	\$259, plus 6% of state taxable]
1339	[to \$8,626 _____]	income greater than \$6,900]
1340	[Greater than \$8,626 _____]	\$362, plus 7% of state taxable]
1341	[_____]	income greater than \$8,626]

1342 [~~(4) This section does not apply to a resident individual exempt from taxation under~~
 1343 ~~Section 59-10-104.1.]~~

1344 (2) The tax imposed by this section is equal to the product of:

1345 (a) a resident individual's state taxable income for the taxable year; and

1346 (b) 4.975%.

1347 Section 19. Section **59-10-114** is amended to read:

1348 **59-10-114. Additions to and subtractions from adjusted gross income of an**
 1349 **individual.**

1350 (1) There shall be added to [~~federal taxable~~] adjusted gross income of a resident or
 1351 nonresident individual:

1352 (a) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher
 1353 Education Savings Incentive Program:

1354 (i) if the amount disbursed to the account owner is not expended for higher education
 1355 costs as defined in Section 53B-8a-102; and

1356 (ii) for the taxable year for which the amount described in Subsection (1)(a) is
 1357 disbursed;

1358 [~~(a) the amount of any income tax imposed by this or any predecessor Utah individual~~

1359 ~~income tax law and the amount of any income tax imposed by the laws of another state, the~~
1360 ~~District of Columbia, or a possession of the United States, to the extent deducted from federal~~
1361 ~~adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal~~
1362 ~~taxable income;]~~

1363 ~~[(b) a lump sum distribution that the taxpayer does not include in adjusted gross~~
1364 ~~income on the taxpayer's federal individual income tax return for the taxable year;]~~

1365 ~~[(c) for taxable years beginning on or after January 1, 2002, the amount of a child's~~
1366 ~~income calculated under Subsection (5) that:]~~

1367 ~~[(i) a parent elects to report on the parent's federal individual income tax return for the~~
1368 ~~taxable year; and]~~

1369 ~~[(ii) the parent does not include in adjusted gross income on the parent's federal~~
1370 ~~individual income tax return for the taxable year;]~~

1371 ~~[(d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue~~
1372 ~~Code;]~~

1373 ~~[(e) a withdrawal from a medical care savings account and any penalty imposed in the~~
1374 ~~taxable year if:]~~

1375 ~~[(i) the taxpayer did not deduct or include the amounts on the taxpayer's federal~~
1376 ~~individual income tax return pursuant to Section 220, Internal Revenue Code; and]~~

1377 ~~[(ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);]~~

1378 ~~[(f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher~~
1379 ~~Education Savings Incentive Program, in the year in which the amount is disbursed;]~~

1380 ~~[(g) except as provided in Subsection (6), for taxable years beginning on or after~~
1381 ~~January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after~~
1382 ~~January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by~~
1383 ~~one or more of the following entities:]~~

1384 ~~[(i) a state other than this state;]~~

1385 ~~[(ii) the District of Columbia;]~~

1386 ~~[(iii) a political subdivision of a state other than this state; or]~~

1387 ~~[(iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i)~~
1388 ~~through (iii);]~~

1389 ~~[(h)]~~ (b) any distribution received by a resident beneficiary of a resident trust of income

1390 that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable
1391 income of the trust pursuant to Subsection 59-10-202(2)(~~(c)~~) (b); and

1392 ~~[(i)]~~ (c) any distribution received by a resident beneficiary of a nonresident trust of
1393 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
1394 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
1395 was not taxed at the trust level by any state, with undistributed distributable net income
1396 considered to be distributed from the most recently accumulated undistributed distributable net
1397 income.

1398 (2) There shall be subtracted from [~~federal taxable~~] adjusted gross income of a resident
1399 or nonresident individual:

1400 (a) the interest or dividends on obligations or securities of the United States and its
1401 possessions or of any authority, commission, or instrumentality of the United States, to the
1402 extent includable in gross income for federal income tax purposes but exempt from state
1403 income taxes under the laws of the United States, but the amount subtracted under this
1404 Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to
1405 purchase or carry the obligations or securities described in this Subsection (2)(a), and by any
1406 expenses incurred in the production of interest or dividend income described in this Subsection
1407 (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in
1408 determining federal taxable income;

1409 ~~[(b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income~~
1410 ~~tax paid or payable to the United States after all allowable credits, as reported on the United~~
1411 ~~States individual income tax return of the taxpayer for the same taxable year; and]~~

1412 ~~[(ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after~~
1413 ~~January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or~~
1414 ~~nonresident individual's United States individual income tax return allowed as a result of the~~
1415 ~~acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,~~
1416 ~~Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be~~
1417 ~~used in calculating the amount described in Subsection (2)(b)(i);]~~

1418 ~~[(c) the amount of adoption expenses for one of the following taxable years as elected~~
1419 ~~by the resident or nonresident individual:]~~

1420 ~~[(i) regardless of whether a court issues an order granting the adoption, the taxable year~~

1421 ~~in which the adoption expenses are:]~~
1422 ~~[(A) paid; or]~~
1423 ~~[(B) incurred;]~~
1424 ~~[(ii) the taxable year in which a court issues an order granting the adoption; or]~~
1425 ~~[(iii) any year in which the resident or nonresident individual may claim the federal~~
1426 ~~adoption expenses credit under Section 23, Internal Revenue Code;]~~
1427 ~~[(d) amounts received by taxpayers under age 65 as retirement income which, for~~
1428 ~~purposes of this section, means pensions and annuities, paid from an annuity contract~~
1429 ~~purchased by an employer under a plan which meets the requirements of Section 404(a)(2),~~
1430 ~~Internal Revenue Code, or purchased by an employee under a plan which meets the~~
1431 ~~requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or~~
1432 ~~political subdivision thereof, or the District of Columbia, to the employee involved or the~~
1433 ~~surviving spouse;]~~
1434 ~~[(e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500~~
1435 ~~personal retirement exemption;]~~
1436 ~~[(f) 75% of the amount of the personal exemption, as defined and calculated in the~~
1437 ~~Internal Revenue Code, for each dependent child with a disability and adult with a disability~~
1438 ~~who is claimed as a dependent on a taxpayer's return;]~~
1439 ~~[(g) any amount included in federal taxable income that was received pursuant to any~~
1440 ~~federal law enacted in 1988 to provide reparation payments, as damages for human suffering,~~
1441 ~~to United States citizens and resident aliens of Japanese ancestry who were interned during~~
1442 ~~World War II;]~~
1443 ~~[(h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the~~
1444 ~~taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions;]~~
1445 ~~[(i) for:]~~
1446 ~~[(A) the taxpayer;]~~
1447 ~~[(B) the taxpayer's spouse; and]~~
1448 ~~[(C) the taxpayer's dependents; and]~~
1449 ~~[(ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or~~
1450 ~~213, Internal Revenue Code, in determining federal taxable income for the taxable year;]~~
1451 ~~[(i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a~~

1452 contribution made during the taxable year on behalf of the taxpayer to a medical care savings
1453 account and interest earned on a contribution to a medical care savings account established
1454 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the
1455 contribution is accepted by the account administrator as provided in the Medical Care Savings
1456 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal
1457 individual income tax return pursuant to Section 220, Internal Revenue Code; and]

1458 [(ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the
1459 following:]

1460 [(A) the maximum contribution allowed under the Medical Care Savings Account Act
1461 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is
1462 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that
1463 covers the other spouse, and each spouse has a medical care savings account; or]

1464 [(B) the maximum contribution allowed under the Medical Care Savings Account Act
1465 for the tax year for taxpayers:]

1466 [(I) who do not file a joint return; or]

1467 [(H) who file a joint return, but do not qualify under Subsection (2)(i)(ii)(A);]

1468 [(j) the amount included in federal taxable income that was derived from money paid
1469 by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education
1470 Savings Incentive Program, not to exceed amounts determined under Subsection
1471 53B-8a-106(1)(d), and investment income earned on account agreements entered into under
1472 Section 53B-8a-106 that is included in federal taxable income, but only when the funds are
1473 used for qualified higher education costs of the beneficiary;]

1474 [(k) for taxable years beginning on or after January 1, 2000, any amounts paid for
1475 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the
1476 amounts paid for long-term care insurance were not deducted under Section 213, Internal
1477 Revenue Code, in determining federal taxable income;]

1478 [(H) (b) for taxable years beginning on or after January 1, 2000, if the conditions of
1479 Subsection [(4)] (3)(a) are met, the amount of income derived by a Ute tribal member:

1480 (i) during a time period that the Ute tribal member resides on homesteaded land
1481 diminished from the Uintah and Ouray Reservation; and

1482 (ii) from a source within the Uintah and Ouray Reservation;

1483 (c) an amount received by a resident or nonresident individual or distribution received
1484 by a resident or nonresident beneficiary of a resident trust:
1485 (i) if that amount or distribution constitutes a refund of taxes imposed by:
1486 (A) a state; or
1487 (B) the District of Columbia; and
1488 (ii) to the extent that amount or distribution is included in adjusted gross income for
1489 that taxable year on the federal individual income tax return of the resident or nonresident
1490 individual or resident or nonresident beneficiary of a resident trust;
1491 (d) the amount of a railroad retirement benefit:
1492 (i) paid:
1493 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
1494 seq.;
1495 (B) to a resident or nonresident individual; and
1496 (C) for the taxable year; and
1497 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
1498 that resident or nonresident individual's federal individual income tax return for that taxable
1499 year; and
1500 (e) an amount:
1501 (i) received by an enrolled member of an American Indian tribe; and
1502 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
1503 part on that amount in accordance with:
1504 (A) federal law;
1505 (B) a treaty; or
1506 (C) a final decision issued by a court of competent jurisdiction.
1507 ~~[(m) (i) for taxable years beginning on or after January 1, 2003, the total amount of a~~
1508 ~~resident or nonresident individual's short-term capital gain or long-term capital gain on a~~
1509 ~~capital gain transaction:]~~
1510 ~~[(A) that occurs on or after January 1, 2003;]~~
1511 ~~[(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:]~~
1512 ~~[(f) to purchase qualifying stock in a Utah small business corporation; and]~~
1513 ~~[(H) within a 12-month period after the day on which the capital gain transaction~~

1514 occurs; and]

1515 [~~(C) if, prior to the purchase of the qualifying stock described in Subsection~~

1516 ~~(2)(m)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the~~

1517 ~~Utah small business corporation that issued the qualifying stock; and]~~

1518 [~~(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~

1519 ~~the commission may make rules:]~~

1520 [~~(A) defining the term "gross proceeds"; and]~~

1521 [~~(B) for purposes of Subsection (2)(m)(i)(C), prescribing the circumstances under~~

1522 ~~which a resident or nonresident individual has an ownership interest in a Utah small business~~

1523 ~~corporation; and]~~

1524 [~~(n) for the taxable year beginning on or after January 1, 2005, but beginning on or~~

1525 ~~before December 31, 2005, the first \$2,200 of income a qualifying military service member~~

1526 ~~receives:]~~

1527 [~~(i) for service:]~~

1528 [~~(A) as a qualifying military service member; or]~~

1529 [~~(B) under an order into active service in accordance with Section 39-1-5; and]~~

1530 [~~(ii) to the extent that income is included in adjusted gross income on that resident or~~

1531 ~~nonresident individual's federal individual income tax return for that taxable year:]~~

1532 [~~(3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted~~

1533 ~~for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or~~

1534 ~~\$4,800, except that:]~~

1535 [~~(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income~~

1536 ~~earned over \$32,000, the amount of the retirement income exemption that may be subtracted~~

1537 ~~shall be reduced by 50 cents;]~~

1538 [~~(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income~~

1539 ~~earned over \$16,000, the amount of the retirement income exemption that may be subtracted~~

1540 ~~shall be reduced by 50 cents; and]~~

1541 [~~(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over~~

1542 ~~\$25,000, the amount of the retirement income exemption that may be subtracted shall be~~

1543 ~~reduced by 50 cents:]~~

1544 [~~(b) For purposes of Subsection (2)(e), the amount of the personal retirement~~

1545 exemption shall be further reduced according to the following schedule:]

1546 ~~[(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income~~
1547 ~~earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50~~
1548 ~~cents;]~~

1549 ~~[(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income~~
1550 ~~earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50~~
1551 ~~cents; and]~~

1552 ~~[(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over~~
1553 ~~\$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.]~~

1554 ~~[(c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be~~
1555 ~~calculated by adding to federal adjusted gross income any interest income not otherwise~~
1556 ~~included in federal adjusted gross income.]~~

1557 ~~[(d) For purposes of determining ownership of items of retirement income common~~
1558 ~~law doctrine will be applied in all cases even though some items may have originated from~~
1559 ~~service or investments in a community property state. Amounts received by the spouse of a~~
1560 ~~living retiree because of the retiree's having been employed in a community property state are~~
1561 ~~not deductible as retirement income of such spouse.]~~

1562 ~~[(e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care~~
1563 ~~insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:]~~

1564 ~~[(i) for an amount that is reimbursed or funded in whole or in part by the federal~~
1565 ~~government, the state, or an agency or instrumentality of the federal government or the state;~~
1566 ~~and]~~

1567 ~~[(ii) for a taxpayer who is eligible to participate in a health plan maintained and funded~~
1568 ~~in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.]~~

1569 ~~[(4)]~~ (3) (a) A subtraction for an amount described in Subsection (2)~~[(4)]~~(3)(b) is allowed
1570 only if:

1571 (i) the taxpayer is a Ute tribal member; and

1572 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1573 requirements of this Subsection ~~[(4)]~~ (3).

1574 (b) The agreement described in Subsection ~~[(4)]~~ (3)(a):

1575 (i) may not:

1576 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1577 (B) provide a subtraction under this section greater than or different from the

1578 subtraction described in Subsection (2)~~(f)~~(b); or

1579 (C) affect the power of the state to establish rates of taxation; and

1580 (ii) shall:

1581 (A) provide for the implementation of the subtraction described in Subsection

1582 (2)~~(f)~~(b);

1583 (B) be in writing;

1584 (C) be signed by:

1585 (I) the governor; and

1586 (II) the chair of the Business Committee of the Ute tribe;

1587 (D) be conditioned on obtaining any approval required by federal law; and

1588 (E) state the effective date of the agreement.

1589 (c) (i) The governor shall report to the commission by no later than February 1 of each

1590 year regarding whether or not an agreement meeting the requirements of this Subsection ~~(4)~~

1591 (3) is in effect.

1592 (ii) If an agreement meeting the requirements of this Subsection ~~(4)~~ (3) is terminated,

1593 the subtraction permitted under Subsection (2)~~(f)~~(b) is not allowed for taxable years

1594 beginning on or after the January 1 following the termination of the agreement.

1595 (d) For purposes of Subsection (2)~~(f)~~(b) and in accordance with Title 63, Chapter 46a,

1596 Utah Administrative Rulemaking Act, the commission may make rules:

1597 (i) for determining whether income is derived from a source within the Uintah and

1598 Ouray Reservation; and

1599 (ii) that are substantially similar to how ~~[federal]~~ adjusted gross income derived from

1600 Utah sources is determined under Section 59-10-117.

1601 ~~[(5)(a) For purposes of this Subsection (5), "Form 8814" means:]~~

1602 ~~[(i) the federal individual income tax Form 8814, Parents' Election To Report Child's~~
1603 ~~Interest and Dividends; or]~~

1604 ~~[(ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by~~
1605 ~~the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to~~

1606 ~~2000 Form 8814 if for purposes of federal individual income taxes the information contained~~

1607 on 2000 Form 8814 is reported on a form other than Form 8814; and]

1608 [~~(B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter~~
 1609 ~~46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form~~
 1610 ~~as being substantially similar to 2000 Form 8814 if for purposes of federal individual income~~
 1611 ~~taxes the information contained on 2000 Form 8814 is reported on a form other than Form~~
 1612 ~~8814.]~~

1613 [~~(b) The amount of a child's income added to adjusted gross income under Subsection~~
 1614 ~~(1)(c) is equal to the difference between:]~~

1615 [~~(i) the lesser of:]~~

1616 [~~(A) the base amount specified on Form 8814; and]~~

1617 [~~(B) the sum of the following reported on Form 8814:]~~

1618 [~~(I) the child's taxable interest;]~~

1619 [~~(II) the child's ordinary dividends; and]~~

1620 [~~(III) the child's capital gain distributions; and]~~

1621 [~~(ii) the amount not taxed that is specified on Form 8814.]~~

1622 [~~(6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences~~
 1623 ~~of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be~~
 1624 ~~added to federal taxable income of a resident or nonresident individual if, as annually~~
 1625 ~~determined by the commission:]~~

1626 [~~(a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the~~
 1627 ~~political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on~~
 1628 ~~income on any part of the bonds, notes, and other evidences of indebtedness of this state; or]~~

1629 [~~(b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose~~
 1630 ~~a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of~~
 1631 ~~this state:]~~

1632 [~~(i) the entity; or]~~

1633 [~~(ii) (A) the state in which the entity is located; or]~~

1634 [~~(B) the District of Columbia, if the entity is located within the District of Columbia.]~~

1635 Section 20. Section **59-10-115** is amended to read:

1636 **59-10-115. Equitable adjustments.**

1637 [~~(1) If any provision of the Internal Revenue Code requires the inclusion of an item of~~

1638 gross income or the allowance of an item of deduction from gross income in the computation
1639 of federal taxable income of the taxpayer for any taxable year beginning on or after the
1640 effective date of this chapter, and if such item has been taken into account in computing the
1641 taxable income of the taxpayer for state income tax purposes for any prior taxable year, the
1642 commission shall make or allow such adjustments to the taxpayer's state taxable income as are
1643 necessary to prevent the inclusion for a second time or the deduction for a second time of such
1644 item for state income tax purposes.]

1645 [(2) If in a return filed for any taxable year beginning on or after the effective date of
1646 this chapter, the taxpayer reports gain or loss from the disposition of property or claims a
1647 deduction for depreciation of property, and if his basis for gain or loss on the disposition of
1648 such property or for allowance of the depreciation deduction for the exhaustion, wear, and tear
1649 thereof (including a reasonable allowance for obsolescence) is different for federal income tax
1650 purposes than it would be for state income tax purposes if the provisions of former Title 59,
1651 Chapter 14, were applicable to such taxable year, the commission shall (anything in this
1652 chapter to the contrary notwithstanding) allow or make such adjustment to state taxable income
1653 of the taxpayer for such taxable year as will result in the use by the taxpayer of the same basis;
1654 for such purpose, that he would be allowed or required to use in reporting such gain or loss or
1655 claiming such depreciation deduction if the provisions of former Title 59, Chapter 14, were
1656 applicable to the taxable year.]

1657 [(3) If the taxpayer receives, in any taxable year beginning on or after the effective date
1658 of this chapter, a distribution from an electing small business corporation, as defined by
1659 Section 1371(b) of the Internal Revenue Code, of a net share of the corporation's undistributed
1660 taxable income for a taxable year or years prior to the taxable year in which such distribution is
1661 made, the commission shall make such adjustment to state taxable income as will prevent
1662 escape from taxation by this state of such undistributed taxable income previously taxed to the
1663 taxpayer for federal income tax purposes but not for state income tax purposes.]

1664 [(4)] (1) The commission shall [by rule prescribe for adjustments] allow an adjustment
1665 to [state taxable] adjusted gross income or an addition or subtraction required by Section
1666 59-10-114 of [the] a taxpayer [in circumstances other than those specified by Subsections (1),
1667 (2), and (3) of this section where, solely by reason of the enactment of this chapter,] if the
1668 taxpayer would otherwise;

1669 (a) receive [~~or have received~~] a double tax benefit under this part; or
 1670 (b) suffer [~~or have suffered~~] a double tax detriment under this part. [~~Anything in this~~
 1671 section or this chapter to the contrary notwithstanding, the commission may not make any
 1672 adjustment pursuant to this section which will result in an increase or decrease of tax liability
 1673 the amount of which is less than \$25.]

1674 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 1675 commission may make rules to allow for the adjustment, addition, or subtraction required by
 1676 Subsection (1).

1677 Section 21. Section **59-10-116** is amended to read:

1678 **59-10-116. Definitions -- Tax on nonresident individual -- Calculation --**

1679 **Rulemaking authority.**

1680 (1) For purposes of this section:

1681 (a) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101[;].

1682 (b) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101[;].

1683 (c) "State income tax percentage" means a percentage equal to a nonresident
 1684 individual's [~~federal~~] adjusted gross income for the taxable year received from Utah sources, as
 1685 determined under Section 59-10-117, divided by the difference between:

1686 (i) the nonresident individual's total [~~federal~~] adjusted gross income for that taxable
 1687 year; and

1688 (ii) if the nonresident individual described in Subsection (1)(c)(i) is a servicemember,
 1689 the compensation the servicemember receives for military service if the servicemember is
 1690 serving in compliance with military orders[; ~~and~~].

1691 (d) "State taxable income" means a nonresident individual's adjusted gross income
 1692 after making the additions and subtractions required by Sections 59-10-114 and 59-10-115.

1693 [~~(d)~~] (e) "Unapportioned state tax" means the product of the:

1694 (i) difference between:

1695 (A) a nonresident individual's [~~federal taxable income, as defined in Section~~
 1696 ~~59-10-111, with the modifications, subtractions, and adjustments provided for in Section~~
 1697 ~~59-10-114~~] state taxable income; and

1698 (B) if the nonresident individual described in Subsection (1)[~~(d)~~] (e)(i)(A) is a
 1699 servicemember, compensation the servicemember receives for military service if the

1700 servicemember is serving in compliance with military orders; and

1701 (ii) tax rate imposed under Section 59-10-104.

1702 (2) ~~[Except as provided in Subsection (3), a]~~ A tax is imposed on a nonresident
1703 individual in an amount equal to the product of the nonresident individual's:

1704 (a) unapportioned state tax; and

1705 (b) state income tax percentage.

1706 ~~[(3) This section does not apply to a nonresident individual exempt from taxation~~
1707 ~~under Section 59-10-104.1.]~~

1708 ~~[(4)]~~ (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
1709 Act, for purposes of Subsection (1), the commission may by rule define what constitutes
1710 compensation.

1711 Section 22. Section **59-10-117** is amended to read:

1712 **59-10-117. Federal adjusted gross income derived from Utah sources.**

1713 (1) For ~~[the purpose]~~ purposes of Section 59-10-116, ~~[federal]~~ adjusted gross income
1714 derived from Utah sources ~~[shall include]~~ includes those items includable in ~~[federal "adjusted~~
1715 ~~gross income" (as defined by Section 62 of the Internal Revenue Code)]~~ adjusted gross income
1716 attributable to or resulting from:

1717 (a) the ownership in this state of any interest in real or tangible personal property,
1718 ~~[(f)]~~including real property or property rights from which "gross income from mining," as
1719 defined by Section 613(c) ~~[of the]~~, Internal Revenue Code, is derived~~[-]~~; or

1720 (b) the carrying on of a business, trade, profession, or occupation in this state.

1721 (2) For the purposes of Subsection (1):

1722 (a) income from intangible personal property, including annuities, dividends, interest,
1723 and gains from the disposition of intangible personal property shall constitute income derived
1724 from Utah sources only to the extent that such income is from property employed in a trade,
1725 business, profession, or occupation carried on in this state~~[-]~~;

1726 (b) deductions with respect to capital losses, net long-term capital gains, and net
1727 operating losses shall be based solely on income, gain, loss, and deduction connected with Utah
1728 sources, under rules prescribed by the commission in accordance with Title 63, Chapter 46a,
1729 Utah Administrative Rulemaking Act, but otherwise shall be determined in the same manner as
1730 the corresponding federal deductions~~[-]~~;

1731 (c) salaries, wages, commissions, and compensation for personal services rendered
1732 outside this state shall not be considered to be derived from Utah sources[-];

1733 (d) a nonresident shareholder's distributive share of ordinary income, gain, loss, and
1734 deduction derived from or connected with Utah sources shall be determined under Section
1735 59-10-118[-];

1736 (e) a nonresident, other than a dealer holding property primarily for sale to customers
1737 in the ordinary course of his trade or business, [~~shall~~ may] not be considered to carry on a trade,
1738 business, profession, or occupation in this state solely by reason of the purchase or sale of
1739 property for [~~his~~] the nonresident's own account[-];

1740 (f) if a trade, business, profession, or occupation is carried on partly within and partly
1741 without this state, items of income, gain, loss, and deductions derived from or connected with
1742 Utah sources shall be determined in accordance with the provisions of Section 59-10-118[-];

1743 (g) a nonresident partner's distributive share of partnership income, gain, loss, and
1744 deduction derived from or connected with Utah sources shall be determined under Section
1745 59-10-303[-];

1746 (h) the share of a nonresident estate or trust and nonresident beneficiaries of any estate
1747 or trust in income, gain, loss, and deduction derived from or connected with Utah sources shall
1748 be determined under Section 59-10-207[-]; and

1749 (i) any dividend, interest, or distributive share of income, gain, or loss from a real
1750 estate investment trust, as defined in Section 59-7-116.5, distributed or allocated to a
1751 nonresident investor in the trust, including any shareholder, beneficiary, or owner of a
1752 beneficial interest in the trust, shall be income from intangible personal property under
1753 Subsection (2)(a), and shall constitute income derived from Utah sources only to the extent the
1754 nonresident investor is employing its beneficial interest in the trust in a trade, business,
1755 profession, or occupation carried on by the investor in this state.

1756 Section 23. Section **59-10-118.1** is enacted to read:

1757 **59-10-118.1. Filing status.**

1758 Except as provided in Section 59-10-119 and subject to Section 59-10-503, a resident
1759 or nonresident individual shall file a return under this chapter for a taxable year using the same
1760 filing status as the resident or nonresident individual uses for filing a federal individual income
1761 tax return for that same taxable year.

1762 Section 24. Section **59-10-119** is amended to read:

1763 **59-10-119. Returns by husband and wife, either or both of whom is a**
1764 **nonresident.**

1765 (1) If the [~~federal taxable~~] adjusted gross income of a husband and wife [~~both~~] who
1766 are nonresidents of this state] is reported or determined on separate federal returns, [~~their~~] the
1767 state taxable [~~incomes in this state~~] income of that husband and wife shall be separately
1768 determined.

1769 (2) If the [~~federal taxable~~] adjusted gross income of a husband and wife [~~both~~] who
1770 are nonresidents] of this state is reported or determined on a joint return [~~their tax~~], the state
1771 taxable income of that husband and wife shall be reported or determined in this state on a joint
1772 return.

1773 (3) (a) If either a husband or wife is a nonresident and the other a resident, separate
1774 taxes shall be determined on their separate state taxable incomes on such forms as the
1775 commission shall prescribe, unless both elect to determine their state taxable income as if both
1776 were residents.

1777 (b) If a husband and wife [~~(one being a resident, the other a nonresident)~~] described in
1778 Subsection (3)(a) file a joint federal income tax return, but determine their state taxable income
1779 separately, they shall compute their taxable incomes in this state as if their [~~federal taxable~~]
1780 adjusted gross incomes had been determined separately.

1781 Section 25. Section **59-10-120** is amended to read:

1782 **59-10-120. Change of status as resident or nonresident.**

1783 (1) If an individual changes [~~his~~] that individual's status during [~~his~~] the taxable year
1784 from resident to nonresident or from nonresident to resident, the commission may by rule
1785 require [~~him~~] that individual to file one return for the portion of the year during which [~~he~~] the
1786 individual is a resident and another return for the portion of the year during which [~~he~~] the
1787 individual is a nonresident.

1788 (2) Except as provided in Subsection (3), the state taxable income of the individual
1789 described in Subsection (1) shall be determined as provided in this chapter for residents and for
1790 nonresidents as if the individual's taxable year for federal income tax purposes were limited to
1791 the period of [~~his~~] the individual's resident and nonresident status respectively.

1792 (3) There shall be included in determining state taxable income from sources within or

1793 without this state, as the case may be, income, gain, loss, or deduction accrued prior to the
1794 change of status, even though not otherwise includable or allowable in respect of the period
1795 prior to such change, but the taxation or deduction of items received or accrued prior to the
1796 change of status shall not be affected by the change.

1797 Section 26. Section **59-10-121** is amended to read:

1798 **59-10-121. Proration when two returns required.**

1799 Where two returns are required to be filed as provided in Section 59-10-120[:(1)
1800 ~~personal exemptions and the standard deduction as used on the federal return shall be prorated~~
1801 ~~between the two returns, under rules prescribed by the commission, to reflect the proportions of~~
1802 ~~the taxable year during which the individual was a resident and a nonresident; and (2)], the~~
1803 total of the taxes due ~~[thereon shall]~~ on those returns may not be less than would be due if the
1804 total of the state taxable incomes reported on the two returns were includable in one return.

1805 Section 27. Section **59-10-122** is amended to read:

1806 **59-10-122. Taxable year.**

1807 (1) For purposes of the tax imposed by this chapter, a taxpayer's taxable year shall be
1808 the same as ~~[his]~~ the taxpayer's taxable year for federal income tax purposes.

1809 (2) (a) If a taxpayer's taxable year is changed for federal income tax purposes, ~~[his]~~ the
1810 taxpayer's taxable year for purposes of the tax imposed by this chapter shall be similarly
1811 changed.

1812 (b) If a change in taxable year results in a taxable period of less than 12 months for
1813 federal income tax purposes, the same taxable period shall be used in computing the tax
1814 imposed by this chapter.

1815 Section 28. Section **59-10-123** is amended to read:

1816 **59-10-123. Accounting method.**

1817 (1) For purposes of the tax imposed by this chapter, a taxpayer's method of accounting
1818 shall be the same as the method employed for federal income tax purposes.

1819 (2) If a taxpayer's method of accounting is changed for federal income tax purposes,
1820 ~~[his]~~ the taxpayer's method of accounting shall be similarly changed and reflected in each
1821 return filed ~~[for Utah individual income tax purposes]~~ under this chapter for any taxable year
1822 for which ~~[such]~~ the change is reflected in ~~[his]~~ the taxpayer's return for federal income tax
1823 purposes.

1824 Section 29. Section **59-10-136** is enacted to read:

1825 **59-10-136. Carry forward of tax credits -- Rulemaking authority.**

1826 (1) Notwithstanding the repeal of a tax credit by this bill and subject to Subsection (2),
1827 a claimant, estate, or trust may carry forward a tax credit repealed by this bill if:

1828 (a) for a taxable year beginning before January 1, 2007, the claimant, estate, or trust is
1829 allowed to claim a tax credit repealed by this bill;

1830 (b) an amount of tax credit described in Subsection (1)(a) exceeds the claimant's,
1831 estate's, or trust's tax liability under this chapter for the taxable year for which the claimant,
1832 estate, or trust is allowed to claim the tax credit repealed by this bill; and

1833 (c) on the first day of the first taxable year beginning on or after January 1, 2007, there
1834 remains an amount of tax credit that the claimant is allowed to carry forward for a tax credit
1835 described in Subsection (1)(a).

1836 (2) If a claimant, estate, or trust may carry forward a tax credit in accordance with
1837 Subsection (1), the claimant, estate, or trust may carry forward the tax credit for a time period
1838 equal to the earlier of:

1839 (a) the number of taxable years required to carry forward the remaining amount of tax
1840 credit described in Subsection (1)(c); or

1841 (b) the number of taxable years that the claimant, estate, or trust would have been
1842 allowed to carry forward tax credit if the tax credit had not been repealed by this bill.

1843 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1844 commission may make rules for determining the number of taxable years that a claimant,
1845 estate, or trust would have been allowed to carry forward tax credit if the tax credit had not
1846 been repealed by this bill.

1847 Section 30. Section **59-10-201** is amended to read:

1848 **59-10-201. Taxation of resident trusts and estates.**

1849 (1) A tax determined in accordance with the [~~rates~~] rate prescribed by Section
1850 59-10-104 [~~for individuals filing separately~~] is imposed for each taxable year on the state
1851 taxable income of each resident estate or trust, except for trusts taxed as corporations.

1852 (2) A resident estate or trust shall be allowed the credit provided in Section
1853 [~~59-10-106~~] 59-10-1003, relating to an income tax imposed by another state, except that the
1854 limitation shall be computed by reference to the taxable income of the estate or trust.

1855 (3) The property of the trust established in Title 53B, Chapter 8a, Higher Education
1856 Savings Incentive Program, and its income from operations and investments are exempt from
1857 all taxation by the state under this chapter.

1858 Section 31. Section **59-10-201.1** is amended to read:

1859 **59-10-201.1. State taxable income of resident estate or trust defined.**

1860 The state taxable income of a resident estate or trust means its [~~federal taxable~~] adjusted
1861 gross income [~~as defined in Subsections (a) and (b), Section 641, Internal Revenue Code~~], as
1862 adjusted by Sections 59-10-202, 59-10-209.1, and [~~59-10-209~~] 59-10-210.

1863 Section 32. Section **59-10-202** is amended to read:

1864 **59-10-202. Additions to and subtractions from state taxable income of resident or**
1865 **nonresident estate or trust.**

1866 (1) There shall be added to [~~federal taxable~~] adjusted gross income of a resident or
1867 nonresident estate or trust[~~;~~] any fiduciary adjustments required by Section 59-10-210.

1868 [~~(a) the amount of any income tax imposed by this or any predecessor Utah individual~~
1869 ~~income tax law and the amount of any income tax imposed by the laws of another state, the~~
1870 ~~District of Columbia, or a possession of the United States, to the extent deducted from federal~~
1871 ~~adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal~~
1872 ~~taxable income;~~]

1873 [~~(b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the~~
1874 ~~Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue~~
1875 ~~Code in determining federal adjusted gross income; and]~~

1876 [~~(c) the amount of any gain as defined in Section 644(b) of the Internal Revenue Code,~~
1877 ~~to the extent deductible under Section 641(c) of the Internal Revenue Code in determining the~~
1878 ~~federal taxable income of a trust.]~~

1879 (2) There shall be subtracted from [~~federal taxable~~] adjusted gross income of a resident
1880 or nonresident estate or trust:

1881 (a) the interest or [~~dividends~~] a dividend on obligations or securities of the United
1882 States and its possessions or of any authority, commission, or instrumentality of the United
1883 States, to the extent [~~includable~~] that interest or dividend is included in gross income for
1884 federal income tax purposes for the taxable year but exempt from state income taxes under the
1885 laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be

1886 reduced by any interest on indebtedness incurred or continued to purchase or carry the
1887 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in
1888 the production of interest or dividend income described in this Subsection (2)(a) to the extent
1889 that such expenses, including amortizable bond premiums, are deductible in determining
1890 federal taxable income;

1891 ~~[(b) 1/2 of the net amount of any income tax paid or payable to the United States after~~
1892 ~~all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the~~
1893 ~~same taxable year; and]~~

1894 ~~[(c)]~~ (b) income of an irrevocable resident trust if:

1895 (i) the income would not be treated as state taxable income derived from Utah sources
1896 under Section 59-10-204 if received by a nonresident trust;

1897 (ii) the trust first became a resident trust on or after January 1, 2004;

1898 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
1899 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

1900 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

1901 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the
1902 settlor or any other person is treated as an owner of any portion of the trust under Subtitle A,
1903 Subchapter J, Subpart E of the Internal Revenue Code; and

1904 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on
1905 indebtedness incurred or continued to purchase or carry the assets generating the income
1906 described in this Subsection (2)(b), and by any expenses incurred in the production of income
1907 described in this Subsection (2)(b), to the extent that those expenses, including amortizable
1908 bond premiums, are deductible in determining federal taxable income[-];

1909 (c) if the conditions of Subsection (3)(a) are met, the amount of income of a resident or
1910 nonresident estate or trust derived from a deceased Ute tribal member:

1911 (i) during a time period that the Ute tribal member resided on homesteaded land
1912 diminished from the Uintah and Ouray Reservation; and

1913 (ii) from a source within the Uintah and Ouray Reservation;

1914 (d) any amount:

1915 (i) received by a resident or nonresident estate or trust;

1916 (ii) that constitutes a refund of taxes imposed by:

1917 (A) a state; or
1918 (B) the District of Columbia; and
1919 (iii) to the extent that amount is included in adjusted gross income on that resident or
1920 nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;
1921 (e) the amount of a railroad retirement benefit:
1922 (i) paid:
1923 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
1924 seq.;
1925 (B) to a resident or nonresident estate or trust derived from a deceased resident or
1926 nonresident individual; and
1927 (C) for the taxable year; and
1928 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
1929 that resident or nonresident estate's or trust's federal tax return for estates and trusts;
1930 (f) an amount:
1931 (i) received by a resident or nonresident estate or trust if that amount is derived from a
1932 deceased enrolled member of an American Indian tribe; and
1933 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
1934 part on that amount in accordance with:
1935 (A) federal law;
1936 (B) a treaty; or
1937 (C) a final decision issued by a court of competent jurisdiction; and
1938 (g) any fiduciary adjustments required by Section 59-10-210.
1939 (3) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
1940 (i) the income is derived from a deceased Ute tribal member; and
1941 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1942 requirements of this Subsection (3).
1943 (b) The agreement described in Subsection (3)(a):
1944 (i) may not:
1945 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
1946 (B) provide a subtraction under this section greater than or different from the
1947 subtraction described in Subsection (2)(c); or

1948 (C) affect the power of the state to establish rates of taxation; and
1949 (ii) shall:
1950 (A) provide for the implementation of the subtraction described in Subsection (2)(c);
1951 (B) be in writing;
1952 (C) be signed by:
1953 (I) the governor; and
1954 (II) the chair of the Business Committee of the Ute tribe;
1955 (D) be conditioned on obtaining any approval required by federal law; and
1956 (E) state the effective date of the agreement.
1957 (c) (i) The governor shall report to the commission by no later than February 1 of each
1958 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
1959 in effect.

1960 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
1961 subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or
1962 after the January 1 following the termination of the agreement.

1963 (d) For purposes of Subsection (2)(c) and in accordance with Title 63, Chapter 46a,
1964 Utah Administrative Rulemaking Act, the commission may make rules:

1965 (i) for determining whether income is derived from a source within the Uintah and
1966 Ouray Reservation; and

1967 (ii) that are substantially similar to how federal adjusted gross income derived from
1968 Utah sources is determined under Section 59-10-117.

1969 Section 33. Section **59-10-204** is amended to read:

1970 **59-10-204. State taxable income of nonresident estate or trust defined.**

1971 The state taxable income of a nonresident estate or trust shall be its [~~federal~~] state
1972 taxable income as [defined] calculated in Section 59-10-201.1, derived from Utah sources
1973 determined in accordance with the principles of Section 59-10-117, and adjusted as provided in
1974 Section 59-10-207.

1975 Section 34. Section **59-10-205** is amended to read:

1976 **59-10-205. Tax on income derived from Utah sources.**

1977 A tax is imposed on the state taxable income, as [~~defined~~] calculated in Section
1978 59-10-204, of every nonresident estate or trust in accordance with the [rates] rate prescribed in

1979 Section 59-10-104 [~~for individuals filing separately~~]. The tax shall only be applied to income
1980 derived from Utah sources as adjusted by Section 59-10-207, including such items from
1981 another estate or trust of which the first estate or trust is a beneficiary.

1982 Section 35. Section **59-10-207** is amended to read:

1983 **59-10-207. Share of a nonresident estate or trust and beneficiaries in state taxable**
1984 **income.**

1985 (1) The share of a nonresident estate or trust and its beneficiaries in items of income,
1986 gain, loss, and deduction entering into the definition of distributable net income and the share
1987 for purposes of Section 59-10-116 of a nonresident beneficiary of any estate or trust in estate or
1988 trust income, gain, loss, and deduction shall be determined as follows:

1989 (a) To the amount of items of income, gain, loss, and deduction that enter into the
1990 definition of distributable net income there shall be added or subtracted, as the case may be, the
1991 modifications described in Sections 59-10-202 and [~~59-10-209~~] 59-10-210 to the extent they
1992 relate to items of income, gain, loss, and deduction that also enter into the definition of
1993 distributable net income. No modification shall be made under this section that has the effect
1994 of duplicating an item already reflected in the definition of distributable net income.

1995 (b) The amount determined under Subsection (1)(a) shall be allocated among the estate
1996 or trust and its beneficiaries (including solely for the purpose of this allocation, resident
1997 beneficiaries) in proportion to their respective shares of federal distributable net income. The
1998 amounts so allocated shall have the same character as for federal income tax purposes.

1999 (c) If the estate or trust has no federal distributable net income for the taxable year, the
2000 share of each beneficiary in the net amount determined under Subsection (1)(a) shall be in
2001 proportion to his share of the estate or trust income for such year, under state law or the terms
2002 of the governing instrument, that is required to be distributed currently and any other amounts
2003 of such income distributed in such year. Any balance of such net income shall be allocated to
2004 the estate or trust.

2005 (2) The commission may by rule establish such other method or methods of
2006 determining the respective shares of the beneficiaries and of the estate or trust in its income
2007 derived from sources in this state, and in the modifications related thereto, as may be
2008 appropriate and equitable. The fiduciary may elect to use any other methods prescribed in this
2009 Subsection (2) only when the allocation of such respective shares under this section would

2010 result in an inequity in the allocation which is substantial both in amount and in relation to the
2011 total amount of the modifications referred to in Subsection (1)(a).

2012 Section 36. Section **59-10-209.1** is enacted to read:

2013 **59-10-209.1. Adjustments to state taxable income.**

2014 (1) The commission shall allow an adjustment to adjusted gross income or an addition
2015 or subtraction required by Section 59-10-202 of a resident or nonresident estate or trust if the
2016 resident or nonresident estate or trust would otherwise:

2017 (a) receive a double tax benefit under this chapter; or

2018 (b) suffer a double tax detriment under this chapter.

2019 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2020 commission may make rules to allow for the adjustment, addition, or subtraction required by
2021 Subsection (1).

2022 Section 37. Section **59-10-210** is amended to read:

2023 **59-10-210. Fiduciary adjustments.**

2024 ~~[(1) The fiduciary adjustments are the amounts of the modifications described in~~
2025 ~~Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of~~
2026 ~~which the first estate or trust is a beneficiary.]~~

2027 (1) As provided in this section, a share of the fiduciary adjustments described in
2028 Subsection (2) shall be added to or subtracted from adjusted gross income of:

2029 (a) a resident or nonresident estate or trust; or

2030 (b) a resident or nonresident beneficiary of a resident or nonresident estate or trust.

2031 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
2032 amounts:

2033 (a) the additions to and subtractions from adjusted gross income of a resident or
2034 nonresident estate or trust required by Section 59-10-202; and

2035 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

2036 (i) Section 59-6-102;

2037 (ii) Part 10, Nonrefundable Tax Credit Act; or

2038 (iii) Part 11, Refundable Tax Credit Act.

2039 ~~[(2)]~~ (3) (a) The respective shares of an estate or trust and its beneficiaries [including
2040 solely] for the purpose of this allocation[;] a nonresident [beneficiaries] beneficiary, in the

2041 state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal
2042 distributable net income of the estate or trust.

2043 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
2044 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
2045 allocated in proportion to ~~[his]~~ that beneficiary's share of the estate or trust income for ~~[such]~~
2046 the taxable year, ~~[-which]~~ that is, under state law or the governing instrument, required to be
2047 distributed currently plus any other amounts of ~~[such]~~ that income distributed in ~~[such]~~ that
2048 taxable year. ~~[Any]~~

2049 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
2050 the fiduciary adjustments shall be allocated to the estate or trust.

2051 ~~[(3) The commission may by rule and upon such terms and conditions as it may~~
2052 ~~prescribe, authorize the use of such other appropriate and equitable method or methods for~~
2053 ~~determining attribution and allocation of the fiduciary adjustments. The fiduciary may elect to~~
2054 ~~use any other methods prescribed in this subsection only when the allocation of such respective~~
2055 ~~fiduciary adjustments under this section would result in an inequity in the allocation which is~~
2056 ~~substantial both in amount and in relation to the total amount of the modifications referred to in~~
2057 ~~Subsection (1).]~~

2058 ~~[(4) The taxable income of an estate or trust shall be adjusted by the deduction of the~~
2059 ~~income of that estate or trust to the extent of and for so long as such income is distributed or is~~
2060 ~~distributable to or otherwise accrues to the benefit of a person who has been declared by a court~~
2061 ~~of competent jurisdiction to be mentally incompetent. The commission may promulgate rules~~
2062 ~~necessary to provide for this adjustment.]~~

2063 (4) (a) The commission shall allow a fiduciary to use a method for determining the
2064 allocation of the fiduciary adjustments described in Subsection (2) other than the method
2065 described in Subsection (3) if using the method described in Subsection (3) results in an
2066 inequity:

2067 (i) in allocating the fiduciary adjustments described in Subsection (2); and

2068 (ii) if the inequity is substantial:

2069 (A) in amount; and

2070 (B) in relation to the total amount of the fiduciary adjustments described in Subsection

2071 (2).

2072 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2073 commission may make rules authorizing a fiduciary to use a method for determining the
2074 allocation of the fiduciary adjustments described in Subsection (2) other than the method
2075 described in Subsection (3) if using the method described in Subsection (3) results in an
2076 inequity:

2077 (i) in allocating the fiduciary adjustments described in Subsection (2); and

2078 (ii) if the inequity is substantial:

2079 (A) in amount; and

2080 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
2081 (2).

2082 Section 38. Section **59-10-529** is amended to read:

2083 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

2084 (1) In cases where there has been an overpayment of any tax imposed by this chapter,
2085 the amount of overpayment is credited as follows:

2086 (a) against any income tax then due from the taxpayer;

2087 (b) against:

2088 (i) the amount of any judgment against the taxpayer, including one ordering the
2089 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims

2090 Restitution Act, obtained through due process of law by any entity of state government; or

2091 (ii) any child support obligation which is due or past due, as determined by the Office
2092 of Recovery Services in the Department of Human Services and after notice and an opportunity
2093 for an adjudicative proceeding, as provided in Subsection (2); or

2094 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to
2095 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of
2096 competent jurisdiction has not approved an alternative form of payment. This bail may be
2097 applied to any fine or forfeiture which is due and related to a warrant which is outstanding on
2098 or after February 16, 1984, and in accordance with Subsections (3) and (4).

2099 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services
2100 has sent written notice to the taxpayer's last-known address or the address on file under Section
2101 62A-11-304.4, stating:

2102 (i) the amount of child support that is due or past due as of the date of the notice or

2103 other specified date;

2104 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child
2105 support specified in the notice; and

2106 (iii) that the taxpayer may contest the amount of past-due child support specified in the
2107 notice by filing a written request for an adjudicative proceeding with the office within 15 days
2108 of the notice being sent.

2109 (b) The Office of Recovery Services shall establish rules to implement this Subsection
2110 (2), including procedures, in accordance with the other provisions of this section, to ensure
2111 prompt reimbursement to the taxpayer of any amount of an overpayment of taxes which was
2112 credited against a child support obligation in error, and to ensure prompt distribution of
2113 properly credited funds to the obligee parent.

2114 (3) Subsection (1)(c) may be exercised only if:

2115 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
2116 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

2117 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
2118 sent to the person's current address on file with the commission.

2119 (4) (a) The commission shall deliver the overpayment applied as bail to the court that
2120 issued the warrant of arrest. The clerk of the court is authorized to endorse the check or
2121 commission warrant of payment on behalf of the payees and deposit the monies in the court
2122 treasury.

2123 (b) The court receiving the overpayment applied as bail shall order withdrawal of the
2124 warrant for arrest of the taxpayer if the case is one for which a personal appearance of the
2125 taxpayer is not required and if the dollar amount of the overpayment represents the full dollar
2126 amount of bail. In all other cases, the court receiving the overpayment applied as bail is not
2127 required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day
2128 period, and the taxpayer may be arrested on the warrant. However, the bail amount shall be
2129 reduced by the amount of tax overpayment received by the court.

2130 (c) If the taxpayer fails to respond to the notice described in Subsection (3), or to
2131 resolve the warrant within 40 days after the notice was sent under that subsection, the
2132 overpayment applied as bail is forfeited and notice of the forfeiture shall be mailed to the
2133 taxpayer at the current address on file with the commission. The court may then issue another

2134 warrant or allow the original warrant to remain in force if:

2135 (i) the taxpayer has not complied with an order of the court;

2136 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a
2137 personal appearance is required; or

2138 (iii) the taxpayer has paid partial but not full bail in a case for which a personal
2139 appearance is not required.

2140 (5) If the alleged violations named in the warrant are later resolved in favor of the
2141 taxpayer, the bail amount shall be remitted to the taxpayer.

2142 (6) Any balance shall be refunded immediately to the taxpayer.

2143 (7) (a) If a refund or credit is due because the amount of tax deducted and withheld
2144 from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless
2145 the taxpayer or his legal representative files with the commission a tax return claiming the
2146 refund or credit:

2147 (i) within three years from the due date of the return, plus the period of any extension
2148 of time for filing the return provided for in Subsection (7)(c); or

2149 (ii) within two years from the date the tax was paid, whichever period is later.

2150 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit
2151 of tax which has not been deducted and withheld from income is due, a credit or refund may
2152 not be allowed or made after three years from the time the tax was paid, unless, before the
2153 expiration of the period, a claim is filed by the taxpayer or his legal representative.

2154 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to
2155 file a claim under Subsection (7)(a)(i) if:

2156 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and

2157 (ii) the commission and the taxpayer sign a written agreement:

2158 (A) authorizing the extension; and

2159 (B) providing for the length of the extension.

2160 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission
2161 shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

2162 (i) the three-year period under Subsection (7)(b) has not expired; and

2163 (ii) the commission and the taxpayer sign a written agreement:

2164 (A) authorizing the extension; and

2165 (B) providing for the length of the extension.

2166 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines
2167 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described
2168 in this section which are outstanding on or after February 16, 1984.

2169 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the
2170 tax to which the credit relates, the excess is considered an overpayment.

2171 (10) A claim for credit or refund of an overpayment which is attributable to the
2172 application to the taxpayer of a net operating loss carryback shall be filed within three years
2173 from the time the return was due for the taxable year of the loss.

2174 (11) If there has been an overpayment of the tax which is required to be deducted and
2175 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent
2176 that the amount of overpayment was not deducted and withheld by the employer.

2177 (12) If there is no tax liability for a period in which an amount is paid as income tax,
2178 the amount is an overpayment.

2179 (13) If an income tax is assessed or collected after the expiration of the applicable
2180 period of limitation, that amount is an overpayment.

2181 (14) (a) If a taxpayer is required to report a change or correction in federal taxable
2182 income reported on [his] the taxpayer's federal income tax return, or to report a change or
2183 correction which is treated in the same manner as if it were an overpayment for federal income
2184 tax purposes, or to file an amended return with the commission, a claim for credit or refund of
2185 any resulting overpayment of tax shall be filed by the taxpayer within two years from the date
2186 the notice of the change, correction, or amended return was required to be filed with the
2187 commission.

2188 (b) If the report or amended return is not filed within 90 days, interest on any resulting
2189 refund or credit ceases to accrue after the 90-day period.

2190 (c) The amount of the credit or refund may not exceed the amount of the reduction in
2191 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
2192 federal income tax return.

2193 (d) Except as specifically provided, this section does not affect the amount or the time
2194 within which a claim for credit or refund may be filed.

2195 (15) No credit or refund may be allowed or made if the overpayment is less than \$1.

2196 (16) The amount of the credit or refund may not exceed the tax paid during the three
2197 years immediately preceding the filing of the claim, or if no claim is filed, then during the three
2198 years immediately preceding the allowance of the credit or refund.

2199 (17) In the case of an overpayment of tax by the employer under the withholding
2200 provisions of this chapter, a refund or credit shall be made to the employer only to the extent
2201 that the amount of the overpayment was not deducted and withheld from wages under the
2202 provisions of this chapter.

2203 (18) If a taxpayer who is entitled to a refund under this chapter dies, the commission
2204 may make payment to the duly appointed executor or administrator of the taxpayer's estate. If
2205 there is no executor or administrator, payment may be made to those persons who establish
2206 entitlement to inherit the property of the decedent in the proportions set out in Title 75, Utah
2207 Uniform Probate Code.

2208 (19) Where an overpayment relates to adjustments to net income referred to in
2209 Subsection 59-10-536~~(3)(c)~~ (5), credit may be allowed or a refund paid any time before the
2210 expiration of the period within which a deficiency may be assessed.

2211 (20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate
2212 and in the manner prescribed in Section 59-1-402.

2213 Section 39. Section **59-10-1001** is enacted to read:

2214 **Part 10. Nonrefundable Tax Credit Act**

2215 **59-10-1001. Title.**

2216 This part is known as the "Nonrefundable Tax Credit Act."

2217 Section 40. Section **59-10-1002** is enacted to read:

2218 **59-10-1002. Definitions.**

2219 As used in this part:

2220 (1) (a) Except as provided in Subsection (1)(b) or 59-10-1003(2), "claimant" means a
2221 resident person, part-year resident person, or nonresident person that has state taxable income
2222 under Part 1, Determination and Reporting of Tax Liability and Information.

2223 (b) "Claimant" does not include an estate or trust.

2224 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident
2225 estate, part-year resident estate, or resident estate that has state taxable income under Part 2,
2226 Trusts and Estates.

2227 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,
 2228 or trust may:

2229 (a) claim:

2230 (i) as provided by statute; and

2231 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability
 2232 under this chapter for a taxable year; and

2233 (b) carry forward or carry back:

2234 (i) if allowed by statute; and

2235 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or
 2236 trust's tax liability under this chapter for a taxable year.

2237 (4) "Part-year resident estate or trust" means an estate or trust that changes residency
 2238 status during a taxable year from:

2239 (a) resident to nonresident; or

2240 (b) nonresident to resident.

2241 (5) "Part-year resident person" means a person that changes residency status during a
 2242 taxable year from:

2243 (a) resident to nonresident; or

2244 (b) nonresident to resident.

2245 (6) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust,
 2246 part-year resident trust, or a resident trust that has state taxable income under Part 2, Trusts and
 2247 Estates.

2248 Section 41. Section **59-10-1003**, which is renumbered from Section 59-10-106 is
 2249 renumbered and amended to read:

2250 ~~[59-10-106].~~ **59-10-1003. Credit for tax paid to another state.**

2251 (1) ~~[A resident individual shall be allowed a]~~ Except as provided in Subsection (2) and
 2252 Section 59-10-1008, a claimant, estate, or trust may claim a nonrefundable tax credit against
 2253 the tax otherwise due under this chapter equal to the amount of the tax imposed;

2254 (a) on [him] that claimant, estate, or trust for the taxable year;

2255 (b) by another state of the United States, the District of Columbia, or a possession of
 2256 the United States[-]; and

2257 (c) on income;

2258 (i) derived from sources ~~[therein which]~~ within that other state of the United States,
2259 District of Columbia, or possession of the United States; and

2260 (ii) if that income is also subject to tax under this chapter.

2261 (2) A tax credit under this section may only be claimed by a:

2262 (a) resident claimant or part-year resident claimant;

2263 (b) resident estate or part-year resident estate; or

2264 (c) resident trust or part-year resident trust.

2265 ~~[(2)]~~ (3) The application of the tax credit provided under this section ~~[shall]~~ may not
2266 operate to reduce the tax payable under this chapter to an amount less than would have been
2267 payable were the income from the other state disregarded.

2268 ~~[(3)]~~ (4) The tax credit provided by this section shall be computed and claimed in
2269 accordance with rules prescribed by the commission.

2270 Section 42. Section **59-10-1004** is enacted to read:

2271 **59-10-1004. Charitable contribution tax credit.**

2272 (1) Except as provided in Section 59-10-1008, for taxable years beginning on or after
2273 January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit:

2274 (a) in an amount equal to the product of:

2275 (i) the amount the claimant, estate, or trust subtracts as allowed by Section 170,

2276 Internal Revenue Code, for that taxable year:

2277 (A) for a claimant, on the claimant's federal individual income tax return; or

2278 (B) for an estate or trust, on the estate's or trust's federal tax return for estates and

2279 trusts;

2280 (ii) 50%; and

2281 (iii) the tax rate percentage imposed by Section 59-10-104;

2282 (b) as provided in this section; and

2283 (c) against taxes otherwise due under this chapter.

2284 (2) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2285 this section.

2286 Section 43. Section **59-10-1005** is enacted to read:

2287 **59-10-1005. Homeowner tax credit -- Rulemaking authority.**

2288 (1) Except as provided in Section 59-10-1008, for taxable years beginning on or after

2289 January 1, 2007, a claimant may claim a nonrefundable tax credit:
2290 (a) in an amount equal to the greater of:
2291 (i) subject to Subsection (4), \$200 if the requirements of Subsection (3) are met; or
2292 (ii) the product of:
2293 (A) the amount the claimant subtracts as allowed by Section 163(h)(3), Internal
2294 Revenue Code, for that taxable year on the claimant's federal individual income tax return;
2295 (B) 50%; and
2296 (C) the tax rate percentage imposed by Section 59-10-104;
2297 (b) as provided in this section; and
2298 (c) against taxes otherwise due under this chapter.
2299 (2) A claimant may not carry forward or carry back a tax credit under this section.
2300 (3) (a) Subject to the other provisions of this Subsection (3), a claimant may claim the
2301 tax credit described in Subsection (1)(a)(i) if the claimant is an owner of a residence that is:
2302 (i) located within this state; and
2303 (ii) the primary residence of the claimant.
2304 (b) If there are two or more owners of a residence described in Subsection (3)(a):
2305 (i) only one tax credit may be claimed under this section for a taxable year; and
2306 (ii) only one of the owners of the residence may claim the tax credit:
2307 (A) as determined by the owners of the residence; and
2308 (B) on that owner's return under this chapter for the taxable year.
2309 (c) A claimant may claim a tax credit under Subsection (1)(a)(i) for only one primary
2310 residence in this state.
2311 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2312 commission may make rules determining what constitutes the primary residence of a claimant.
2313 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall
2314 increase or decrease the dollar amount described in Subsection (1)(a)(i) by a percentage equal
2315 to the percentage difference between the consumer price index for the preceding calendar year
2316 and the consumer price index for calendar year 2006.
2317 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer
2318 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
2319 (c) After the commission increases or decreases the dollar amount described in

2320 Subsection (1)(a)(i) as required by Subsection (4)(a), the commission shall round that increased
2321 or decreased dollar amount to the nearest whole dollar.

2322 Section 44. Section **59-10-1006** is enacted to read:

2323 **59-10-1006. Taxpayer tax credits.**

2324 (1) Except as provided in Section 59-10-1008 and subject to Subsections (3) and (4),
2325 for taxable years beginning on or after January 1, 2007, a claimant may claim a nonrefundable
2326 tax credit in an amount equal to the sum of:

2327 (a) an amount equal to:

2328 (i) (A) \$400 for a claimant who:

2329 (I) is a single individual; and

2330 (II) files a single return;

2331 (B) \$450 for a claimant who:

2332 (I) is a married individual who does not file a single return jointly with that individual's
2333 spouse; and

2334 (II) files a single return;

2335 (C) \$600 for a claimant who:

2336 (I) is a head of household as defined in Section 2(b), Internal Revenue Code; and

2337 (II) files a single return; or

2338 (D) \$900 for a claimant who:

2339 (I) (Aa) is a husband and wife; and

2340 (Bb) files a single return jointly; or

2341 (II) (Aa) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code; and

2342 (Bb) files a single return; and

2343 (ii) the product of:

2344 (A) \$100; and

2345 (B) the total number of personal exemptions the claimant claims for the taxable year as
2346 allowed by Section 151, Internal Revenue Code;

2347 (b) as provided in this section; and

2348 (c) against taxes otherwise due under this chapter.

2349 (2) A claimant may not carry forward or carry back a tax credit under this section.

2350 (3) (a) The portion of the tax credit allowed by Subsection (1)(a)(i) shall be reduced by

- 2351 \$.0133 for each dollar by which a claimant's adjusted gross income exceeds the product of:
- 2352 (i) the amount of the portion of the tax credit the claimant is allowed under Subsection
- 2353 (1)(a)(i); and
- 2354 (ii) 20.
- 2355 (b) For purposes of Subsection (3)(a), a fraction of a dollar of adjusted gross income
- 2356 shall be rounded up to the next whole dollar of adjusted gross income.
- 2357 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall
- 2358 increase or decrease the dollar amounts described in Subsections (1)(a)(i)(A), (1)(a)(i)(B),
- 2359 (1)(a)(i)(C), (1)(a)(i)(D), and (1)(a)(ii)(A) by a percentage equal to the percentage difference
- 2360 between the consumer price index for the preceding calendar year and the consumer price
- 2361 index for calendar year 2006.
- 2362 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer
- 2363 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
- 2364 (c) After the commission increases or decreases the dollar amounts described in
- 2365 Subsections (1)(a)(i)(A), (1)(a)(i)(B), (1)(a)(i)(C), (1)(a)(i)(D), and (1)(a)(ii)(A) as required by
- 2366 Subsection (4)(a), the commission shall round those increased or decreased dollar amounts to
- 2367 the nearest whole dollar.
- 2368 Section 45. Section **59-10-1007**, which is renumbered from Section 59-10-129 is
- 2369 renumbered and amended to read:
- 2370 **[59-10-129]. 59-10-1007. Utah low-income housing tax credit.**
- 2371 (1) As used in this section:
- 2372 (a) "Allocation certificate" means:
- 2373 (i) the certificate prescribed by the commission and issued by the Utah Housing
- 2374 Corporation to each [taxpayer] claimant, estate, or trust that specifies the percentage of the
- 2375 annual federal low-income housing [tax] credit that each [taxpayer] claimant, estate, or trust
- 2376 may take as an annual tax credit against [state income] a tax imposed by this chapter; or
- 2377 (ii) a copy of the allocation certificate that the housing sponsor provides to the
- 2378 [taxpayer] claimant, estate, or trust.
- 2379 (b) "Building" means a qualified low-income building as defined in Section 42(c),
- 2380 Internal Revenue Code.
- 2381 (c) "Federal low-income housing [tax] credit" means the [tax] low-income housing

2382 credit under Section 42, Internal Revenue Code.

2383 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
2384 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
2385 company in the case of a limited liability company.

2386 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
2387 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

2388 (f) "Special low-income housing tax credit certificate" means a certificate:

2389 (i) prescribed by the commission;

2390 (ii) that a housing sponsor issues to a [taxpayer] claimant, estate, or trust for a taxable
2391 year; and

2392 (iii) that specifies the amount of a tax credit a [taxpayer] claimant, estate, or trust may
2393 claim under this section if the [taxpayer] claimant, estate, or trust meets the requirements of
2394 this section.

2395 ~~[(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this
2396 section which is the corporation in the case of a C corporation, the partners in the case of a
2397 partnership, the shareholders in the case of an S corporation, and the members in the case of a
2398 limited liability company.]~~

2399 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a
2400 nonrefundable tax credit against taxes otherwise due under this chapter for [taxpayers] a
2401 claimant, estate, or trust issued an allocation certificate.

2402 (b) The tax credit shall be in an amount equal to the greater of the amount of:

2403 (i) federal low-income housing [tax] credit to which the [taxpayer] claimant, estate, or
2404 trust is allowed during that year multiplied by the percentage specified in an allocation
2405 certificate issued by the Utah Housing Corporation; or

2406 (ii) tax credit specified in the special low-income housing tax credit certificate that the
2407 housing sponsor issues to the [taxpayer] claimant, estate, or trust as provided in Subsection
2408 (2)(c).

2409 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

2410 (i) the total amount of low-income housing tax credit under this section that:

2411 (A) a housing sponsor is allowed for a building; and

2412 (B) all of the [taxpayers] claimants, estates, and trusts may claim with respect to the

2413 building if the ~~[taxpayers]~~ claimants, estates, and trusts meet the requirements of this section;
 2414 and

2415 (ii) the percentage of tax credit a ~~[taxpayer]~~ claimant, estate, or trust may claim:

2416 (A) under this section if the ~~[taxpayer]~~ claimant, estate, or trust meets the requirements
 2417 of this section; and

2418 (B) as provided in the agreement between the ~~[taxpayer]~~ claimant, estate, or trust and
 2419 the housing sponsor.

2420 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
 2421 beginning on January 1, ~~[2015]~~ 2006, the aggregate annual tax credit that the Utah Housing
 2422 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
 2423 Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

2424 (A) 12.5 cents; and

2425 (B) the population of Utah.

2426 (ii) For purposes of this section, the population of Utah shall be determined in
 2427 accordance with Section 146(j), Internal Revenue Code.

2428 ~~[(3)(a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
 2429 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate
 2430 the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.]~~

2431 ~~[(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
 2432 based on:]~~

2433 ~~[(i) the number of affordable housing units to be created in Utah for low and moderate
 2434 income persons in the residential housing development of which the building is a part;]~~

2435 ~~[(ii) the level of area median income being served by the development;]~~

2436 ~~[(iii) the need for the tax credit for the economic feasibility of the development; and]~~

2437 ~~[(iv) the extended period for which the development commits to remain as affordable
 2438 housing.]~~

2439 ~~[(4)]~~ (3) (a) The following may apply to the Utah Housing Corporation for a tax credit
 2440 under this section:

2441 (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has
 2442 received an allocation of the federal low-income housing ~~[tax]~~ credit; or

2443 (ii) any applicant for an allocation of the federal low-income housing ~~[tax]~~ credit if that

2444 applicant is a claimant, estate, or trust.

2445 (b) The Utah Housing Corporation may not require fees for applications of the tax
2446 credit under this section in addition to those fees required for applications for the federal
2447 low-income housing [~~tax~~] credit.

2448 [~~(5)~~] (4) (a) The Utah Housing Corporation shall determine the amount of the tax credit
2449 to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of
2450 the Utah Housing Corporation.

2451 (b) (i) The Utah Housing Corporation:

2452 (A) shall allocate the tax credit to housing sponsors by issuing an allocation certificate
2453 to qualifying housing sponsors[-]; and

2454 (B) beginning on January 1, 2007, may not issue an allocation certificate under this
2455 section.

2456 (ii) The allocation certificate under Subsection [~~(5)~~] (4)(b)(i) shall specify the allowed
2457 percentage of the federal low-income housing [~~tax~~] credit as determined by the Utah Housing
2458 Corporation.

2459 (c) The percentage specified in an allocation certificate may not exceed 100% of the
2460 federal low-income housing [~~tax~~] credit.

2461 [~~(6)~~] (5) A housing sponsor shall provide a copy of the allocation certificate to each
2462 [~~taxpayer~~] claimant, estate, or trust that is issued a special low-income housing tax credit
2463 certificate.

2464 [~~(7)~~] (6) (a) A housing sponsor shall provide to the commission a list of:

2465 (i) the [~~taxpayers~~] claimants, estates, and trusts issued a special low-income housing
2466 tax credit certificate; and

2467 (ii) for each [~~taxpayer~~] claimant, estate, or trust described in Subsection [~~(7)~~] (6)(a)(i),
2468 the amount of tax credit listed on the special low-income housing tax credit certificate.

2469 (b) A housing sponsor shall provide the list required by Subsection [~~(7)~~] (6)(a):

2470 (i) to the commission;

2471 (ii) on a form provided by the commission; and

2472 (iii) with the housing sponsor's tax return for each taxable year for which the housing
2473 sponsor issues a special low-income housing tax credit certificate described in this Subsection
2474 [~~(7)~~] (6).

2475 ~~[(8)]~~ (7) (a) All elections made by the ~~[taxpayer]~~ claimant, estate, or trust pursuant to
 2476 Section 42, Internal Revenue Code, shall apply to this section.

2477 (b) (i) If a ~~[taxpayer]~~ claimant, estate, or trust is required to recapture a portion of any
 2478 federal low-income housing ~~[tax]~~ credit, the ~~[taxpayer]~~ claimant, estate, or trust shall also be
 2479 required to recapture a portion of any state tax credits authorized by this section.

2480 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
 2481 that equals the proportion the federal recapture amount bears to the original federal low-income
 2482 housing ~~[tax]~~ credit amount subject to recapture.

2483 ~~[(9)]~~ (8) (a) Any tax credits returned to the Utah Housing Corporation in any year may
 2484 be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

2485 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
 2486 be carried over for allocation in the subsequent year.

2487 ~~[(10)]~~ (9) (a) Amounts otherwise qualifying for the tax credit, but not allowable
 2488 because the tax credit exceeds the tax, may be carried back three years or may be carried
 2489 forward five years as a tax credit ~~[against the tax]~~.

2490 (b) Carryover tax credits under Subsection ~~[(10)]~~ (9)(a) shall be applied against the tax:

2491 (i) before the application of the tax credits earned in the current year; and

2492 (ii) on a first-earned first-used basis.

2493 ~~[(11)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the
 2494 commission.

2495 ~~[(12) The Utah Housing Corporation shall provide an annual report to the Revenue and
 2496 Taxation Interim Committee which shall include at least:]~~

2497 ~~[(a) the purpose and effectiveness of the tax credits; and]~~

2498 ~~[(b) the benefits of the tax credits to the state.]~~

2499 ~~[(13)]~~ (11) The commission may, in consultation with the Utah Housing Corporation,
 2500 promulgate rules to implement this section.

2501 Section 46. Section **59-10-1008** is enacted to read:

2502 **59-10-1008. Apportionment of certain tax credits.**

2503 (1) As used in this section:

2504 (a) "Military service" is as defined in Section 59-10-116.

2505 (b) "Servicemember" is as defined in Section 59-10-116.

2506 (c) "State income tax percentage for a nonresident person" has the same meaning as
2507 "state income tax percentage" as defined in Section 59-10-116.

2508 (d) "State income tax percentage for a nonresident estate or trust" means, for a taxable
2509 year, a fraction:

2510 (i) the numerator of which is the nonresident estate's or nonresident trust's adjusted
2511 gross income for the taxable year received from Utah sources, as determined in accordance
2512 with the principles of Section 59-10-117; and

2513 (ii) the denominator of which is the difference between:

2514 (A) the nonresident estate's or nonresident trust's total adjusted gross income for that
2515 taxable year; and

2516 (B) if the nonresident estate or nonresident trust receives income during the taxable
2517 year that is derived from a deceased servicemember, the compensation derived from the
2518 deceased servicemember for military service if the deceased servicemember served in
2519 compliance with military orders.

2520 (e) "State income tax percentage for a part-year resident estate or trust" means, for a
2521 taxable year, a fraction:

2522 (i) the numerator of which is the sum of:

2523 (A) for the time period during the taxable year that the part-year resident estate or trust
2524 is a resident, the part-year resident estate's or trust's total adjusted gross income for that time
2525 period; and

2526 (B) for the time period during the taxable year that the part-year resident estate or trust
2527 is a nonresident, the part-year resident estate's or trust's adjusted gross income for that time
2528 period received from Utah sources, as determined in accordance with the principles of Section
2529 59-10-117; and

2530 (ii) the denominator of which is the difference between:

2531 (A) the part-year resident estate's or trust's total adjusted gross income for that taxable
2532 year; and

2533 (B) if the part-year resident estate or trust receives income during the taxable year that
2534 is derived from a deceased servicemember during the portion of the taxable year that the
2535 deceased servicemember was a nonresident, the compensation derived from the deceased
2536 servicemember;

- 2537 (I) for military service during the portion of the taxable year that the deceased
2538 servicemember was a nonresident; and
- 2539 (II) if the deceased servicemember served in compliance with military orders.
- 2540 (f) "State income tax percentage for a part-year resident person" means, for a taxable
2541 year, a fraction:
- 2542 (i) the numerator of which is the sum of:
- 2543 (A) for the time period during the taxable year that the part-year resident person is a
2544 resident, the part-year resident person's total adjusted gross income for that time period; and
- 2545 (B) for the time period during the taxable year that the part-year resident person is a
2546 nonresident, the part-year resident person's adjusted gross income for that time period received
2547 from Utah sources, as determined under Section 59-10-117; and
- 2548 (ii) the denominator of which is the difference between:
- 2549 (A) the part-year resident person's total adjusted gross income for that taxable year; and
- 2550 (B) if the part-year resident person is a servicemember, any compensation the
2551 servicemember receives for military service during the portion of the taxable year that the
2552 servicemember is a nonresident if the servicemember is serving in compliance with military
2553 orders.
- 2554 (2) A part-year resident person, part-year resident estate, or part-year resident trust that
2555 claims a tax credit in accordance with Section 59-10-1003 may only claim an apportioned
2556 amount of the tax credit as determined by the commission by rule made in accordance with
2557 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
- 2558 (3) A nonresident person, nonresident estate, nonresident trust, part-year resident estate
2559 or trust, or part-year resident person that claims a tax credit in accordance with Section
2560 59-10-1004, 59-10-1005, or 59-10-1006 may only claim an apportioned amount of the tax
2561 credit equal to:
- 2562 (a) for a nonresident person, the product of:
- 2563 (i) the state income tax percentage for the nonresident person; and
- 2564 (ii) the amount of the tax credit that the nonresident person would have been allowed
2565 to claim but for the apportionment requirements of this section;
- 2566 (b) for a nonresident estate or nonresident trust, the product of:
- 2567 (i) the state income tax percentage for the nonresident estate or trust; and

2568 (ii) the amount of the tax credit that the nonresident estate or nonresident trust would
2569 have been allowed to claim but for the apportionment requirements of this section;

2570 (c) for a part-year resident estate or trust, the product of:

2571 (i) the state income tax percentage for the part-year resident estate or trust; and

2572 (ii) the amount of the tax credit that the part-year resident estate or trust would have
2573 been allowed to claim but for the apportionment requirements of this section; or

2574 (d) for a part-year resident person, the product of:

2575 (i) the state income tax percentage for the part-year resident person; and

2576 (ii) the amount of the tax credit that the part-year resident person would have been
2577 allowed to claim but for the apportionment requirements of this section.

2578 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
2579 purposes of Subsection (1), the commission may by rule define what constitutes compensation.

2580 Section 47. Section **59-10-1101** is enacted to read:

2581 **Part 11. Refundable Tax Credit Act**

2582 **59-10-1101. Title.**

2583 This part is known as the "Refundable Tax Credit Act."

2584 Section 48. Section **59-10-1102** is enacted to read:

2585 **59-10-1102. Definitions.**

2586 As used in this part:

2587 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a),

2588 "claimant" means a resident or nonresident person.

2589 (b) "Claimant" does not include an estate or trust.

2590 (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident
2591 estate or a resident estate.

2592 (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
2593 trust may claim:

2594 (a) as provided by statute; and

2595 (b) regardless of whether the claimant, estate, or trust has a tax liability under this
2596 chapter for a taxable year.

2597 (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident
2598 trust or a resident trust.

2599 Section 49. Section **59-10-1103**, which is renumbered from Section 59-10-108.2 is
 2600 renumbered and amended to read:

2601 ~~[59-10-108.2].~~ **59-10-1103. Tax credit for nonresident shareholders of S**
 2602 **corporations.**

2603 (1) (a) A nonresident shareholder of an S corporation [~~who is an individual~~] may claim
 2604 a refundable tax credit against the tax otherwise due under this chapter[;] if that nonresident
 2605 shareholder is a:

2606 (i) nonresident claimant;

2607 (ii) nonresident estate; or

2608 (iii) nonresident trust.

2609 (b) The tax credit described in Subsection (1)(a) is equal to the amount paid or
 2610 withheld by the S corporation on behalf of the [~~individual~~] nonresident shareholder described
 2611 in Subsection (1)(a) in accordance with Section 59-7-703.

2612 (2) A nonresident shareholder [~~of an S corporation who is an individual and who~~]
 2613 described in Subsection (1)(a) that has no other Utah source income may elect:

2614 (a) not to claim the tax credit provided in Subsection (1); and

2615 (b) not to file a [~~Utah individual income~~] tax return under this chapter for the taxable
 2616 year.

2617 (3) If a nonresident shareholder described in Subsection (1)(a) may claim [~~credits other~~
 2618 ~~than the credit described in Subsection (1)~~] a nonrefundable tax credit under Part 10,
 2619 Nonrefundable Tax Credit Act, the nonresident shareholder described in Subsection (1)(a) shall
 2620 file [~~an individual income~~] a tax return under this chapter to claim [~~those credits~~] that
 2621 nonrefundable tax credit.

2622 Section 50. Section **59-13-202** is amended to read:

2623 **59-13-202. Definitions -- Refund of tax for agricultural uses on income and**
 2624 **corporate franchise tax returns -- Application for permit for refund -- Division of**
 2625 **Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

2626 (1) As used in this section, "refundable tax credit" or "tax credit" means a tax credit that
 2627 a person may claim:

2628 (a) as provided by statute; and

2629 (b) regardless of whether the person has a tax liability under Chapter 7, Corporate

2630 Franchise and Income Taxes, for the taxable year for which the person claims the tax credit.

2631 ~~[(+)]~~ (2) Any person ~~[who]~~ that purchases and uses any motor fuel within the state for
2632 the purpose of operating or propelling stationary farm engines and self-propelled farm
2633 machinery used for nonhighway agricultural uses, and ~~[who]~~ that has paid the tax on the motor
2634 fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and
2635 limitations provided under this part.

2636 ~~[(2)]~~ (3) (a) ~~[Every]~~ A person desiring a nonhighway agricultural use refund under this
2637 part shall claim the refund as a refundable tax credit on the ~~[state income]~~ tax return ~~[or~~
2638 ~~corporate franchise tax return]~~ the person files under Chapter 7, Corporate Franchise and
2639 Income Taxes.

2640 (b) A person not subject to filing a ~~[Utah income tax return or corporate franchise]~~ tax
2641 return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year
2642 basis.

2643 (c) Any person claiming a refundable ~~[motor fuel]~~ tax credit under this section is
2644 required to furnish any or all of the information outlined in this section upon request of the
2645 commission. ~~[Credit]~~

2646 (d) A refundable tax credit under this section is allowed only on purchases on which
2647 tax is paid during the taxable year covered by the tax return.

2648 ~~[(3)]~~ (4) In order to obtain a permit for a refund of motor fuel tax paid, an application
2649 shall be filed containing:

2650 (a) the name of ~~[applicant]~~ the person;

2651 (b) the ~~[applicant's]~~ person's address;

2652 (c) location and number of acres owned and operated, location and number of acres
2653 rented and operated, the latter of which shall be verified by a signed statement from the legal
2654 owner;

2655 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

2656 (e) make, size, type of fuel used, and power rating of each piece of equipment using

2657 fuel. If the ~~[applicant]~~ person is an operator of self-propelled or tractor-pulled farm machinery
2658 with which the ~~[applicant]~~ person works for hire doing custom jobs for other farmers, the
2659 application shall include information the commission requires and shall all be contained in, and
2660 be considered part of, the original application. The ~~[applicant]~~ person shall also file with the

2661 application a certificate from the county assessor showing each piece of equipment using fuel.
2662 This original application and all information contained in it constitutes a permanent file with
2663 the commission in the name of the [applicant] person.

2664 ~~[(4)]~~ (5) Any person claiming the right to a refund of motor fuel tax paid shall file a
2665 claim with the commission by April 15 of each year for the refund for the previous calendar
2666 year. The claim shall state the name and address of the [claimant] person, the number of
2667 gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the
2668 motor fuel. The [applicant] person shall retain the original invoice to support the claim. No
2669 more than one claim for a tax refund may be filed annually by each user of motor fuel
2670 purchased for nonhighway agricultural uses.

2671 ~~[(5)]~~ (6) Upon commission approval of the claim for a refund, the Division of Finance
2672 shall pay the amount found due to the [claimant] person. The total amount of claims for
2673 refunds shall be paid from motor fuel taxes.

2674 ~~[(6)]~~ (7) The commission may promulgate rules to enforce this part, and may refuse to
2675 accept as evidence of purchase or payment any instruments which show alteration or which fail
2676 to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is
2677 purchased for purposes other than transportation, and the date of purchase and delivery. If the
2678 commission is not satisfied with the evidence submitted in connection with the claim, it may
2679 reject the claim or require additional evidence.

2680 ~~[(7)]~~ (8) Any person aggrieved by the decision of the commission with respect to a
2681 refundable tax credit or refund may file a request for agency action, requesting a hearing before
2682 the commission.

2683 ~~[(8)]~~ (9) Any person ~~[who]~~ that makes any false claim, report, or statement, ~~[either]~~ as
2684 claimant, agent, or creditor, with intent to defraud or secure a refund to which the [claimant]
2685 person is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and
2686 the commission shall initiate the filing of a complaint for alleged violations of this part. In
2687 addition to these penalties, the person may not receive any refund as a claimant or as a creditor
2688 of a claimant for refund for a period of five years.

2689 ~~[(9)]~~ (10) Refunds to which ~~[taxpayers are]~~ a person is entitled under this part shall be
2690 paid from the Transportation Fund.

2691 Section 51. Section ~~62A-4a-607~~ is amended to read:

2692 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**
2693 **parents.**

2694 (1) (a) The division and all child placing agencies licensed under this part shall
2695 promote adoption when that is a possible and appropriate alternative for a child. Specifically,
2696 in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of
2697 all children in its custody who have a final plan for termination of parental rights pursuant to
2698 Section 78-3a-312 or a primary permanency goal of adoption.

2699 (b) Beginning May 1, 2000, the division may not place a child for adoption, either
2700 temporarily or permanently, with any individual or individuals who do not qualify for adoptive
2701 placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

2702 (2) The division shall obtain or conduct research of prior adoptive families to
2703 determine what families may do to be successful with their adoptive children and shall make
2704 this research available to potential adoptive parents.

2705 (3) (a) A child placing agency licensed under this part shall inform each potential
2706 adoptive parent with whom it is working that:

2707 (i) children in the custody of the state are available for adoption;

2708 (ii) Medicaid coverage for medical, dental, and mental health services may be available
2709 for these children;

2710 ~~[(iii) tax benefits, including the tax credit provided for in Section 59-10-133, and~~
2711 ~~financial assistance may be available to defray the costs of adopting these children;]~~

2712 ~~[(iv)]~~ (iii) training and ongoing support may be available to the adoptive parents of
2713 these children; and

2714 ~~[(v)]~~ (iv) information about individual children may be obtained by contacting the
2715 division's offices or its Internet site as explained by the child placing agency.

2716 (b) A child placing agency shall:

2717 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;

2718 and

2719 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in
2720 accordance with Subsection (3)(d).

2721 (c) As a condition of licensure, the child placing agency shall certify to the Office of
2722 Licensing at the time of license renewal that it has complied with the provisions of this section.

2723 (d) Before July 1, 2000, the division shall:

2724 (i) prepare a pamphlet that explains the information that is required by Subsection

2725 (3)(a); and

2726 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child
2727 placing agencies.

2728 (e) The division shall respond to any inquiry made as a result of the notice provided in
2729 Subsection (3)(a).

2730 Section 52. Section **63-38f-402** is amended to read:

2731 **63-38f-402. Definitions.**

2732 As used in this part:

2733 (1) "Business entity" means an entity under which business is conducted or transacted.

2734 [~~(1)~~] (2) "County applicant" means the governing authority of a county that meets the
2735 requirements for designation as an enterprise zone under Section 63-38f-404.

2736 [~~(2)~~] (3) "Municipal applicant" means the governing authority of a city or town that
2737 meets the requirements for designation as an enterprise zone under Section 63-38f-404.

2738 (4) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity
2739 may:

2740 (a) claim:

2741 (i) as provided by statute; and

2742 (ii) in an amount that does not exceed the business entity's tax liability for a taxable
2743 year; and

2744 (b) carry forward or carry back:

2745 (i) if allowed by statute; and

2746 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax
2747 liability under Title 59, Chapter 7, Corporate Franchise and Income Taxes, for the taxable year
2748 for which the business entity claims the tax credit.

2749 [~~(3)~~] (5) "Tax incentives" or "tax benefits" means the nonrefundable tax credits
2750 available under Section 63-38f-413.

2751 Section 53. Section **63-38f-412** is amended to read:

2752 **63-38f-412. Businesses qualifying for tax incentives.**

2753 The tax incentives described in this part are available only to a business [~~firm~~] entity for

2754 which at least 51% of the employees employed at facilities of the [firm] business entity located
2755 in the enterprise zone are individuals who, at the time of employment, reside in the county in
2756 which the enterprise zone is located.

2757 Section 54. Section **63-38f-413** is amended to read:

2758 **63-38f-413. State tax credits.**

2759 (1) Subject to the limitations of Subsections (2) through (4), the following [state]
2760 nonrefundable tax credits against [~~individual income taxes or corporate franchise and income~~
2761 ~~taxes~~] a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, are applicable in
2762 an enterprise zone:

2763 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
2764 position filled for not less than six months during a given tax year;

2765 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%
2766 of:

2767 (i) the county average monthly nonagricultural payroll wage for the respective industry
2768 as determined by the Department of Workforce Services; or

2769 (ii) if the county average monthly nonagricultural payroll wage is not available for the
2770 respective industry, the total average monthly nonagricultural payroll wage in the respective
2771 county where the enterprise zone is located;

2772 (c) an additional tax credit of \$750 may be claimed if the new position is in a business
2773 that adds value to agricultural commodities through manufacturing or processing;

2774 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
2775 new employee who is insured under an employer-sponsored health insurance program if the
2776 employer pays at least 50% of the premium cost for two consecutive years;

2777 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
2778 corporation, except that the credit claimed may not exceed \$100,000:

2779 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
2780 Revenue Code;

2781 (ii) whose primary purpose is community and economic development; and

2782 (iii) that has been accredited by the board of directors of the Utah Rural Development
2783 Council;

2784 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the

2785 enterprise zone that has been vacant for two years or more; and

2786 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
2787 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
2788 property.

2789 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax
2790 credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time
2791 employee positions or less in each of its taxable years.

2792 (b) A business entity that received a tax credit for its full-time employee positions
2793 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time
2794 employee position under Subsections (1)(a) through (d) if:

2795 (i) the business entity creates a new full-time employee position;

2796 (ii) the total number of full-time employee positions at the business entity is greater
2797 than the number of full-time employee positions previously claimed by the business entity
2798 under Subsections (1)(a) through (d); and

2799 (iii) the total number of tax credits the business entity has claimed for its current
2800 taxable year, including the new full-time employee position for which the business entity is
2801 claiming a tax credit, is less than or equal to 30.

2802 (c) A business entity existing in an enterprise zone on the date of its designation shall
2803 calculate the number of full-time positions based on the average number of employees reported
2804 to the Department of Workforce Services.

2805 (d) Construction jobs are not eligible for the tax [~~credit~~] credits under Subsections
2806 (1)(a) through (d).

2807 (3) If the amount of a tax credit under this section exceeds a business entity's tax
2808 liability under this chapter for a taxable year, the amount of the tax credit exceeding the
2809 liability may be carried forward for a period that does not exceed the next three taxable years.

2810 (4) (a) If a business entity is located in a county that met the requirements of
2811 Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January
2812 1, 1998, because the county was located in a metropolitan statistical area in more than one
2813 state, the business entity:

2814 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,
2815 but beginning before December 31, 1997;

2816 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning
2817 on or after January 1, 1997, but beginning before December 31, 1997; and

2818 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,
2819 1998, if the county is designated as an enterprise zone in accordance with this part.

2820 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business
2821 entity:

2822 (i) may claim the tax credit by filing for the taxable year beginning on or after January
2823 1, 1997, but beginning before December 31, 1997:

2824 [~~(A) an individual income tax return;~~]

2825 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

2826 (B) an amended [~~individual income tax~~] return under Title 59, Chapter 7, Corporate
2827 Franchise and Income Taxes;

2828 (C) a [~~corporate franchise and income tax~~] return under Title 59, Chapter 10,
2829 Individual Income Tax Act; or

2830 (D) an amended [~~corporate franchise and income tax~~] return under Title 59, Chapter
2831 10, Individual Income Tax Act; and

2832 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,
2833 1998, in accordance with Subsection (3).

2834 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a
2835 business entity engaged in retail trade or by a public utilities business.

2836 (6) A business entity may not claim or carry forward a tax credit available under this
2837 part for a taxable year during which the business entity has claimed the targeted business
2838 income tax credit available under Section 63-38f-503.

2839 Section 55. Section **63-38f-501** is amended to read:

2840 **63-38f-501. Definitions.**

2841 As used in this part:

2842 (1) "Allocated cap amount" means the total amount of the targeted business income tax
2843 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
2844 share of the total amount of \$300,000 for each fiscal year allowed under Subsection
2845 63-38f-503(2).

2846 (2) "Business applicant" means a business that meets the criteria established in Section

2847 63-38f-502.

2848 (3) "Community investment project" means a project that includes one or more of the
2849 following criteria in addition to the normal operations of the business applicant:

2850 (a) substantial new employment;

2851 (b) new capital development; or

2852 (c) a combination of both Subsections (3)(a) and (b).

2853 (4) "Community investment project period" means the total number of years that the
2854 office determines a business applicant is eligible for a targeted business income tax credit for
2855 each community investment project.

2856 (5) "Enterprise zone" means an area within a county or municipality that has been
2857 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

2858 (6) "Local zone administrator" means a person:

2859 (a) designated by the governing authority of the county or municipal applicant as the
2860 local zone administrator in an enterprise zone application; and

2861 (b) approved by the office as the local zone administrator.

2862 (7) "Refundable tax credit" means a tax credit that a business applicant may claim:

2863 (a) as provided in this part; and

2864 (b) regardless of whether the business applicant has a tax liability under Title 59,
2865 Chapter 7, Corporate Franchise and Income Taxes, for the taxable year for which the business
2866 applicant claims the tax credit.

2867 [~~7~~] (8) "Targeted business income tax credit " means [~~an income~~] a refundable tax
2868 credit available under Section 63-38f-503.

2869 [~~8~~] (9) "Targeted business income tax credit eligibility form" means a document
2870 provided annually to the business applicant by the office that complies with the requirements of
2871 Subsection 63-38f-503(8).

2872 Section 56. Section **63-38f-502** is amended to read:

2873 **63-38f-502. Application for targeted business income tax credits.**

2874 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
2875 may elect to claim a targeted business income tax credit available under Section 63-38f-503 if
2876 the business applicant:

2877 (i) is located in:

- 2878 (A) an enterprise zone; and
- 2879 (B) a county with:
 - 2880 (I) a population of less than 25,000; and
 - 2881 (II) an unemployment rate that for six months or more of each calendar year is at least
 - 2882 one percentage point higher than the state average;
 - 2883 (ii) meets the requirements of Section 63-38f-412;
 - 2884 (iii) provides:
 - 2885 (A) a community investment project within the enterprise zone; and
 - 2886 (B) a portion of the community investment project during each taxable year for which
 - 2887 the business applicant claims the targeted business tax incentive; and
 - 2888 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is
 - 2889 not engaged in the following, as defined by the State Tax Commission by rule:
 - 2890 (A) construction;
 - 2891 (B) retail trade; or
 - 2892 (C) public utility activities.
 - 2893 (b) For a taxable year for which a business applicant claims a targeted business income
 - 2894 tax credit available under this part, the business applicant may not claim or carry forward a tax
 - 2895 credit available under Section 63-38f-413[;] or 59-7-610[, ~~or 59-10-108.7~~].
 - 2896 (2) (a) A business applicant seeking to claim a targeted business income tax credit
 - 2897 under this part shall file an application as provided in Subsection (2)(b) with the local zone
 - 2898 administrator by no later than June 1 of the year in which the business applicant is seeking to
 - 2899 claim a targeted business income tax credit.
 - 2900 (b) The application described in Subsection (2)(a) shall include:
 - 2901 (i) any documentation required by the local zone administrator to demonstrate that the
 - 2902 business applicant meets the requirements of Subsection (1);
 - 2903 (ii) a plan developed by the business applicant that outlines:
 - 2904 (A) if the community investment project includes substantial new employment, the
 - 2905 projected number and anticipated wage level of the jobs that the business applicant plans to
 - 2906 create as the basis for qualifying for a targeted business income tax credit;
 - 2907 (B) if the community investment project includes new capital development, a
 - 2908 description of the capital development the business applicant plans to make as the basis for

2909 qualifying for a targeted business income tax credit; and
2910 (C) a description of how the business applicant's plan coordinates with:
2911 (I) the goals of the enterprise zone in which the business applicant is providing a
2912 community investment project; and
2913 (II) the overall economic development goals of the county or municipality in which the
2914 business applicant is providing a community investment project; and
2915 (iii) any additional information required by the local zone administrator.
2916 (3) (a) The local zone administrator shall:
2917 (i) evaluate an application filed under Subsection (2); and
2918 (ii) determine whether the business applicant is eligible for a targeted business income
2919 tax credit.
2920 (b) If the local zone administrator determines that the business applicant is eligible for
2921 a targeted business income tax credit, the local zone administrator shall:
2922 (i) certify that the business applicant is eligible for the targeted business income tax
2923 credit;
2924 (ii) structure the targeted business income tax credit for the business applicant in
2925 accordance with Section 63-38f-503; and
2926 (iii) monitor a business applicant to ensure compliance with this section.
2927 (4) A local zone administrator shall report to the office by no later than June 30 of each
2928 year:
2929 (a) (i) any application approved by the local zone administrator during the last fiscal
2930 year; and
2931 (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each
2932 new business applicant; and
2933 (b) (i) the status of any existing business applicants that the local zone administrator
2934 monitors; and
2935 (ii) any information required by the office to determine the status of an existing
2936 business applicant.
2937 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
2938 of the allocated cap amount that each business applicant that the local zone administrator
2939 monitors is eligible to claim.

2940 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
2941 each business applicant that the local zone administrator monitors of the allocated cap amount
2942 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
2943 for a taxable year.

2944 Section 57. Section **63-38f-503** is amended to read:

2945 **63-38f-503. Targeted business income tax credit structure -- Duties of the local**
2946 **zone administrator -- Duties of the State Tax Commission.**

2947 (1) For taxable years beginning on or after January 1, 2002, a business applicant that is
2948 certified under Subsection 63-38f-502(3) and issued a targeted business tax credit eligibility
2949 form by the office under Subsection (8) may claim a refundable [~~income~~] tax credit:

2950 (a) against the business applicant's tax liability under[:(i) Title 59, Chapter 10,
2951 ~~Individual Income Tax Act, or (ii)] Title 59, Chapter 7, Corporate Franchise and Income Taxes;~~
2952 and

2953 (b) subject to requirements and limitations provided by this part.

2954 (2) The total amount of the targeted business income tax credits allowed under this part
2955 for all business applicants may not exceed \$300,000 in any fiscal year.

2956 (3) (a) A targeted business income tax credit allowed under this part for each
2957 community investment project provided by a business applicant may not:

2958 (i) be claimed by a business applicant for more than seven consecutive taxable years
2959 from the date the business applicant first qualifies for a targeted business income tax credit on
2960 the basis of a community investment project;

2961 (ii) be carried forward or carried back;

2962 (iii) exceed \$100,000 in total amount for the community investment project period
2963 during which the business applicant is eligible to claim a targeted business income tax credit;

2964 or

2965 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
2966 of:

2967 (A) 50% of the maximum amount allowed by the local zone administrator; or

2968 (B) the allocated cap amount determined by the office under Subsection 63-38f-502(5).

2969 (b) A business applicant may apply to the local zone administrator to claim a targeted
2970 business income tax credit allowed under this part for each community investment project

2971 provided by the business applicant as the basis for its eligibility for a targeted business income
2972 tax credit.

2973 (4) Subject to other provisions of this section, the local zone administrator shall
2974 establish for each business applicant that qualifies for a targeted business income tax credit:

2975 (a) criteria for maintaining eligibility for the targeted business income tax credit that
2976 are reasonably related to the community investment project that is the basis for the business
2977 applicant's targeted business income tax credit;

2978 (b) the maximum amount of the targeted business income tax credit the business
2979 applicant is allowed for the community investment project period;

2980 (c) the time period over which the total amount of the targeted business income tax
2981 credit may be claimed;

2982 (d) the maximum amount of the targeted business income tax credit that the business
2983 applicant will be allowed to claim each year; and

2984 (e) requirements for a business applicant to report to the local zone administrator
2985 specifying:

2986 (i) the frequency of the business applicant's reports to the local zone administrator,
2987 which shall be made at least quarterly; and

2988 (ii) the information needed by the local zone administrator to monitor the business
2989 applicant's compliance with this Subsection (4) or Section 63-38f-502 that shall be included in
2990 the report.

2991 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
2992 business income tax credit under this part shall report to the local zone administrator.

2993 (6) The amount of a targeted business income tax credit that a business applicant is
2994 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
2995 or the local zone administrator determines that the business applicant has failed to comply with
2996 a requirement of Subsection (3) or Section 63-38f-502.

2997 (7) The office or local zone administrator may audit a business applicant to ensure:

2998 (a) eligibility for a targeted business income tax credit; or

2999 (b) compliance with Subsection (3) or Section 63-38f-502.

3000 (8) The office shall issue a targeted business income tax credit eligibility form in a
3001 form jointly developed by the State Tax Commission and the office no later than 30 days after

3002 the last day of the business applicant's taxable year showing:

3003 (a) the maximum amount of the targeted business income tax credit that the business
3004 applicant is eligible for that taxable year;

3005 (b) any reductions in the maximum amount of the targeted business income tax credit
3006 because of failure to comply with a requirement of Subsection (3) or Section 63-38f-502;

3007 (c) the allocated cap amount that the business applicant may claim for that taxable
3008 year; and

3009 (d) the actual amount of the targeted business income tax credit that the business
3010 applicant may claim for that taxable year.

3011 (9) (a) A business applicant shall retain the targeted business income tax credit
3012 eligibility form provided by the office under this Subsection (9).

3013 (b) The State Tax Commission may audit a business applicant to ensure:

3014 (i) eligibility for a targeted business income tax credit; or

3015 (ii) compliance with Subsection (3) or Section 63-38f-502.

3016 Section 58. Section **63-38f-1102** is amended to read:

3017 **63-38f-1102. Definitions.**

3018 As used in this part:

3019 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
3020 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
3021 organisms.

3022 (2) "Postconsumer waste material" means any product generated by a business or
3023 consumer that has served its intended end use, and that has been separated from solid waste for
3024 the purposes of collection, recycling, and disposition and that does not include secondary waste
3025 material.

3026 (3) (a) "Recovered materials" means waste materials and by-products that have been
3027 recovered or diverted from solid waste.

3028 (b) "Recovered materials" does not include those materials and by-products generated
3029 from, and commonly reused within, an original manufacturing process.

3030 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
3031 the beneficial use of the materials and includes a series of activities by which materials that
3032 would become or otherwise remain waste are diverted from the waste stream for collection,

3033 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
 3034 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
 3035 the materials as substitutes for goods made from virgin materials.

3036 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

3037 (5) "Recycling market development zone" or "zone" means an area designated by the
 3038 office as meeting the requirements of this part.

3039 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
 3040 facilities and waste generated after completion of a manufacturing process.

3041 (b) "Secondary waste material" does not include internally generated scrap commonly
 3042 returned to industrial or manufacturing processes, such as home scrap and mill broke.

3043 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable
 3044 tax credits available under [~~Sections~~] Section 59-7-608 [~~and 59-10-108.7~~].

3045 Section 59. Section **63-38f-1110** is amended to read:

3046 **63-38f-1110. Recycling market development zones credit.**

3047 For a taxpayer within a recycling market development zone, there are allowed the
 3048 nonrefundable tax credits [~~against tax~~] as provided by [~~Sections~~] Section 59-7-610 [~~and~~
 3049 ~~59-10-108.7~~].

3050 Section 60. Section **63-38f-1203** is amended to read:

3051 **63-38f-1203. Definitions.**

3052 As used in this part:

3053 (1) "Board" means the Utah Capital Investment Board.

3054 (2) "Certificate" means a contract between the board and a designated investor under
 3055 which a contingent tax credit is available and issued to the designated investor.

3056 (3) "Commitment" means a written commitment by a designated purchaser to purchase
 3057 from the board certificates presented to the board for redemption by a designated investor.
 3058 Each commitment shall state the dollar amount of contingent tax credits that the designated
 3059 purchaser has committed to purchase from the board.

3060 (4) "Contingent tax credit" means a contingent tax credit issued under this part that is
 3061 available against a tax [~~liabilities~~] liability imposed by Title 59, Chapter 7, Corporate Franchise
 3062 and Income Taxes, [~~and Chapter 10, Individual Income Tax Act,~~] if there are insufficient funds
 3063 in the redemption reserve and the board has not exercised other options for redemption under

3064 Subsection 63-38f-1220(3)(b).

3065 (5) "Corporation" means the Utah Capital Investment Corporation created under
3066 Section 63-38f-1207.

3067 (6) "Designated investor" means:

3068 (a) a person who purchases an equity interest in the Utah fund of funds; or

3069 (b) a transferee of a certificate or contingent tax credit.

3070 (7) "Designated purchaser" means:

3071 (a) a person who enters into a written undertaking with the board to purchase a

3072 commitment; or

3073 (b) a transferee who assumes the obligations to make the purchase described in the

3074 commitment.

3075 (8) "Person" means an individual, partnership, limited liability company, corporation,
3076 association, organization, business trust, estate, trust, or any other legal or commercial entity.

3077 (9) "Redemption reserve" means the reserve established by the corporation to facilitate
3078 the cash redemption of certificates.

3079 (10) "Utah fund of funds" means a limited partnership or limited liability company
3080 established under Section 63-38f-1213 in which a designated investor purchases an equity
3081 interest.

3082 Section 61. Section **63-55-209** is amended to read:

3083 **63-55-209. Repeal dates, Title 9.**

3084 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
3085 repealed July 1, 2014.

3086 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

3087 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is
3088 repealed July 1, 2010.

3089 (b) [~~Sections~~] Section 59-7-610 [~~and 59-10-108.7~~], regarding tax credits for certain
3090 persons in recycling market development zones, are repealed for taxable years beginning on or
3091 after January 1, 2011.

3092 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under
3093 Section 59-7-610 [~~or 59-10-108.7~~]:

3094 (i) for the purchase price of machinery or equipment described in Section 59-7-610 [~~or~~

3095 ~~59-10-108.7~~] if the machinery or equipment is purchased on or after July 1, 2010; or

3096 (ii) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],

3097 if the expenditure is made on or after July 1, 2010.

3098 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit

3099 in accordance with Section 59-7-610 [~~or 59-10-108.7~~] if:

3100 (i) the person is entitled to a tax credit under Section 59-7-610 [~~or 59-10-108.7~~]; and

3101 (ii) (A) for the purchase price of machinery or equipment described in Section

3102 59-7-610 [~~or 59-10-108.7~~], the machinery or equipment is purchased on or before June 30,

3103 2010; or

3104 (B) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],

3105 the expenditure is made on or before June 30, 2010.

3106 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July

3107 1, 2008.

3108 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed

3109 July 1, 2009.

3110 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

3111 Section 62. Section **63-55-259** is amended to read:

3112 **63-55-259. Repeal dates, Title 59.**

3113 (1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2006.

3114 (2) Section 59-9-102.5 is repealed December 31, 2010.

3115 [~~(3) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.~~]

3116 Section 63. Section **72-12-107** is amended to read:

3117 **72-12-107. Benefits of ride-sharing driver not taxable income.**

3118 Money and other benefits, other than salary, received by a driver in a ride-sharing

3119 arrangement does not constitute income for the purpose of computing adjusted gross income

3120 under Title 59, Chapter 10, Individual Income Tax.

3121 Section 64. **Repealer.**

3122 This bill repeals:

3123 Section **23-14-14.1, Wolf Depredation and Management Restricted Account --**

3124 **Interest -- Use of contributions and interest.**

3125 Section **31A-32a-101, Title and scope.**

- 3126 Section 31A-32a-102, Definitions.
- 3127 Section 31A-32a-103, Establishing medical care savings accounts.
- 3128 Section 31A-32a-104, Administration of medical care savings account.
- 3129 Section 31A-32a-105, Withdrawals -- Termination -- Transfers.
- 3130 Section 31A-32a-106, Regulation of account administrators -- Administration of
- 3131 **tax deductions.**
- 3132 Section 31A-32a-107, Penalties for noncompliance with tax requirements.
- 3133 Section 59-10-102, Declaration of intent.
- 3134 Section 59-10-104.1, Exemption from taxation.
- 3135 Section 59-10-105, Optional tax -- Calculation -- Commission authority to
- 3136 **prescribed tax tables -- Exemption.**
- 3137 Section 59-10-107, Credit for tax paid by estate or trust to another state.
- 3138 Section 59-10-108, Credit for cash contributions to sheltered workshops.
- 3139 Section 59-10-108.1, Tax credit for at-home parent.
- 3140 Section 59-10-108.5, Historic preservation credit.
- 3141 Section 59-10-108.7, Recycling market development zones tax credit.
- 3142 Section 59-10-109, Targeted jobs tax credit.
- 3143 Section 59-10-111, Federal taxable income defined.
- 3144 Section 59-10-112, State taxable income of resident individual.
- 3145 Section 59-10-127, Definitions -- Tax credit -- Cleaner burning fuels.
- 3146 Section 59-10-128, Tax credit -- Items using cleaner burning fuels.
- 3147 Section 59-10-130, Tutoring tax credits for disabled dependents.
- 3148 Section 59-10-131, Credits for research activities conducted in the state -- Carry
- 3149 **forward -- Commission to report modification or repeal of federal credits -- Tax Review**
- 3150 **Commission study.**
- 3151 Section 59-10-132, Credits for machinery, equipment, or both primarily used for
- 3152 **conducting qualified research or basic research -- Carry forward -- Commission to report**
- 3153 **modification or repeal of federal credits -- Tax Review Commission study.**
- 3154 Section 59-10-133, Tax credit for adoption of a child who has a special need.
- 3155 Section 59-10-134, Renewable energy systems tax credit -- Definitions -- Individual
- 3156 **tax credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition**

3157 to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of
3158 Uniform School Fund.

3159 Section 59-10-134.1, Refundable tax credit for hand tools used in farming
3160 operations -- Procedures for refund -- Transfers from General Fund to Uniform School
3161 Fund -- Rulemaking authority.

3162 Section 59-10-134.2, Definitions -- Nonrefundable tax credit for live organ
3163 donation expenses -- Rulemaking authority.

3164 Section 59-10-135, Removal of tax credit from tax return and prohibition on
3165 claiming or carrying forward a tax credit -- Conditions for removal and prohibition on
3166 claiming or carrying forward a tax credit -- Commission reporting requirements.

3167 Section 59-10-209, Adjustments to state taxable income of resident estates or trusts
3168 and beneficiaries.

3169 Section 59-10-530, Nongame wildlife contribution -- Credit to Wildlife Resources
3170 Account.

3171 Section 59-10-530.5, Homeless contribution -- Credit to Pamela Atkinson Homeless
3172 Trust Account.

3173 Section 59-10-546, Application of former law.

3174 Section 59-10-547, Election Campaign Fund designations -- Transfer from General
3175 Fund -- Form and procedure.

3176 Section 59-10-548, Election Campaign Fund -- Contents -- Disbursement and
3177 distribution -- Limitations on expenditures.

3178 Section 59-10-549, Contributions for education.

3179 Section 59-10-550, Checkoff for children's organ transplants -- Credit to Kurt
3180 Oscarson Children's Organ Transplant Trust Account.

3181 Section 59-10-550.1, Contribution to Wolf Depredation and Management
3182 Restricted Account.

3183 Section 59-10-551, Removal of designation and prohibitions on collection for
3184 certain contributions on income tax form -- Conditions for removal and prohibitions on
3185 collection -- Commission reporting requirements.

3186 Section 65. Effective date.

3187 (1) Except as provided in Subsection (2), this bill takes effect for taxable years

3188 beginning on or after January 1, 2007.

3189 (2) The amendments in this bill to the following have retrospective operation for
3190 taxable years beginning on or after January 1, 2004:

3191 (a) Subsection 59-10-103(1)(c); and

3192 (b) Subsection 59-10-114(1)(c).

3193 **Section 66. Revisor instructions.**

3194 It is the intent of the Legislature that, in preparing the Utah Code database for
3195 publication, the Office of Legislative Research and General Counsel shall replace the
3196 references in Section 59-10-136 from "this bill" to the bill's designated chapter number in the
3197 Laws of Utah.

3198 **Section 67. Coordinating S.B. 242 with H.B. 71 -- Merging technical amendments.**

3199 If this S.B. 242 and H.B. 71, Economic Development - Sunset Modifications, both pass,
3200 it is the intent of the Legislature that the Office of Legislative Research and General Counsel,
3201 in preparing the Utah Code database for publication, merge the amendments made by both bills
3202 so that, for taxable years beginning on or after January 1, 2007, Subsection 63-55-263(5) reads
3203 as follows:

3204 "(5) (a) Title 63, Chapter 38f, Part 11, Recycling Market Development Zone Act, is
3205 repealed July 1, 2010.

3206 (b) Section 59-7-610 regarding tax credits for certain persons in recycling market
3207 development zones, is repealed for taxable years beginning on or after January 1, 2011.

3208 (c) Notwithstanding Subsection (5)(b), a person may not claim a tax credit under
3209 Section 59-7-610:

3210 (i) for the purchase price of machinery or equipment described in Section 59-7-610, if
3211 the machinery or equipment is purchased on or after July 1, 2010; or

3212 (ii) for an expenditure described in Subsection 59-7-610(1)(b), if the expenditure is
3213 made on or after July 1, 2010.

3214 (d) Notwithstanding Subsections (5)(b) and (c), a person may carry forward a tax credit
3215 in accordance with Section 59-7-610 if:

3216 (i) the person is entitled to a tax credit under Section 59-7-610; and

3217 (ii) (A) for the purchase price of machinery or equipment described in Section
3218 59-7-610, the machinery or equipment is purchased on or before June 30, 2010; or

3219 (B) for an expenditure described in Subsection 59-7-610(1)(b), the expenditure is made
3220 on or before June 30, 2010."

3221 Section 68. **Coordinating S.B. 242 with S.B. 37 -- Superseding technical and**
3222 **substantive amendments.**

3223 If this S.B. 242 and S.B. 37, Income Tax - Taxation of Individuals, Estates, and Trusts,
3224 both pass, it is the intent of the Legislature that, for any section enacted or amended by S.B. 37,
3225 that is also enacted or amended by this S.B. 242 but is not identical, the Utah Code database
3226 prepared by the Office of Legislative Research and General Counsel shall provide that:

3227 (1) the enactment or amendment to the section in S.B. 37 takes effect on May 1, 2006
3228 and has retrospective operation for the taxable year beginning on or after January 1, 2006, but
3229 beginning on or before December 31, 2006;

3230 (2) the enactment or amendment to the section in this S.B. 242 takes effect for taxable
3231 years beginning on or after January 1, 2007, and supersedes the enactment or amendment in
3232 S.B. 37, except that the renumbering of sections in S.B. 37 shall be preserved unless the section
3233 is repealed in this S.B. 242; and

3234 (3) notwithstanding Subsections (1) and (2):

3235 (a) effective May 1, 2006 with retrospective operation for the taxable year beginning
3236 on or after January 1, 2006, but beginning on or before December 31, 2006, Sections
3237 59-10-108.7 and 59-10-129 shall be renumbered and amended as provided in S.B. 37; and

3238 (b) for taxable years beginning on or after January 1, 2007:

3239 (i) Section 59-10-1007 shall read as provided in Section 59-10-1007 in this S.B. 242;
3240 and

3241 (ii) Section 59-10-1010 as provided in S.B. 37 shall be repealed.

State Impact

Passage of this bill could result in a loss to the Uniform School Fund of \$27,976,000 in FY 2007 a loss of \$65,614,000 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>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Uniform School Fund	\$0	\$0	(\$27,976,000)	(\$65,614,000)
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>(\$28,276,000)</u></u>	<u><u>(\$65,914,000)</u></u>

Individual and Business Impact

There is a potential shift in tax burden among taxpayers.
