

**TAX AMENDMENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Dougall**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Individual Income Tax Act, the Sales and Use Tax Act, and other provisions relating to income taxation and sales and use 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;
- ▶ provides a sales and use tax exemption for sales of food and food ingredients;
- ▶ increases certain local option sales and use tax rates;
- ▶ addresses the distribution of revenues generated by the tax imposed in accordance with the Local Sales and Use Tax Act to counties, cities, and towns;
- ▶ repeals and modifies additions to income of an individual, an estate, or a trust, and repeals related provisions;
- ▶ repeals subtractions from income of an individual, an estate, or a trust, and repeals related provisions;
- ▶ provides subtractions from income of an individual, an estate, or a trust;
- ▶ repeals tax credits and related provisions;
- ▶ modifies tax credits;
- ▶ repeals and reenacts tax credits for:



- a tax paid to another state; and
- a nonresident shareholder of an S corporation;
- ▶ provides income tax credits for:
  - certain charitable contributions;
  - homeowners; and
  - claimants on the basis of filing status;
- ▶ requires certain tax credits claimed by a nonresident person, nonresident estate, or nonresident trust to be apportioned;
- ▶ repeals individual income tax contributions and related provisions;
- ▶ modifies the calculation of income taxes on estates and trusts;
- ▶ addresses filing status for purposes of individual income taxes;
- ▶ modifies provisions relating to the administration of income taxes;
- ▶ modifies the calculation of income taxes on nonresident individuals;
- ▶ repeals a sales tax refund for qualified emergency food agencies;
- ▶ modifies the duties of the State Community Services Office relating to qualified emergency food agencies;
- ▶ repeals and modifies definitions;
- ▶ repeals obsolete language;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides effective dates.

This bill provides revisor instructions.

**Utah Code Sections Affected:****AMENDS:**

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

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

**9-4-1404**, as last amended by Chapter 162, Laws of Utah 2001

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

59 294, Laws of Utah 2005  
60 **19-1-404**, as renumbered and amended by Chapter 294, Laws of Utah 2005  
61 **19-2-104**, as last amended by Chapter 131, Laws of Utah 2003  
62 **22-3-505**, as enacted by Chapter 285, Laws of Utah 2004  
63 **26-18a-3**, as last amended by Chapter 1, Laws of Utah 1997  
64 **26-18a-4**, as last amended by Chapter 1, Laws of Utah 1997  
65 **53B-8a-106**, as last amended by Chapter 109, Laws of Utah 2005  
66 **53B-8a-112**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session  
67 **59-2-102**, as last amended by Chapters 162, 243, 281 and 303, Laws of Utah 2004  
68 **59-6-101**, as last amended by Chapter 3, Laws of Utah 1988  
69 **59-6-102**, as last amended by Chapter 28, Laws of Utah 2002  
70 **59-7-607**, as last amended by Chapter 113, Laws of Utah 2005  
71 **59-7-703**, as last amended by Chapter 110, Laws of Utah 2003  
72 **59-10-103**, as last amended by Chapter 241, Laws of Utah 2005  
73 **59-10-104**, as last amended by Chapters 323 and 324, Laws of Utah 2001  
74 **59-10-114**, as last amended by Chapters 109 and 241, Laws of Utah 2005  
75 **59-10-115**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
76 **59-10-116**, as last amended by Chapter 79, Laws of Utah 2004  
77 **59-10-117**, as last amended by Chapters 311 and 345, Laws of Utah 1995  
78 **59-10-119**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
79 **59-10-120**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
80 **59-10-121**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
81 **59-10-122**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
82 **59-10-123**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
83 **59-10-201**, as last amended by Chapter 109, Laws of Utah 2005  
84 **59-10-201.1**, as enacted by Chapter 345, Laws of Utah 1995  
85 **59-10-202**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session  
86 **59-10-204**, as last amended by Chapter 345, Laws of Utah 1995  
87 **59-10-205**, as last amended by Chapter 345, Laws of Utah 1995  
88 **59-10-207**, as last amended by Chapter 345, Laws of Utah 1995  
89 **59-10-210**, as last amended by Chapter 345, Laws of Utah 1995

90           **59-10-529**, as last amended by Chapter 35, Laws of Utah 2002  
91           **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah  
92   2005  
93           **59-12-204 (Effective 07/01/06)**, as last amended by Chapters 312 and 337, Laws of  
94   Utah 2003  
95           **59-12-205 (Effective 07/01/06)**, as last amended by Chapter 158, Laws of Utah 2005  
96           **59-12-1102 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah  
97   2004  
98           **59-13-202**, as last amended by Chapter 86, Laws of Utah 2000  
99           **62A-4a-607**, as last amended by Chapter 327, Laws of Utah 2001  
100          **63-38f-402**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
101          **63-38f-412**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
102          **63-38f-413**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
103          **63-38f-501**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
104          **63-38f-502**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
105          **63-38f-503**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
106          **63-38f-1102**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
107          **63-38f-1110**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
108          **63-38f-1203**, as renumbered and amended by Chapter 148, Laws of Utah 2005  
109          **63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004  
110          **63-55-259**, as last amended by Chapters 232 and 289, Laws of Utah 2005  
111          **72-12-107**, as renumbered and amended by Chapter 270, Laws of Utah 1998  
112   ENACTS:  
113          **59-10-118.1**, Utah Code Annotated 1953  
114          **59-10-136**, Utah Code Annotated 1953  
115          **59-10-209.1**, Utah Code Annotated 1953  
116          **59-10-1001**, Utah Code Annotated 1953  
117          **59-10-1002**, Utah Code Annotated 1953  
118          **59-10-1004**, Utah Code Annotated 1953  
119          **59-10-1005**, Utah Code Annotated 1953  
120          **59-10-1006**, Utah Code Annotated 1953

121           **59-10-1007**, Utah Code Annotated 1953

122           **59-10-1101**, Utah Code Annotated 1953

123           **59-10-1102**, Utah Code Annotated 1953

124 RENUMBERS AND AMENDS:

125           **59-10-1003**, (Renumbered from 59-10-106, as renumbered and amended by Chapter 2,  
126 Laws of Utah 1987)

127           **59-10-1103**, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of  
128 Utah 2003)

129 REPEALS:

130           **23-14-14.1**, as enacted by Chapter 162, Laws of Utah 2003

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

132           **31A-32a-102**, as last amended by Chapter 116, Laws of Utah 2001

133           **31A-32a-103**, as enacted by Chapter 131, Laws of Utah 1999

134           **31A-32a-104**, as enacted by Chapter 131, Laws of Utah 1999

135           **31A-32a-105**, as enacted by Chapter 131, Laws of Utah 1999

136           **31A-32a-106**, as last amended by Chapter 53, Laws of Utah 2001

137           **31A-32a-107**, as enacted by Chapter 131, Laws of Utah 1999

138           **59-10-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987

139           **59-10-104.1**, as enacted by Chapter 323, Laws of Utah 2001

140           **59-10-105**, as last amended by Chapter 323, Laws of Utah 2001

141           **59-10-107**, as renumbered and amended by Chapter 2, Laws of Utah 1987

142           **59-10-108**, as last amended by Chapter 73, Laws of Utah 2001

143           **59-10-108.1**, as enacted by Chapter 272, Laws of Utah 1999

144           **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995

145           **59-10-108.7**, as last amended by Chapter 148, Laws of Utah 2005

146           **59-10-109**, as last amended by Chapter 198, Laws of Utah 2003

147           **59-10-111**, as last amended by Chapter 96, Laws of Utah 1987

148           **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995

149           **59-10-127**, as last amended by Chapters 108 and 294, Laws of Utah 2005

150           **59-10-128**, as last amended by Chapter 198, Laws of Utah 2003

151           **59-10-129**, as last amended by Chapter 113, Laws of Utah 2005

152       **59-10-130**, as last amended by Chapter 145, Laws of Utah 2002  
153       **59-10-131**, as last amended by Chapter 59, Laws of Utah 1999  
154       **59-10-132**, as last amended by Chapter 59, Laws of Utah 1999  
155       **59-10-133**, as last amended by Chapter 263, Laws of Utah 2005  
156       **59-10-134**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005  
157       **59-10-134.1**, as enacted by Chapter 312, Laws of Utah 2003  
158       **59-10-134.2**, as enacted by Chapter 290, Laws of Utah 2005  
159       **59-10-135**, as enacted by Chapter 62, Laws of Utah 2002  
160       **59-10-209**, as last amended by Chapter 345, Laws of Utah 1995  
161       **59-10-530**, as last amended by Chapter 12, Laws of Utah 1997  
162       **59-10-530.5**, as last amended by Chapter 132, Laws of Utah 2003  
163       **59-10-546**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
164       **59-10-547**, as last amended by Chapter 269, Laws of Utah 1998  
165       **59-10-548**, as last amended by Chapters 107 and 256, Laws of Utah 2002  
166       **59-10-549**, as last amended by Chapter 208, Laws of Utah 2005  
167       **59-10-550**, as last amended by Chapters 1 and 12, Laws of Utah 1997  
168       **59-10-550.1**, as enacted by Chapter 162, Laws of Utah 2003  
169       **59-10-551**, as last amended by Chapter 208, Laws of Utah 2005  
170       **59-12-901**, as last amended by Chapter 312, Laws of Utah 2003  
171       **59-12-902**, as last amended by Chapter 18, Laws of Utah 2004

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

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

175       **9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Pamela**  
176       **Atkinson Homeless Trust Account.**

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

180       (b) Programs funded by the committee shall emphasize emergency housing and  
181       self-sufficiency, including placement in meaningful employment or occupational training  
182       activities and, where needed, special services to meet the unique needs of the homeless who

have families with children, or who are mentally ill, disabled, or suffer from other serious challenges to employment and self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

(6) The moneys in the Pamela Atkinson Homeless Trust Account shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State

Money Management Act, except that all interest or other earnings derived from the fund moneys shall be deposited in the fund.

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

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

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

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

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

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

Section 3. Section **9-4-1404** is amended to read:

**9-4-1404. Duties of office.**

The office shall:

(1) coordinate state activities designed to reduce poverty;

(2) encourage entities in the private sector to participate in efforts to ameliorate poverty in the community;

(3) cooperate with agencies of local, state, and federal government in reducing poverty and implementing community, social, and economic programs;

(4) receive and expend funds for the purposes outlined in this part;

(5) enter into contracts with and award grants to public and private nonprofit agencies and organizations;

(6) develop a state plan based on needs identified by community action agencies and community action statewide organizations;

(7) designate community action agencies to receive funds through the Community Services Block Grant program;

(8) fund community action agencies and community action statewide organizations;

(9) make rules in conjunction with the division pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to carry out the purposes of this part;

(10) provide assistance to local governments or private organizations for the purpose of



245 establishing and operating a community action agency;

246 (11) provide technical assistance to community action agencies to improve program  
247 planning, program development, administration, and the mobilization of public and private  
248 resources;

249 (12) convene public meetings which provide citizens the opportunity to comment on  
250 public policies and programs to reduce poverty;

251 (13) advise the governor and Legislature of the nature and extent of poverty in the state  
252 and make recommendations concerning changes in state and federal policies and programs;

253 (14) encourage Utah's nonprofit humanitarian assistance agencies serving low-income  
254 persons by facilitating, coordinating, training, partnerships, and providing technical assistance  
255 in addressing Utah's low-income persons by enhancing management, improving service and  
256 program delivery, and preserving flexibility and local initiative;

257 (15) develop and implement management goals which fulfill the Community Services  
258 Block Grant mission, state requirements, and the mandates of federal legislation;

259 (16) prepare a Community Services Block Grant plan which contains provisions  
260 describing how the state will carry out the assurances of the Community Services Block Grant  
261 Act;

262 (17) act as the state agency responsible for the evaluation and improvement of  
263 emergency food assistance services in the state;

264 (18) monitor the impact of social policies on the emergency food network;

265 (19) provide training and technical assistance to all grantees to assist them in program  
266 development and implementation, compliance with state and federal regulations, and reporting  
267 and management information systems; and

268 ~~[(20) certify, monitor, and decertify qualified emergency food agencies for purposes of~~  
269 ~~the sales tax refund under Section 59-12-902, and]~~

270 ~~[(21)]~~ (20) administer other programs to alleviate poverty assigned to the office.

271 Section 4. Section **19-1-403** is amended to read:

272 **19-1-403. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with**  
273 **fund monies.**

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

275 (b) The fund consists of:

(i) appropriations to the fund;

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

(iii) interest earnings on cash balances; and

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

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

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

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

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

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

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

(i) the actual cost of the vehicle conversion;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Section **19-1-404** is amended to read:

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

(1) The department shall:

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

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

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

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

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

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

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

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

(v) specifying repayment periods;

(vi) specifying procedures for:

(A) awarding loans and grants; and

(B) collecting loans; and

(vii) requiring all loan and grant applicants to:

(A) apply on forms provided by the department;

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

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

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

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

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

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

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

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

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

Section 6. Section **19-2-104** is amended to read:

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

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

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

- 369 (b) establishing air quality standards;
- 370 (c) requiring persons engaged in operations which result in air pollution to:
- 371 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;
- 372 (ii) file periodic reports containing information relating to the rate, period of emission,
- 373 and composition of the air contaminant; and
- 374 (iii) provide access to records relating to emissions which cause or contribute to air
- 375 pollution;
- 376 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter
- 377 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management
- 378 plans submitted by local education agencies under that act;
- 379 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
- 380 program for diesel-powered motor vehicles;
- 381 (f) implementing an operating permit program as required by and in conformity with
- 382 Titles IV and V of the federal Clean Air Act Amendments of 1990;
- 383 (g) establishing requirements for county emissions inspection and maintenance
- 384 programs after obtaining agreement from the counties that would be affected by the
- 385 requirements;
- 386 (h) with the approval of the governor, implementing in air quality nonattainment areas
- 387 employer-based trip reduction programs applicable to businesses having more than 100
- 388 employees at a single location and applicable to federal, state, and local governments to the
- 389 extent necessary to attain and maintain ambient air quality standards consistent with the state
- 390 implementation plan and federal requirements under the standards set forth in Subsection (2);
- 391 and
- 392 (i) implementing lead-based paint remediation training, certification, and performance
- 393 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
- 394 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.
- 395 (2) When implementing Subsection (1)(h) the board shall take into consideration:
- 396 (a) the impact of the business on overall air quality; and
- 397 (b) the need of the business to use automobiles in order to carry out its business
- 398 purposes.
- 399 (3) The board may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

abatement contractors and supervisors, or asbestos abatement workers;

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

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

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

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

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

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

Section 7. Section **22-3-505** is amended to read:

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

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

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

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

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

(b) from principal to the extent that:

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

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



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

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

Section 8. Section **26-18a-3** is amended to read:

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

(1) The committee shall work to:

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

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

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

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

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

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

(i) need;

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

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

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

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

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

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

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

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

Section 9. Section **26-18a-4** is amended to read:

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

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

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

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

Section 10. Section **53B-8a-106** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(4) Each account agreement shall provide that:

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

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

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

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

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

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

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

(d) graduate from the institution of higher education.

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

beneficiary is eligible for participation.

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

(8) Each account agreement shall provide that:

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

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

Section 11. Section **53B-8a-112** is amended to read:

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

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

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

Section 12. Section **59-2-102** is amended to read:

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

As used in this chapter and title:

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

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

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

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

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

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

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

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

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

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

(c) vehicles which are:

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

(ii) used or licensed as taxicabs or limousines;

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

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

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

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

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

(i) a county; and

(ii) a school district.

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

by the overlapping boundaries of:

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

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

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

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

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

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

(i) \$5,000; or

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

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

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

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

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

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

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

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

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

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

(15) "Geothermal resource" means:

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

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

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

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

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

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

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

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

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

(ii) removal of the item would:

- 710 (A) cause substantial damage to the item; or
- 711 (B) require substantial alteration or repair of a structure to which the item is attached.
- 712 (b) "Improvement" includes:
- 713 (i) an accessory to an item described in Subsection (17)(a) if the accessory is:
- 714 (A) essential to the operation of the item described in Subsection (17)(a); and
- 715 (B) installed solely to serve the operation of the item described in Subsection (17)(a);
- 716 and
- 717 (ii) an item described in Subsection (17)(a) that:
- 718 (A) is temporarily detached from the land for repairs; and
- 719 (B) remains located on the land.
- 720 (c) Notwithstanding Subsections (17)(a) and (b), "improvement" does not include:
- 721 (i) an item considered to be personal property pursuant to rules made in accordance
- 722 with Section 59-2-107;
- 723 (ii) a moveable item that is attached to land:
- 724 (A) for stability only; or
- 725 (B) for an obvious temporary purpose;
- 726 (iii) (A) manufacturing equipment and machinery; or
- 727 (B) essential accessories to manufacturing equipment and machinery; ~~[or]~~
- 728 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 729 damage to:
- 730 (A) the land; or
- 731 (B) the item; or
- 732 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
- 733 transportable factory-built housing unit is considered to be personal property under Section
- 734 59-2-1503.
- 735 (18) "Intangible property" means:
- 736 (a) property that is capable of private ownership separate from tangible property,
- 737 including:
- 738 (i) moneys;
- 739 (ii) credits;
- 740 (iii) bonds;



- 741 (iv) stocks;  
742 (v) representative property;  
743 (vi) franchises;  
744 (vii) licenses;  
745 (viii) trade names;  
746 (ix) copyrights; and  
747 (x) patents; or  
748 (b) a low-income housing tax credit.  
749 (19) "Low-income housing tax credit" means:  
750 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;  
751 or  
752 (b) a low-income housing tax credit under~~[-(i)]~~ Section 59-7-607~~[-or]~~.  
753 ~~[(ii) Section 59-10-129.]~~  
754 (20) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.  
755 (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous  
756 valuable mineral.  
757 (22) "Mining" means the process of producing, extracting, leaching, evaporating, or  
758 otherwise removing a mineral from a mine.  
759 (23) (a) "Mobile flight equipment" means tangible personal property that is:  
760 (i) owned or operated by an:  
761 (A) air charter service;  
762 (B) air contract service; or  
763 (C) airline; and  
764 (ii) (A) capable of flight;  
765 (B) attached to an aircraft that is capable of flight; or  
766 (C) contained in an aircraft that is capable of flight if the tangible personal property is  
767 intended to be used:  
768 (I) during multiple flights;  
769 (II) during a takeoff, flight, or landing; and  
770 (III) as a service provided by an air charter service, air contract service, or airline.  
771 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare

engine that is rotated:

(A) at regular intervals; and

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

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

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

(25) "Personal property" includes:

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

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

(c) bridges and ferries;

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

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

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

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

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

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

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

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

all rights and privileges appertaining to these; and

(c) improvements.

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

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

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

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

(i) at a boundary of the state; and

(ii) where an aircraft:

(A) takes off; or

(B) lands.

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

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

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

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

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

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

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

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

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

Section 13. Section **59-6-101** is amended to read:

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

As used in this chapter:

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

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

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

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

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

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

(a) as provided by statute; and

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

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

Section 14. Section **59-6-102** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15. Section **59-7-607** is amended to read:

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

(1) As used in this section:

(a) "Allocation certificate" means:

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

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

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

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

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

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

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

(i) prescribed by the commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

927 (A) 12.5 cents; and

928 (B) the population of Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Corporation.

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

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

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

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

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

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

(i) to the commission;

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) reducing the amount apportioned to Utah by the percentage of ownership attributable to resident shareholders; and

(iv) applying the rate to the remaining balance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1051 Utah sources; and  
1052 (ii) the amount of the withholding from the nonresident shareholder's share of the  
1053 corporate earnings from Utah sources.

1054 (b) An S corporation shall pay the commission the amount withheld under this section:  
1055 (i) by the due date of the corporation's return, not including extensions; and  
1056 (ii) on forms furnished by the commission.

1057 Section 17. Section **59-10-103** is amended to read:  
1058 **59-10-103. Definitions.**

1059 (1) As used in this chapter:  
1060 ~~[(a) "Adoption expenses" means:]~~  
1061 ~~[(i) any actual medical and hospital expenses of the mother of the adopted child which~~  
1062 ~~are incident to the child's birth;]~~  
1063 ~~[(ii) any welfare agency fees or costs;]~~  
1064 ~~[(iii) any child placement service fees or costs;]~~  
1065 ~~[(iv) any legal fees or costs; or]~~  
1066 ~~[(v) any other fees or costs relating to an adoption.]~~  
1067 ~~[(b) "Adult with a disability" means an individual who:]~~  
1068 ~~[(i) is 18 years of age or older;]~~  
1069 ~~[(ii) is eligible for services under Title 62A, Chapter 5, Services to People with~~  
1070 ~~Disabilities; and]~~  
1071 ~~[(iii) is not enrolled in:]~~  
1072 ~~[(A) an education program for students with disabilities that is authorized under~~  
1073 ~~Section 53A-15-301; or]~~  
1074 ~~[(B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.]~~  
1075 ~~[(c) (i) For purposes of Subsection 59-10-114(2)(m), "capital gain transaction" means a~~  
1076 ~~transaction that results in a:]~~  
1077 ~~[(A) short-term capital gain; or]~~  
1078 ~~[(B) long-term capital gain.]~~  
1079 ~~[(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
1080 ~~the commission may by rule define the term "transaction."]~~  
1081 ~~[(d) "Commercial domicile" means the principal place from which the trade or business~~

1082 of a Utah small business corporation is directed or managed.]  
1083       (a) "Adjusted gross income" is as defined in Section 62, Internal Revenue Code.  
1084       ~~(e)~~ (b) "Corporation" includes:  
1085       (i) associations;  
1086       (ii) joint stock companies; and  
1087       (iii) insurance companies.  
1088       ~~(f) "Dependent child with a disability" means an individual 21 years of age or younger~~  
1089 ~~who:]~~  
1090       ~~[(i) (A) is diagnosed by a school district representative under rules adopted by the State~~  
1091 ~~Board of Education as having a disability classified as:]~~  
1092       ~~[(I) autism;]~~  
1093       ~~[(H) deafness;]~~  
1094       ~~[(III) preschool developmental delay;]~~  
1095       ~~[(IV) dual sensory impairment;]~~  
1096       ~~[(V) hearing impairment;]~~  
1097       ~~[(VI) intellectual disability;]~~  
1098       ~~[(VII) multidisability;]~~  
1099       ~~[(VIII) orthopedic impairment;]~~  
1100       ~~[(IX) other health impairment;]~~  
1101       ~~[(X) traumatic brain injury; or]~~  
1102       ~~[(XI) visual impairment;]~~  
1103       ~~[(B) is not receiving residential services from:]~~  
1104       ~~[(I) the Division of Services for People with Disabilities created under Section~~  
1105 ~~62A-5-102; or]~~  
1106       ~~[(H) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;~~  
1107 ~~and]~~  
1108       ~~[(C) is enrolled in:]~~  
1109       ~~[(I) an education program for students with disabilities that is authorized under Section~~  
1110 ~~53A-15-301; or]~~  
1111       ~~[(H) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;~~  
1112 ~~or]~~

1113 ~~[(ii) is identified under guidelines of the Department of Health as qualified for:]~~  
1114 ~~[(A) Early Intervention; or]~~  
1115 ~~[(B) Infant Development Services.]~~  
1116 ~~[(g)]~~ (c) "Employee" is as defined in Section 59-10-401.  
1117 ~~[(h)]~~ (d) "Employer" is as defined in Section 59-10-401.  
1118 (e) "Federal taxable income" means taxable income as defined by Section 63, Internal  
1119 Revenue Code.  
1120 ~~[(i)]~~ (f) "Fiduciary" means:  
1121 (i) a guardian;  
1122 (ii) a trustee;  
1123 (iii) an executor;  
1124 (iv) an administrator;  
1125 (v) a receiver;  
1126 (vi) a conservator; or  
1127 (vii) any person acting in any fiduciary capacity for any individual.  
1128 ~~[(j)]~~ (g) "Homesteaded land diminished from the Uintah and Ouray Reservation"  
1129 means the homesteaded land that was held to have been diminished from the Uintah and Ouray  
1130 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).  
1131 ~~[(k)]~~ (h) "Individual" means a natural person and includes aliens and minors.  
1132 ~~[(l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate~~  
1133 ~~all or part of the trust without the consent of a person who has a substantial beneficial interest~~  
1134 ~~in the trust and the interest would be adversely affected by the exercise of the settlor's power to~~  
1135 ~~revoke or terminate all or part of the trust.]~~  
1136 ~~[(m) For purposes of Subsection 59-10-114(2)(m), "long-term capital gain" is as~~  
1137 ~~defined in Section 1222, Internal Revenue Code.]~~  
1138 ~~[(n)]~~ (i) "Nonresident individual" means an individual who is not a resident of this  
1139 state.  
1140 ~~[(o)]~~ (j) "Nonresident trust" or "nonresident estate" means a trust or estate which is not  
1141 a resident estate or trust.  
1142 ~~[(p)]~~ (k) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other  
1143 unincorporated organization:

1144 (A) through or by means of which any business, financial operation, or venture is  
1145 carried on; and

1146 (B) which is not, within the meaning of this chapter:

1147 (I) a trust;

1148 (II) an estate; or

1149 (III) a corporation.

1150 (ii) "Partnership" does not include any organization not included under the definition of  
1151 "partnership" in Section 761, Internal Revenue Code.

1152 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
1153 organization described in Subsection (1)(~~(p)~~)(k)(i).

1154 [~~(q) "Qualifying military service member" means a member of:~~]

1155 [~~(i) The Utah Army National Guard;~~]

1156 [~~(ii) The Utah Air National Guard; or~~]

1157 [~~(iii) the following if the member is assigned to a unit that is located in the state:]~~]

1158 [~~(A) The Army Reserve;~~]

1159 [~~(B) The Naval Reserve;~~]

1160 [~~(C) The Air Force Reserve;~~]

1161 [~~(D) The Marine Corps Reserve; or~~]

1162 [~~(E) The Coast Guard Reserve.~~]

1163 [~~(r) "Qualifying stock" means stock that is:~~]

1164 [~~(i) (A) common; or~~]

1165 [~~(B) preferred;~~]

1166 [~~(ii) as defined by the commission by rule, originally issued to:~~]

1167 [~~(A) a resident or nonresident individual; or~~]

1168 [~~(B) a partnership if the resident or nonresident individual making a subtraction from~~  
1169 ~~federal taxable income in accordance with Subsection 59-10-114(2)(m):]~~]

1170 [~~(F) was a partner when the stock was issued; and~~]

1171 [~~(H) remains a partner until the last day of the taxable year for which the resident or~~  
1172 ~~nonresident individual makes the subtraction from federal taxable income in accordance with~~  
1173 ~~Subsection 59-10-114(2)(m); and]~~]

1174 [~~(iii) issued:~~]

1175 ~~[(A) by a Utah small business corporation;]~~

1176 ~~[(B) on or after January 1, 2003; and]~~

1177 ~~[(C) for:]~~

1178 ~~[(D) money; or]~~

1179 ~~[(H) other property, except for stock or securities.]~~

1180 ~~[(s)]~~ (l) (i) "Resident individual" means:

1181 (A) an individual who is domiciled in this state for any period of time during the  
1182 taxable year, but only for the duration of the period during which the individual is domiciled in  
1183 this state; or

1184 (B) an individual who is not domiciled in this state but:

1185 (I) maintains a permanent place of abode in this state; and

1186 (II) spends in the aggregate 183 or more days of the taxable year in this state.

1187 (ii) For purposes of Subsection (1)~~[(s)]~~(l)(i)(B), a fraction of a calendar day shall be  
1188 counted as a whole day.

1189 ~~[(t)]~~ (m) "Resident estate" or "resident trust" is as defined in Section 75-7-103.

1190 ~~[(u) For purposes of Subsection 59-10-114(2)(m), "short-term capital gain" is as~~  
1191 ~~defined in Section 1222, Internal Revenue Code.]~~

1192 ~~[(v) "Taxable income" and "state taxable income" are defined as provided in Sections~~  
1193 ~~59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.]~~

1194 (n) "Taxable income" or "state taxable income":

1195 (i) subject to Subsection 59-10-302(2), for a resident individual, means the resident  
1196 individual's adjusted gross income after making the additions and subtractions required by  
1197 Sections 59-10-114 and 59-10-115;

1198 (ii) for a nonresident individual, is as defined in Section 59-10-116;

1199 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

1200 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

1201 ~~[(w)]~~ (o) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or  
1202 trust, whose income is subject in whole or part to the tax imposed by this chapter.

1203 ~~[(x)]~~ (p) "Uintah and Ouray Reservation" means the lands recognized as being included  
1204 within the Uintah and Ouray Reservation in:

1205 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

<del>If the state taxable income is:</del>	<del>The tax is:</del>
<del>[Less than or equal to \$1,726]</del>	<del>2.3% of the state taxable income]</del>
<del>[Greater than \$1,726 but less than or equal to \$3,450]</del>	<del>\$40, plus 3.3% of state taxable income greater than \$1,726]</del>
<del>[Greater than \$3,450 but less than or equal to \$5,176]</del>	<del>\$97, plus 4.2% of state taxable income greater than \$3,450]</del>
<del>[Greater than \$5,176 but less than or equal to \$6,900]</del>	<del>\$169, plus 5.2% of state taxable income greater than \$5,176]</del>
<del>[Greater than \$6,900 but less than or equal to \$8,626]</del>	<del>\$259, plus 6% of state taxable income greater than \$6,900]</del>
<del>[Greater than \$8,626]</del>	<del>\$362, plus 7% of state taxable income greater than \$8,626]</del>

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

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

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

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

(b) 4.9%.

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

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

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

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

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

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

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

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

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

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

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

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

1299 ~~[(i) the taxpayer did not deduct or include the amounts on the taxpayer's federal~~  
1300 ~~individual income tax return pursuant to Section 220, Internal Revenue Code; and]~~

1301 ~~[(ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);]~~

1302 ~~[(f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher~~  
1303 ~~Education Savings Incentive Program, in the year in which the amount is disbursed;]~~

1304 ~~[(g) except as provided in Subsection (6), for taxable years beginning on or after~~  
1305 ~~January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after~~  
1306 ~~January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by~~  
1307 ~~one or more of the following entities:]~~

1308 ~~[(i) a state other than this state;]~~

1309 ~~[(ii) the District of Columbia;]~~

1310 ~~[(iii) a political subdivision of a state other than this state; or]~~

1311 ~~[(iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i)~~  
1312 ~~through (iii);]~~

1313 ~~[(h) any distribution received by a resident beneficiary of a resident trust of income that~~  
1314 ~~was taxed at the trust level for federal tax purposes, but was subtracted from state taxable~~  
1315 ~~income of the trust pursuant to Subsection 59-10-202(2)(c); and]~~

1316 ~~[(i) any distribution received by a resident beneficiary of a nonresident trust of income~~  
1317 ~~that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by~~  
1318 ~~any state;]~~

1319 (2) There shall be subtracted from ~~[federal taxable]~~ adjusted gross income of a resident  
1320 or nonresident individual:

1321 (a) the interest or dividends on obligations or securities of the United States and its  
1322 possessions or of any authority, commission, or instrumentality of the United States, to the  
1323 extent includable in gross income for federal income tax purposes but exempt from state  
1324 income taxes under the laws of the United States, but the amount subtracted under this  
1325 Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to  
1326 purchase or carry the obligations or securities described in this Subsection (2)(a), and by any  
1327 expenses incurred in the production of interest or dividend income described in this Subsection  
1328 (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in  
1329 determining federal taxable income;

1330           ~~[(b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income~~  
1331 ~~tax paid or payable to the United States after all allowable credits, as reported on the United~~  
1332 ~~States individual income tax return of the taxpayer for the same taxable year; and]~~

1333           ~~[(ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after~~  
1334 ~~January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or~~  
1335 ~~nonresident individual's United States individual income tax return allowed as a result of the~~  
1336 ~~acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,~~  
1337 ~~Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be~~  
1338 ~~used in calculating the amount described in Subsection (2)(b)(i);]~~

1339           ~~[(c) the amount of adoption expenses for one of the following taxable years as elected~~  
1340 ~~by the resident or nonresident individual:]~~

1341           ~~[(i) regardless of whether a court issues an order granting the adoption, the taxable year~~  
1342 ~~in which the adoption expenses are:]~~

1343           ~~[(A) paid; or]~~

1344           ~~[(B) incurred;]~~

1345           ~~[(ii) the taxable year in which a court issues an order granting the adoption; or]~~

1346           ~~[(iii) any year in which the resident or nonresident individual may claim the federal~~  
1347 ~~adoption expenses credit under Section 23, Internal Revenue Code;]~~

1348           ~~[(d) amounts received by taxpayers under age 65 as retirement income which, for~~  
1349 ~~purposes of this section, means pensions and annuities, paid from an annuity contract~~  
1350 ~~purchased by an employer under a plan which meets the requirements of Section 404(a)(2),~~  
1351 ~~Internal Revenue Code, or purchased by an employee under a plan which meets the~~  
1352 ~~requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or~~  
1353 ~~political subdivision thereof, or the District of Columbia, to the employee involved or the~~  
1354 ~~surviving spouse;]~~

1355           ~~[(e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500~~  
1356 ~~personal retirement exemption;]~~

1357           ~~[(f) 75% of the amount of the personal exemption, as defined and calculated in the~~  
1358 ~~Internal Revenue Code, for each dependent child with a disability and adult with a disability~~  
1359 ~~who is claimed as a dependent on a taxpayer's return;]~~

1360           ~~[(g) any amount included in federal taxable income that was received pursuant to any~~

1361 federal law enacted in 1988 to provide reparation payments, as damages for human suffering,  
1362 to United States citizens and resident aliens of Japanese ancestry who were interned during  
1363 World War II;]

1364       ~~[(h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the~~  
1365 ~~taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:]~~

1366       ~~[(i) for:]~~

1367       ~~[(A) the taxpayer;]~~

1368       ~~[(B) the taxpayer's spouse; and]~~

1369       ~~[(C) the taxpayer's dependents; and]~~

1370       ~~[(ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or~~  
1371 ~~213, Internal Revenue Code, in determining federal taxable income for the taxable year;]~~

1372       ~~[(i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a~~  
1373 ~~contribution made during the taxable year on behalf of the taxpayer to a medical care savings~~  
1374 ~~account and interest earned on a contribution to a medical care savings account established~~  
1375 ~~pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the~~  
1376 ~~contribution is accepted by the account administrator as provided in the Medical Care Savings~~  
1377 ~~Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal~~  
1378 ~~individual income tax return pursuant to Section 220, Internal Revenue Code; and]~~

1379       ~~[(ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the~~  
1380 ~~following:]~~

1381       ~~[(A) the maximum contribution allowed under the Medical Care Savings Account Act~~  
1382 ~~for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is~~  
1383 ~~covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that~~  
1384 ~~covers the other spouse, and each spouse has a medical care savings account; or]~~

1385       ~~[(B) the maximum contribution allowed under the Medical Care Savings Account Act~~  
1386 ~~for the tax year for taxpayers:]~~

1387       ~~[(I) who do not file a joint return; or]~~

1388       ~~[(II) who file a joint return, but do not qualify under Subsection (2)(i)(ii)(A);]~~

1389       ~~[(j) the amount included in federal taxable income that was derived from money paid~~  
1390 ~~by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education~~  
1391 ~~Savings Incentive Program, not to exceed amounts determined under Subsection~~

1392 ~~53B-8a-106(1)(d), and investment income earned on account agreements entered into under~~  
1393 ~~Section 53B-8a-106 that is included in federal taxable income, but only when the funds are~~  
1394 ~~used for qualified higher education costs of the beneficiary;]~~

1395 ~~[(k) for taxable years beginning on or after January 1, 2000, any amounts paid for~~  
1396 ~~premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the~~  
1397 ~~amounts paid for long-term care insurance were not deducted under Section 213, Internal~~  
1398 ~~Revenue Code, in determining federal taxable income;]~~

1399 ~~[(4)]~~ (b) for taxable years beginning on or after January 1, 2000, if the conditions of  
1400 Subsection ~~[(4)]~~ (3)(a) are met, the amount of income derived by a Ute tribal member:

1401 (i) during a time period that the Ute tribal member resides on homesteaded land  
1402 diminished from the Uintah and Ouray Reservation; and

1403 (ii) from a source within the Uintah and Ouray Reservation;

1404 (c) an amount received by a resident or nonresident individual or distribution received  
1405 by a resident beneficiary of a resident trust:

1406 (i) if that amount or distribution constitutes a refund of taxes imposed by:

1407 (A) a state; or

1408 (B) the District of Columbia; and

1409 (ii) to the extent that amount or distribution is included in adjusted gross income for  
1410 that taxable year on the federal individual income tax return of the resident or nonresident  
1411 individual or resident beneficiary of a resident trust;

1412 (d) the amount of a railroad retirement benefit:

1413 (i) paid:

1414 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec 231 et  
1415 seq.;

1416 (B) to a resident or nonresident individual; and

1417 (C) for the taxable year; and

1418 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
1419 that resident or nonresident individual's federal individual income tax return for that taxable  
1420 year; and

1421 (e) an amount:

1422 (i) received by an enrolled member of an American Indian tribe; and

1423           (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
1424 part on that amount in accordance with:

1425           (A) federal law;

1426           (B) a treaty; or

1427           (C) a final decision issued by a court of competent jurisdiction.

1428           ~~[(m)(i) for taxable years beginning on or after January 1, 2003, the total amount of a~~  
1429 ~~resident or nonresident individual's short-term capital gain or long-term capital gain on a~~  
1430 ~~capital gain transaction:]~~

1431           ~~[(A) that occurs on or after January 1, 2003;]~~

1432           ~~[(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:]~~

1433           ~~[(D) to purchase qualifying stock in a Utah small business corporation; and]~~

1434           ~~[(H) within a 12-month period after the day on which the capital gain transaction~~  
1435 ~~occurs; and]~~

1436           ~~[(C) if, prior to the purchase of the qualifying stock described in Subsection~~  
1437 ~~(2)(m)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the~~  
1438 ~~Utah small business corporation that issued the qualifying stock; and]~~

1439           ~~[(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
1440 ~~the commission may make rules:]~~

1441           ~~[(A) defining the term "gross proceeds"; and]~~

1442           ~~[(B) for purposes of Subsection (2)(m)(i)(C), prescribing the circumstances under~~  
1443 ~~which a resident or nonresident individual has an ownership interest in a Utah small business~~  
1444 ~~corporation; and]~~

1445           ~~[(n) for the taxable year beginning on or after January 1, 2005, but beginning on or~~  
1446 ~~before December 31, 2005, the first \$2,200 of income a qualifying military service member~~  
1447 ~~receives:]~~

1448           ~~[(i) for service:]~~

1449           ~~[(A) as a qualifying military service member; or]~~

1450           ~~[(B) under an order into active service in accordance with Section 39-1-5; and]~~

1451           ~~[(ii) to the extent that income is included in adjusted gross income on that resident or~~  
1452 ~~nonresident individual's federal individual income tax return for that taxable year:]~~

1453           ~~[(3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted~~

1454 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or  
1455 \$4,800, except that:]

1456       [(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1457 earned over \$32,000, the amount of the retirement income exemption that may be subtracted  
1458 shall be reduced by 50 cents;]

1459       [(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1460 earned over \$16,000, the amount of the retirement income exemption that may be subtracted  
1461 shall be reduced by 50 cents; and]

1462       [(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1463 \$25,000, the amount of the retirement income exemption that may be subtracted shall be  
1464 reduced by 50 cents.];

1465       [(b) For purposes of Subsection (2)(e), the amount of the personal retirement  
1466 exemption shall be further reduced according to the following schedule:]

1467       [(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1468 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50  
1469 cents;]

1470       [(ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1471 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50  
1472 cents; and]

1473       [(iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1474 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.];

1475       [(c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be  
1476 calculated by adding to federal adjusted gross income any interest income not otherwise  
1477 included in federal adjusted gross income.];

1478       [(d) For purposes of determining ownership of items of retirement income common  
1479 law doctrine will be applied in all cases even though some items may have originated from  
1480 service or investments in a community property state. Amounts received by the spouse of a  
1481 living retiree because of the retiree's having been employed in a community property state are  
1482 not deductible as retirement income of such spouse.];

1483       [(e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care  
1484 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed.];



1485 ~~[(i) for an amount that is reimbursed or funded in whole or in part by the federal~~  
1486 ~~government, the state, or an agency or instrumentality of the federal government or the state;~~  
1487 ~~and]~~

1488 ~~[(ii) for a taxpayer who is eligible to participate in a health plan maintained and funded~~  
1489 ~~in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.]~~

1490 ~~[(4)]~~ (3) (a) A subtraction for an amount described in Subsection (2)~~[(4)]~~(b) is allowed  
1491 only if:

1492 (i) the taxpayer is a Ute tribal member; and

1493 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1494 requirements of this Subsection ~~[(4)]~~ (3).

1495 (b) The agreement described in Subsection ~~[(4)]~~ (3)(a):

1496 (i) may not:

1497 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1498 (B) provide a subtraction under this section greater than or different from the  
1499 subtraction described in Subsection (2)~~[(4)]~~(b); or

1500 (C) affect the power of the state to establish rates of taxation; and

1501 (ii) shall:

1502 (A) provide for the implementation of the subtraction described in Subsection  
1503 (2)~~[(4)]~~(b);

1504 (B) be in writing;

1505 (C) be signed by:

1506 (I) the governor; and

1507 (II) the chair of the Business Committee of the Ute tribe;

1508 (D) be conditioned on obtaining any approval required by federal law; and

1509 (E) state the effective date of the agreement.

1510 (c) (i) The governor shall report to the commission by no later than February 1 of each  
1511 year regarding whether or not an agreement meeting the requirements of this Subsection ~~[(4)]~~  
1512 (3) is in effect.

1513 (ii) If an agreement meeting the requirements of this Subsection ~~[(4)]~~ (3) is terminated,  
1514 the subtraction permitted under Subsection (2)~~[(4)]~~(b) is not allowed for taxable years  
1515 beginning on or after the January 1 following the termination of the agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) For purposes of this section:

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

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

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

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

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

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

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

(i) difference between:

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

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

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

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

(a) unapportioned state tax; and

(b) state income tax percentage.

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

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

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

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

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

(a) the ownership in this state of any interest in real or tangible personal property, ~~[(including real property or property rights from which "gross income from mining," as~~

defined by Section 613(c) ~~[of the]~~, Internal Revenue Code, is derived~~[?]~~; or

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

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

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

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

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

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

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

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

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

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

(i) any dividend, interest, or distributive share of income, gain, or loss from a real

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1795 taxable year on the resident or nonresident estate's or trust's federal tax return for estates and  
1796 trusts for that taxable year;

1797 (c) any federal estate tax deduction or generation-skipping tax deduction that a resident  
1798 or nonresident estate or trust takes for the taxable year on the resident or nonresident estate's or  
1799 trust's federal tax return for estates and trusts for that taxable year; and

1800 (d) any fiduciary adjustments required by Section 59-10-210.

1801 ~~[(b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the~~  
1802 ~~Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue~~  
1803 ~~Code in determining federal adjusted gross income; and]~~

1804 ~~[(c) the amount of any gain as defined in Section 644(b) of the Internal Revenue Code,~~  
1805 ~~to the extent deductible under Section 641(c) of the Internal Revenue Code in determining the~~  
1806 ~~federal taxable income of a trust;]~~

1807 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
1808 estate or trust:

1809 (a) the interest or ~~[dividends]~~ a dividend on obligations or securities of the United  
1810 States and its possessions or of any authority, commission, or instrumentality of the United  
1811 States, to the extent ~~[includable]~~ that interest or dividend is included in gross income for  
1812 federal income tax purposes for the taxable year but exempt from state income taxes under the  
1813 laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be  
1814 reduced by any interest on indebtedness incurred or continued to purchase or carry the  
1815 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in  
1816 the production of interest or dividend income described in this Subsection (2)(a) to the extent  
1817 that such expenses, including amortizable bond premiums, are deductible in determining  
1818 federal taxable income;

1819 ~~[(b) 1/2 of the net amount of any income tax paid or payable to the United States after~~  
1820 ~~all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the~~  
1821 ~~same taxable year; and]~~

1822 ~~[(c) income of an irrevocable resident trust if:]~~

1823 ~~[(i) the income would not be treated as state taxable income derived from Utah sources~~  
1824 ~~under Section 59-10-204 if received by a nonresident trust;]~~

1825 ~~[(ii) the trust first became a resident trust on or after January 1, 2004;]~~

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

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

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

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

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

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

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

(c) any amount:

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

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

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;

(d) the amount of a railroad retirement benefit:

(i) paid:

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

(B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in total income on that

1857 resident or nonresident estate's or trust's federal tax return for estates and trusts;  
1858 (e) an amount:  
1859 (i) received by a resident or nonresident estate or trust if that amount is derived from a  
1860 deceased enrolled member of an American Indian tribe; and  
1861 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
1862 part on that amount in accordance with:  
1863 (A) federal law;  
1864 (B) a treaty; or  
1865 (C) a final decision issued by a court of competent jurisdiction; and  
1866 (f) any fiduciary adjustments required by Section 59-10-210.  
1867 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:  
1868 (i) the income is derived from a deceased Ute tribal member; and  
1869 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1870 requirements of this Subsection (3).  
1871 (b) The agreement described in Subsection (3)(a):  
1872 (i) may not:  
1873 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;  
1874 (B) provide a subtraction under this section greater than or different from the  
1875 subtraction described in Subsection (2)(b); or  
1876 (C) affect the power of the state to establish rates of taxation; and  
1877 (ii) shall:  
1878 (A) provide for the implementation of the subtraction described in Subsection (2)(b);  
1879 (B) be in writing;  
1880 (C) be signed by:  
1881 (I) the governor; and  
1882 (II) the chair of the Business Committee of the Ute tribe;  
1883 (D) be conditioned on obtaining any approval required by federal law; and  
1884 (E) state the effective date of the agreement.  
1885 (c) (i) The governor shall report to the commission by no later than February 1 of each  
1886 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is  
1887 in effect.

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

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

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

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

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

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

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

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

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

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

Section 35. Section **59-10-207** is amended to read:

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

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

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

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

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

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

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

Section 36. Section **59-10-209.1** is enacted to read:

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

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

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

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

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

1950 Section 37. Section **59-10-210** is amended to read:

1951 **59-10-210. Fiduciary adjustments.**

1952 ~~[(1) The fiduciary adjustments are the amounts of the modifications described in~~  
1953 ~~Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of~~  
1954 ~~which the first estate or trust is a beneficiary.]~~

1955 (1) As provided in this section, a share of the fiduciary adjustments described in  
1956 Subsection (2) shall be added to or subtracted from:

1957 (a) federal taxable income of a resident or nonresident estate or trust; or

1958 (b) adjusted gross income of a resident or nonresident beneficiary of a resident or  
1959 nonresident estate or trust.

1960 (2) For purposes of Subsection (1), the fiduciary adjustments are the following  
1961 amounts:

1962 (a) the additions to and subtractions from federal taxable income of a resident or  
1963 nonresident estate or trust required by Section 59-10-202; and

1964 (b) any tax credit allowed by:

1965 (i) Part 10, Nonrefundable Tax Credit Act; or

1966 (ii) Part 11, Refundable Tax Credit Act.

1967 ~~[(2)]~~ (3) (a) The respective shares of an estate or trust and its beneficiaries ~~[(including~~  
1968 ~~solely] for the purpose of this allocation[;] a nonresident [beneficiaries])~~ beneficiary, in the  
1969 state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal  
1970 distributable net income of the estate or trust.

1971 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net  
1972 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be  
1973 allocated in proportion to [his] that beneficiary's share of the estate or trust income for [such]  
1974 the taxable year[-which] that is, under state law or the governing instrument, required to be  
1975 distributed currently plus any other amounts of [such] that income distributed in [such] that  
1976 taxable year. [Any]

1977 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of  
1978 the fiduciary adjustments shall be allocated to the estate or trust.

1979 ~~[(3) The commission may by rule and upon such terms and conditions as it may~~  
1980 ~~prescribe, authorize the use of such other appropriate and equitable method or methods for~~



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

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

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

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

(ii) if the inequity is substantial:

(A) in amount; and

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

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

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

(ii) if the inequity is substantial:

(A) in amount; and

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

Section 38. Section **59-10-529** is amended to read:

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

2012 (1) In cases where there has been an overpayment of any tax imposed by this chapter,  
2013 the amount of overpayment is credited as follows:

2014 (a) against any income tax then due from the taxpayer;

2015 (b) against:

2016 (i) the amount of any judgment against the taxpayer, including one ordering the  
2017 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims  
2018 Restitution Act, obtained through due process of law by any entity of state government; or

2019 (ii) any child support obligation which is due or past due, as determined by the Office  
2020 of Recovery Services in the Department of Human Services and after notice and an opportunity  
2021 for an adjudicative proceeding, as provided in Subsection (2); or

2022 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to  
2023 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of  
2024 competent jurisdiction has not approved an alternative form of payment. This bail may be  
2025 applied to any fine or forfeiture which is due and related to a warrant which is outstanding on  
2026 or after February 16, 1984, and in accordance with Subsections (3) and (4).

2027 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services  
2028 has sent written notice to the taxpayer's last-known address or the address on file under Section  
2029 62A-11-304.4, stating:

2030 (i) the amount of child support that is due or past due as of the date of the notice or  
2031 other specified date;

2032 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child  
2033 support specified in the notice; and

2034 (iii) that the taxpayer may contest the amount of past-due child support specified in the  
2035 notice by filing a written request for an adjudicative proceeding with the office within 15 days  
2036 of the notice being sent.

2037 (b) The Office of Recovery Services shall establish rules to implement this Subsection  
2038 (2), including procedures, in accordance with the other provisions of this section, to ensure  
2039 prompt reimbursement to the taxpayer of any amount of an overpayment of taxes which was  
2040 credited against a child support obligation in error, and to ensure prompt distribution of  
2041 properly credited funds to the obligee parent.

2042 (3) Subsection (1)(c) may be exercised only if:

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

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

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

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

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

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

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

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

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

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

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

2074 refund or credit:

2075 (i) within three years from the due date of the return, plus the period of any extension  
2076 of time for filing the return provided for in Subsection (7)(c); or

2077 (ii) within two years from the date the tax was paid, whichever period is later.

2078 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit  
2079 of tax which has not been deducted and withheld from income is due, a credit or refund may  
2080 not be allowed or made after three years from the time the tax was paid, unless, before the  
2081 expiration of the period, a claim is filed by the taxpayer or his legal representative.

2082 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to  
2083 file a claim under Subsection (7)(a)(i) if:

2084 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and

2085 (ii) the commission and the taxpayer sign a written agreement:

2086 (A) authorizing the extension; and

2087 (B) providing for the length of the extension.

2088 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission  
2089 shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

2090 (i) the three-year period under Subsection (7)(b) has not expired; and

2091 (ii) the commission and the taxpayer sign a written agreement:

2092 (A) authorizing the extension; and

2093 (B) providing for the length of the extension.

2094 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines  
2095 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described  
2096 in this section which are outstanding on or after February 16, 1984.

2097 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the  
2098 tax to which the credit relates, the excess is considered an overpayment.

2099 (10) A claim for credit or refund of an overpayment which is attributable to the  
2100 application to the taxpayer of a net operating loss carryback shall be filed within three years  
2101 from the time the return was due for the taxable year of the loss.

2102 (11) If there has been an overpayment of the tax which is required to be deducted and  
2103 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent  
2104 that the amount of overpayment was not deducted and withheld by the employer.

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

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

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

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

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

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

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

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

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

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

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

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

Section 39. Section **59-10-1001** is enacted to read:

**Part 10. Nonrefundable Tax Credit Act**

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

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

Section 40. Section **59-10-1002** is enacted to read:

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

As used in this part:

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

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

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

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

(a) claim:

(i) as provided by statute; and

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

(b) carry forward or carry back:

(i) if allowed by statute; and

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

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

Section 41. Section **59-10-1003**, which is renumbered from Section 59-10-106 is

2167 renumbered and amended to read:

2168 ~~[59-10-106].~~ **59-10-1003. Credit for tax paid to another state.**

2169 (1) ~~[A resident individual shall be allowed a]~~ Except as provided in Subsection (2), a  
2170 claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due  
2171 under this chapter equal to the amount of the tax imposed;

2172 (a) on ~~[him]~~ that claimant, estate, or trust for the taxable year;

2173 (b) by another state of the United States, the District of Columbia, or a possession of  
2174 the United States~~;~~; and

2175 (c) on income;

2176 (i) derived from sources ~~[therein which]~~ within that other state of the United States,  
2177 District of Columbia, or possession of the United States; and

2178 (ii) if that income is also subject to tax under this chapter.

2179 (2) A tax credit under this section may only be claimed by a:

2180 (a) resident claimant;

2181 (b) resident estate; or

2182 (c) resident trust.

2183 ~~[(2)]~~ (3) The application of the tax credit provided under this section ~~[shall]~~ may not  
2184 operate to reduce the tax payable under this chapter to an amount less than would have been  
2185 payable were the income from the other state disregarded.

2186 ~~[(3)]~~ (4) The tax credit provided by this section shall be computed and claimed in  
2187 accordance with rules prescribed by the commission.

2188 Section 42. Section **59-10-1004** is enacted to read:

2189 **59-10-1004. Charitable contribution tax credit.**

2190 (1) Except as provided in Section 59-10-1007, for taxable years beginning on or after  
2191 January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit:

2192 (a) in an amount equal to the product of:

2193 (i) the amount the claimant, estate, or trust subtracts as allowed by Section 170,  
2194 Internal Revenue Code, for that taxable year:

2195 (A) for a claimant, on the claimant's federal individual income tax return; or

2196 (B) for an estate or trust, on the estate's or trust's federal tax return for estates and  
2197 trusts;

2198 (ii) 50%; and  
2199 (iii) the tax rate percentage imposed by Section 59-10-104;  
2200 (b) as provided in this section; and  
2201 (c) against taxes otherwise due under this chapter.  
2202 (2) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
2203 this section.  
2204 Section 43. Section **59-10-1005** is enacted to read:  
2205 **59-10-1005. Homeowner tax credit -- Rulemaking authority.**  
2206 (1) For taxable years beginning on or after January 1, 2007, a claimant may claim a  
2207 nonrefundable tax credit:  
2208 (a) in an amount equal to the greater of:  
2209 (i) subject to Subsection (4), \$250 if the requirements of Subsection (3) are met; or  
2210 (ii) the product of:  
2211 (A) the amount the claimant subtracts as allowed by Section 163(h)(3), Internal  
2212 Revenue Code, for that taxable year on the claimant's federal individual income tax return;  
2213 (B) 50%; and  
2214 (C) the tax rate percentage imposed by Section 59-10-104;  
2215 (b) as provided in this section; and  
2216 (c) against taxes otherwise due under this chapter.  
2217 (2) A claimant may not carry forward or carry back a tax credit under this section.  
2218 (3) (a) Subject to the other provisions of this Subsection (3), a claimant may claim the  
2219 tax credit described in Subsection (1)(a)(i) if the claimant is an owner of a residence that is:  
2220 (i) located within this state; and  
2221 (ii) the primary residence of the claimant.  
2222 (b) If there are two or more owners of a residence described in Subsection (3)(a):  
2223 (i) only one tax credit may be claimed under this section for a taxable year; and  
2224 (ii) only one of the owners of the residence may claim the tax credit:  
2225 (A) as determined by the owners of the residence; and  
2226 (B) on that owner's return under this chapter for the taxable year.  
2227 (c) A claimant may claim a tax credit under this section for only one primary residence  
2228 in this state.



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

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

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

Section 44. Section **59-10-1006** is enacted to read:

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

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

(a) an amount equal to:

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

(I) is a:

(Aa) single individual; or

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

(II) files a single return; or

(B) \$600 for a claimant who:

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

(Bb) files a single return jointly;

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

(Bb) files a single return; or

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

and

(Bb) files a single return; and

(ii) the product of:

(A) \$100; and

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

2260 taxable year in accordance with Section 151, Internal Revenue Code;  
2261 (b) as provided in this section; and  
2262 (c) against taxes otherwise due under this chapter.  
2263 (2) A claimant may not carry forward or carry back a tax credit under this section.  
2264 (3) (a) The tax credit allowed by Subsection (1)(a) shall be reduced by \$.02 for each  
2265 dollar by which a claimant's adjusted gross income exceeds the product of:  
2266 (i) the amount of the tax credit the claimant is allowed under Subsection (1)(a); and  
2267 (ii) 30.  
2268 (b) For purposes of Subsection (3)(a), a fraction of a dollar of adjusted gross income  
2269 shall be rounded up to the next whole dollar of adjusted gross income.  
2270 (4) (a) For taxable years beginning on or after January 1, 2008, the commission shall  
2271 increase or decrease the dollar amounts described in Subsections (1)(a)(i)(A), (1)(a)(i)(B), and  
2272 (1)(a)(ii)(A) by a percentage equal to the percentage difference between the consumer price  
2273 index for the preceding calendar year and the consumer price index for calendar year 2006.  
2274 (b) For purposes of Subsection (4)(a), the commission shall calculate the consumer  
2275 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.  
2276 Section 45. Section **59-10-1007** is enacted to read:  
2277 **59-10-1007. Apportionment of certain tax credits.**  
2278 (1) As used in this section:  
2279 (a) "Adjusted income" means, for a taxable year, the sum of a nonresident estate's or a  
2280 nonresident trust's:  
2281 (i) federal taxable income, as defined in Section 641(a) and (b), Internal Revenue  
2282 Code; and  
2283 (ii) additions required by Subsections 59-10-202(1)(b) and (c).  
2284 (b) "Adjusted income derived from Utah sources" means, for a taxable year, the  
2285 adjusted income of a nonresident estate or nonresident trust derived from Utah sources as  
2286 determined in accordance with the principles of Section 59-10-117.  
2287 (c) "State income tax percentage" is as defined in Section 59-10-116.  
2288 (2) A nonresident person that claims a tax credit in accordance with Section  
2289 59-10-1004, 59-10-1005, or 59-10-1006 may only claim an apportioned amount of the tax  
2290 credit equal to the product of:

2291 (a) the nonresident individual's state income tax percentage; and  
2292 (b) the amount of the tax credit that the nonresident person would have been allowed to  
2293 claim but for the apportionment requirements of this section.

2294 (3) A nonresident estate or nonresident trust that claims a tax credit in accordance with  
2295 Section 59-10-1004 may only claim an apportioned amount of the tax credit equal to the  
2296 product of:

2297 (a) the nonresident estate's or nonresident trust's adjusted income derived from Utah  
2298 sources divided by the nonresident estate's or nonresident trust's adjusted income; and

2299 (b) the amount of the tax credit that the nonresident estate or nonresident trust would  
2300 have been allowed to claim but for the apportionment requirements of this section.

2301 Section 46. Section **59-10-1101** is enacted to read:

2302 **Part 11. Refundable Tax Credit Act**

2303 **59-10-1101. Title.**

2304 This part is known as the "Refundable Tax Credit Act."

2305 Section 47. Section **59-10-1102** is enacted to read:

2306 **59-10-1102. Definitions.**

2307 As used in this part:

2308 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a),  
2309 "claimant" means a resident or nonresident person.

2310 (b) "Claimant" does not include an estate or trust.

2311 (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident  
2312 estate or a resident estate.

2313 (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
2314 trust may claim:

2315 (a) as provided by statute; and

2316 (b) regardless of whether the claimant, estate, or trust has a tax liability under this  
2317 chapter for a taxable year.

2318 (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident  
2319 trust or a resident trust.

2320 Section 48. Section **59-10-1103**, which is renumbered from Section 59-10-108.2 is  
2321 renumbered and amended to read:

~~[59-10-108.2].~~ **59-10-1103. Tax credit for nonresident shareholders of S corporations.**

(1) (a) A nonresident shareholder of an S corporation ~~[who is an individual]~~ may claim a refundable tax credit against the tax otherwise due under this chapter~~[-]~~ if that nonresident shareholder is a:

(i) nonresident claimant;

(ii) nonresident estate; or

(iii) nonresident trust.

(b) The tax credit described in Subsection (1)(a) is equal to the amount paid or withheld by the S corporation on behalf of the ~~[individual]~~ nonresident shareholder described in Subsection (1)(a) in accordance with Section 59-7-703.

(2) A nonresident shareholder ~~[of an S corporation who is an individual and who]~~ described in Subsection (1)(a) that has no other Utah source income may elect:

(a) not to claim the tax credit provided in Subsection (1); and

(b) not to file a ~~[Utah individual income]~~ tax return under this chapter for the taxable year.

(3) If a nonresident shareholder described in Subsection (1)(a) may claim ~~[credits other than the credit described in Subsection (1)]~~ a nonrefundable tax credit under Part 10, Nonrefundable Tax Credit Act, the nonresident shareholder described in Subsection (1)(a) shall file ~~[an individual income]~~ a tax return under this chapter to claim ~~[those credits]~~ that nonrefundable tax credit.

Section 49. Section **~~59-12-104~~** is amended to read:

**59-12-104. Exemptions.**

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the

2353 construction materials are clearly identified and segregated and installed or converted to real  
2354 property which is owned by institutions of the public education system; and  
2355 (ii) construction materials purchased by the state, its institutions, or its political  
2356 subdivisions which are installed or converted to real property by employees of the state, its  
2357 institutions, or its political subdivisions; or  
2358 (b) tangible personal property in connection with the construction, operation,  
2359 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
2360 providing additional project capacity, as defined in Section 11-13-103;  
2361 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:  
2362 (i) the proceeds of each sale do not exceed \$1; and  
2363 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
2364 the cost of the item described in Subsection (3)(b) as goods consumed; and  
2365 (b) Subsection (3)(a) applies to:  
2366 (i) food and food ingredients; or  
2367 (ii) prepared food;  
2368 (4) sales of the following to a commercial airline carrier for in-flight consumption:  
2369 (a) food and food ingredients;  
2370 (b) prepared food; or  
2371 (c) services related to Subsection (4)(a) or (b);  
2372 (5) sales of parts and equipment for installation in aircraft operated by common carriers  
2373 in interstate or foreign commerce;  
2374 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
2375 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
2376 exhibitor, distributor, or commercial television or radio broadcaster;  
2377 (7) sales of cleaning or washing of tangible personal property by a coin-operated  
2378 laundry or dry cleaning machine;  
2379 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
2380 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
2381 fulfilled;  
2382 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of  
2383 this state which are made to bona fide nonresidents of this state and are not afterwards

2384 registered or used in this state except as necessary to transport them to the borders of this state;  
2385 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
2386 (i) the item is intended for human use; and  
2387 (ii) (A) a prescription was issued for the item; or  
2388 (B) the item was purchased by a hospital or other medical facility; and  
2389 (b) (i) Subsection (10)(a) applies to:  
2390 (A) a drug;  
2391 (B) a syringe; or  
2392 (C) a stoma supply; and  
2393 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2394 commission may by rule define the terms:  
2395 (A) "syringe"; or  
2396 (B) "stoma supply";  
2397 (11) sales or use of property, materials, or services used in the construction of or  
2398 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;  
2399 (12) (a) sales of an item described in Subsection (12)(c) served by:  
2400 (i) the following if the item described in Subsection (12)(c) is not available to the  
2401 general public:  
2402 (A) a church; or  
2403 (B) a charitable institution;  
2404 (ii) an institution of higher education if:  
2405 (A) the item described in Subsection (12)(c) is not available to the general public; or  
2406 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
2407 offered by the institution of higher education; or  
2408 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
2409 (i) a medical facility; or  
2410 (ii) a nursing facility; and  
2411 (c) Subsections (12)(a) and (b) apply to:  
2412 (i) food and food ingredients;  
2413 (ii) prepared food; or  
2414 (iii) alcoholic beverages;

2415 (13) isolated or occasional sales by persons not regularly engaged in business, except  
2416 the sale of vehicles or vessels required to be titled or registered under the laws of this state in  
2417 which case the tax is based upon:

2418 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

2419 or

2420 (b) in the absence of a bill of sale or other written evidence of value, the then existing  
2421 fair market value of the vehicle or vessel being sold as determined by the commission;

2422 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

2423 (i) machinery and equipment:

2424 (A) used in the manufacturing process;

2425 (B) having an economic life of three or more years; and

2426 (C) used:

2427 (I) to manufacture an item sold as tangible personal property; and

2428 (II) in new or expanding operations in a manufacturing facility in the state; and

2429 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

2430 (A) have an economic life of three or more years;

2431 (B) are used in the manufacturing process in a manufacturing facility in the state;

2432 (C) are used to replace or adapt an existing machine to extend the normal estimated  
2433 useful life of the machine; and

2434 (D) do not include repairs and maintenance;

2435 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

2436 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in  
2437 Subsection (14)(a)(ii) is exempt;

2438 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described  
2439 in Subsection (14)(a)(ii) is exempt; and

2440 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection  
2441 (14)(a)(ii) is exempt;

2442 (c) for purposes of this Subsection (14), the commission shall by rule define the terms  
2443 "new or expanding operations" and "establishment"; and

2444 (d) on or before October 1, 1991, and every five years after October 1, 1991, the  
2445 commission shall:

2446 (i) review the exemptions described in Subsection (14)(a) and make recommendations  
2447 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be  
2448 continued, modified, or repealed; and

2449 (ii) include in its report:

2450 (A) the cost of the exemptions;

2451 (B) the purpose and effectiveness of the exemptions; and

2452 (C) the benefits of the exemptions to the state;

2453 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2454 (i) tooling;

2455 (ii) special tooling;

2456 (iii) support equipment;

2457 (iv) special test equipment; or

2458 (v) parts used in the repairs or renovations of tooling or equipment described in  
2459 Subsections (15)(a)(i) through (iv); and

2460 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2461 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
2462 performance of any aerospace or electronics industry contract with the United States  
2463 government or any subcontract under that contract; and

2464 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
2465 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
2466 by:

2467 (A) a government identification tag placed on the tooling, equipment, or parts; or

2468 (B) listing on a government-approved property record if placing a government  
2469 identification tag on the tooling, equipment, or parts is impractical;

2470 (16) intrastate movements of:

2471 (a) freight by common carriers; or

2472 (b) passengers:

2473 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial  
2474 Classification Manual of the federal Executive Office of the President, Office of Management  
2475 and Budget;

2476 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard



2477 Industrial Classification Manual of the federal Executive Office of the President, Office of  
2478 Management and Budget, if the transportation originates and terminates within a county of the  
2479 first, second, or third class; or

2480 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard  
2481 Industrial Classification Manual of the federal Executive Office of the President, Office of  
2482 Management and Budget:

2483 (A) a horse-drawn cab; or  
2484 (B) a horse-drawn carriage;

2485 (17) sales of newspapers or newspaper subscriptions;

2486 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in  
2487 as full or part payment of the purchase price, except that for purposes of calculating sales or use  
2488 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and  
2489 the tax is based upon:

2490 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
2491 vehicle being traded in; or

2492 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
2493 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
2494 commission; and

2495 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the  
2496 following items of tangible personal property traded in as full or part payment of the purchase  
2497 price:

2498 (i) money;  
2499 (ii) electricity;  
2500 (iii) water;  
2501 (iv) gas; or  
2502 (v) steam;

2503 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property  
2504 used or consumed primarily and directly in farming operations, regardless of whether the  
2505 tangible personal property:

2506 (A) becomes part of real estate; or  
2507 (B) is installed by a:

2508 (I) farmer;  
2509 (II) contractor; or  
2510 (III) subcontractor; or  
2511 (ii) sales of parts used in the repairs or renovations of tangible personal property if the  
2512 tangible personal property is exempt under Subsection (19)(a)(i); and  
2513 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following  
2514 tangible personal property are subject to the taxes imposed by this chapter:  
2515 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if  
2516 the tangible personal property is used in a manner that is incidental to farming:  
2517 (I) machinery;  
2518 (II) equipment;  
2519 (III) materials; or  
2520 (IV) supplies; and  
2521 (B) tangible personal property that is considered to be used in a manner that is  
2522 incidental to farming includes:  
2523 (I) hand tools; or  
2524 (II) maintenance and janitorial equipment and supplies;  
2525 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible  
2526 personal property is used in an activity other than farming; and  
2527 (B) tangible personal property that is considered to be used in an activity other than  
2528 farming includes:  
2529 (I) office equipment and supplies; or  
2530 (II) equipment and supplies used in:  
2531 (Aa) the sale or distribution of farm products;  
2532 (Bb) research; or  
2533 (Cc) transportation; or  
2534 (iii) a vehicle required to be registered by the laws of this state during the period ending  
2535 two years after the date of the vehicle's purchase;  
2536 (20) sales of hay;  
2537 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or  
2538 other agricultural produce if sold by a producer during the harvest season;

2539           (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
2540 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2541           (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
2542 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
2543 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
2544 manufacturer, processor, wholesaler, or retailer;

2545           (24) property stored in the state for resale;

2546           (25) property brought into the state by a nonresident for his or her own personal use or  
2547 enjoyment while within the state, except property purchased for use in Utah by a nonresident  
2548 living and working in Utah at the time of purchase;

2549           (26) property purchased for resale in this state, in the regular course of business, either  
2550 in its original form or as an ingredient or component part of a manufactured or compounded  
2551 product;

2552           (27) property upon which a sales or use tax was paid to some other state, or one of its  
2553 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
2554 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
2555 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
2556 Act;

2557           (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
2558 person for use in compounding a service taxable under the subsections;

2559           (29) purchases made in accordance with the special supplemental nutrition program for  
2560 women, infants, and children established in 42 U.S.C. Sec. 1786;

2561           (30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
2562 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
2563 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
2564 Manual of the federal Executive Office of the President, Office of Management and Budget;

2565           (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State  
2566 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of  
2567 this state and are not thereafter registered or used in this state except as necessary to transport  
2568 them to the borders of this state;

2569           (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah

2570 where a sales or use tax is not imposed, even if the title is passed in Utah;

2571 (33) amounts paid for the purchase of telephone service for purposes of providing

2572 telephone service;

2573 (34) fares charged to persons transported directly by a public transit district created

2574 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

2575 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

2576 (36) (a) 45% of the sales price of any new manufactured home; and

2577 (b) 100% of the sales price of any used manufactured home;

2578 (37) sales relating to schools and fundraising sales;

2579 (38) sales or rentals of durable medical equipment if:

2580 (a) a person presents a prescription for the durable medical equipment; and

2581 (b) the durable medical equipment is used for home use only;

2582 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

2583 Section 72-11-102; and

2584 (b) the commission shall by rule determine the method for calculating sales exempt

2585 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;

2586 (40) sales to a ski resort of:

2587 (a) snowmaking equipment;

2588 (b) ski slope grooming equipment;

2589 (c) passenger ropeways as defined in Section 72-11-102; or

2590 (d) parts used in the repairs or renovations of equipment or passenger ropeways

2591 described in Subsections (40)(a) through (c);

2592 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

2593 (42) sales or rentals of the right to use or operate for amusement, entertainment, or

2594 recreation a coin-operated amusement device as defined in Section 59-12-102;

2595 (43) sales of cleaning or washing of tangible personal property by a coin-operated car

2596 wash machine;

2597 (44) sales by the state or a political subdivision of the state, except state institutions of

2598 higher education as defined in Section 53B-3-102, of:

2599 (a) photocopies; or

2600 (b) other copies of records held or maintained by the state or a political subdivision of

2601 the state;

2602 (45) (a) amounts paid:

2603 (i) to a person providing intrastate transportation to an employer's employee to or from

2604 the employee's primary place of employment;

2605 (ii) by an:

2606 (A) employee; or

2607 (B) employer; and

2608 (iii) pursuant to a written contract between:

2609 (A) the employer; and

2610 (B) (I) the employee; or

2611 (II) a person providing transportation to the employer's employee; and

2612 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2613 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an

2614 employee's primary place of employment;

2615 (46) amounts paid for admission to an athletic event at an institution of higher

2616 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

2617 20 U.S.C. Sec. 1681 et seq.;

2618 (47) sales of telephone service charged to a prepaid telephone calling card;

2619 (48) (a) sales of:

2620 (i) hearing aids;

2621 (ii) hearing aid accessories; or

2622 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations

2623 of hearing aids or hearing aid accessories; and

2624 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),

2625 "parts" does not include batteries;

2626 (49) (a) sales made to or by:

2627 (i) an area agency on aging; or

2628 (ii) a senior citizen center owned by a county, city, or town; or

2629 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2630 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection

2631 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of

2632 whether the semiconductor fabricating or processing materials:  
2633       (i) actually come into contact with a semiconductor; or  
2634       (ii) ultimately become incorporated into real property;  
2635       (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease  
2636 described in Subsection (50)(a) is exempt;  
2637       (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease  
2638 described in Subsection (50)(a) is exempt; and  
2639       (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or  
2640 lease described in Subsection (50)(a) is exempt; and  
2641       (c) each year on or before the November interim meeting, the Revenue and Taxation  
2642 Interim Committee shall:  
2643       (i) review the exemption described in this Subsection (50) and make recommendations  
2644 concerning whether the exemption should be continued, modified, or repealed; and  
2645       (ii) include in the review under this Subsection (50)(c):  
2646       (A) the cost of the exemption;  
2647       (B) the purpose and effectiveness of the exemption; and  
2648       (C) the benefits of the exemption to the state;  
2649       (51) an amount paid by or charged to a purchaser for accommodations and services  
2650 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
2651 59-12-104.2;  
2652       (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
2653 sports event registration certificate in accordance with Section 41-3-306 for the event period  
2654 specified on the temporary sports event registration certificate;  
2655       (53) sales or uses of electricity, if the sales or uses are:  
2656       (a) made under a tariff adopted by the Public Service Commission of Utah only for  
2657 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
2658 source, as designated in the tariff by the Public Service Commission of Utah; and  
2659       (b) for an amount of electricity that is:  
2660       (i) unrelated to the amount of electricity used by the person purchasing the electricity  
2661 under the tariff described in Subsection (53)(a); and  
2662       (ii) equivalent to the number of kilowatthours specified in the tariff described in

2663 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);  
2664 (54) sales or rentals of mobility enhancing equipment if a person presents a  
2665 prescription for the mobility enhancing equipment;  
2666 (55) sales of water in a:  
2667 (a) pipe;  
2668 (b) conduit;  
2669 (c) ditch; or  
2670 (d) reservoir;  
2671 (56) sales of currency or coinage that constitute legal tender of the United States or of a  
2672 foreign nation;  
2673 (57) (a) sales of an item described in Subsection (57)(b) if the item:  
2674 (i) does not constitute legal tender of any nation; and  
2675 (ii) has a gold, silver, or platinum content of 80% or more; and  
2676 (b) Subsection (57)(a) applies to a gold, silver, or platinum:  
2677 (i) ingot;  
2678 (ii) bar;  
2679 (iii) medallion; or  
2680 (iv) decorative coin;  
2681 (58) amounts paid on a sale-leaseback transaction;  
2682 (59) sales of a prosthetic device:  
2683 (a) for use on or in a human;  
2684 (b) for which a prescription is issued; and  
2685 (c) to a person that presents a prescription for the prosthetic device;  
2686 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of  
2687 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery  
2688 or equipment is primarily used in the production or postproduction of the following media for  
2689 commercial distribution:  
2690 (i) a motion picture;  
2691 (ii) a television program;  
2692 (iii) a movie made for television;  
2693 (iv) a music video;

2694 (v) a commercial;  
2695 (vi) a documentary; or  
2696 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the  
2697 commission by administrative rule made in accordance with Subsection (60)(d); or  
2698 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or  
2699 equipment by an establishment described in Subsection (60)(c) that is used for the production  
2700 or postproduction of the following are subject to the taxes imposed by this chapter:  
2701 (i) a live musical performance;  
2702 (ii) a live news program; or  
2703 (iii) a live sporting event;  
2704 (c) the following establishments listed in the 1997 North American Industry  
2705 Classification System of the federal Executive Office of the President, Office of Management  
2706 and Budget, apply to Subsections (60)(a) and (b):  
2707 (i) NAICS Code 512110; or  
2708 (ii) NAICS Code 51219; and  
2709 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2710 commission may by rule:  
2711 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);  
2712 or  
2713 (ii) define:  
2714 (A) "commercial distribution";  
2715 (B) "live musical performance";  
2716 (C) "live news program"; or  
2717 (D) "live sporting event";  
2718 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
2719 or before June 30, 2009, of machinery or equipment that:  
2720 (i) is leased or purchased for or by a facility that:  
2721 (A) is a renewable energy production facility;  
2722 (B) is located in the state; and  
2723 (C) (I) becomes operational on or after July 1, 2004; or  
2724 (II) has its generation capacity increased by one or more megawatts on or after July 1,



2725 2004 as a result of the use of the machinery or equipment;  
2726 (ii) has an economic life of five or more years; and  
2727 (iii) is used to make the facility or the increase in capacity of the facility described in  
2728 Subsection (61)(a)(i) operational up to the point of interconnection with an existing  
2729 transmission grid including:  
2730 (A) a wind turbine;  
2731 (B) generating equipment;  
2732 (C) a control and monitoring system;  
2733 (D) a power line;  
2734 (E) substation equipment;  
2735 (F) lighting;  
2736 (G) fencing;  
2737 (H) pipes; or  
2738 (I) other equipment used for locating a power line or pole; and  
2739 (b) this Subsection (61) does not apply to:  
2740 (i) machinery or equipment used in construction of:  
2741 (A) a new renewable energy production facility; or  
2742 (B) the increase in the capacity of a renewable energy production facility;  
2743 (ii) contracted services required for construction and routine maintenance activities;  
2744 and  
2745 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
2746 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or  
2747 acquired after:  
2748 (A) the renewable energy production facility described in Subsection (61)(a)(i) is  
2749 operational as described in Subsection (61)(a)(iii); or  
2750 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described  
2751 in Subsection (61)(a)(iii);  
2752 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
2753 or before June 30, 2009, of machinery or equipment that:  
2754 (i) is leased or purchased for or by a facility that:  
2755 (A) is a waste energy production facility;

2756 (B) is located in the state; and  
2757 (C) (I) becomes operational on or after July 1, 2004; or  
2758 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2759 2004 as a result of the use of the machinery or equipment;  
2760 (ii) has an economic life of five or more years; and  
2761 (iii) is used to make the facility or the increase in capacity of the facility described in  
2762 Subsection (62)(a)(i) operational up to the point of interconnection with an existing  
2763 transmission grid including:  
2764 (A) generating equipment;  
2765 (B) a control and monitoring system;  
2766 (C) a power line;  
2767 (D) substation equipment;  
2768 (E) lighting;  
2769 (F) fencing;  
2770 (G) pipes; or  
2771 (H) other equipment used for locating a power line or pole; and  
2772 (b) this Subsection (62) does not apply to:  
2773 (i) machinery or equipment used in construction of:  
2774 (A) a new waste energy facility; or  
2775 (B) the increase in the capacity of a waste energy facility;  
2776 (ii) contracted services required for construction and routine maintenance activities;  
2777 and  
2778 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
2779 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:  
2780 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as  
2781 described in Subsection (62)(a)(iii); or  
2782 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described  
2783 in Subsection (62)(a)(iii);  
2784 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on  
2785 or before June 30, 2009, of machinery or equipment that:  
2786 (i) is leased or purchased for or by a facility that:

2787 (A) is located in the state;

2788 (B) produces fuel from biomass energy including:

2789 (I) methanol; or

2790 (II) ethanol; and

2791 (C) (I) becomes operational on or after July 1, 2004; or

2792 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as

2793 a result of the installation of the machinery or equipment;

2794 (ii) has an economic life of five or more years; and

2795 (iii) is installed on the facility described in Subsection (63)(a)(i);

2796 (b) this Subsection (63) does not apply to:

2797 (i) machinery or equipment used in construction of:

2798 (A) a new facility described in Subsection (63)(a)(i); or

2799 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or

2800 (ii) contracted services required for construction and routine maintenance activities;

2801 and

2802 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2803 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:

2804 (A) the facility described in Subsection (63)(a)(i) is operational; or

2805 (B) the increased capacity described in Subsection (63)(a)(i) is operational;

2806 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle

2807 for purchasing the new vehicle;

2808 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons

2809 within this state that is subsequently shipped outside the state and incorporated pursuant to

2810 contract into and becomes a part of real property located outside of this state, except to the

2811 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar

2812 transaction excise tax on it against which the other state or political entity allows a credit for

2813 taxes imposed by this chapter; and

2814 (b) the exemption provided for in Subsection (65)(a):

2815 (i) is allowed only if the exemption is applied:

2816 (A) in calculating the purchase price of the tangible personal property; and

2817 (B) to a written contract that is in effect on July 1, 2004; and

2818 (ii) (A) does not apply beginning on the day on which the contract described in  
2819 Subsection (65)(b)(i):  
2820 (I) is substantially modified; or  
2821 (II) terminates; and  
2822 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2823 the commission may by rule prescribe the circumstances under which a contract is substantially  
2824 modified;  
2825 (66) purchases:  
2826 (a) of one or more of the following items in printed or electronic format:  
2827 (i) a list containing information that includes one or more:  
2828 (A) names; or  
2829 (B) addresses; or  
2830 (ii) a database containing information that includes one or more:  
2831 (A) names; or  
2832 (B) addresses; and  
2833 (b) used to send direct mail; [~~and~~]  
2834 (67) redemptions or repurchases of property by a person if that property was:  
2835 (a) delivered to a pawnbroker as part of a pawn transaction; and  
2836 (b) redeemed or repurchased within the time period established in a written agreement  
2837 between the person and the pawnbroker for redeeming or repurchasing the property[:]; and  
2838 (68) sales of food and food ingredients.  
2839 Section 50. Section **59-12-204 (Effective 07/01/06)** is amended to read:  
2840 **59-12-204 (Effective 07/01/06). Sales and use tax ordinance provisions -- Tax rate**  
2841 **-- Distribution of tax revenues.**  
2842 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those  
2843 transactions listed in Subsection 59-12-103(1).  
2844 (2) (a) Except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), the tax  
2845 ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction  
2846 listed in Subsection 59-12-103(1) made within a county, including areas contained within the  
2847 cities and towns located in the county:  
2848 (i) at the rate of [~~1%~~] 1.1% of the purchase price paid or charged; and

2849 (ii) if the transaction is consummated within the county in accordance with Section  
2850 59-12-205.

2851 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall  
2852 include a provision prohibiting a county, city, or town from imposing a tax under this section  
2853 on the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
2854 exempt from taxation under Section 59-12-104.

2855 (3) Such tax ordinance shall include provisions substantially the same as those  
2856 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the  
2857 name of the county as the taxing agency shall be substituted for that of the state where  
2858 necessary for the purpose of this part and that an additional license is not required if one has  
2859 been or is issued under Section 59-12-106.

2860 (4) Such tax ordinance shall include a provision that the county shall contract, prior to  
2861 the effective date of the ordinance, with the commission to perform all functions incident to the  
2862 administration or operation of the ordinance.

2863 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other  
2864 consumption of tangible personal property, the purchase price or the cost of which has been  
2865 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this  
2866 part by any county, city, or town in any other county in this state, shall be exempt from the tax  
2867 due under this ordinance.

2868 (6) Such tax ordinance shall include a provision that any person subject to the  
2869 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax  
2870 if the city or town sales and use tax is levied under an ordinance including provisions in  
2871 substance as follows:

2872 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made  
2873 within the city or town at the rate imposed by the county in which it is situated pursuant to  
2874 Subsection (2);

2875 (b) provisions substantially the same as those contained in Part 1, Tax Collection,  
2876 insofar as they relate to sales and use taxes, except that the name of the city or town as the  
2877 taxing agency shall be substituted for that of the state where necessary for the purposes of this  
2878 part;

2879 (c) a provision that the city or town shall contract prior to the effective date of the city

2880 or town sales and use tax ordinance with the commission to perform all functions incident to  
2881 the administration or operation of the sales and use tax ordinance of the city or town;

2882 (d) a provision that the sale, storage, use, or other consumption of tangible personal  
2883 property, the gross receipts from the sale of or the cost of which has been subject to sales or use  
2884 tax under a sales and use tax ordinance enacted in accordance with this part by any county  
2885 other than the county in which the city or town is located, or city or town in this state, shall be  
2886 exempt from the tax; and

2887 (e) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not  
2888 be included as a part of the purchase price paid or charged for a taxable item.

2889 (7) (a) Notwithstanding any other provision of this section, beginning on July 1, 1999,  
2890 through May 5, 2003, the commission shall:

2891 (i) determine and retain the portion of the sales and use tax imposed under this section:

2892 (A) by a city or town that will have constructed within its boundaries the Airport to  
2893 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,  
2894 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

2895 (B) that is equal to the revenues generated by a 1/64% tax rate; and

2896 (ii) deposit the revenues described in Subsection (7)(a)(i) in the Airport to University  
2897 of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes  
2898 described in Section 17A-2-1064.

2899 (b) Notwithstanding any other provision of this section, beginning July 1, 2000, the  
2900 commission shall:

2901 (i) determine and retain the portion of sales and use tax imposed under this section:

2902 (A) by each county and by each city and town within that county whose legislative  
2903 body consents by resolution to the commission's retaining and depositing sales and use tax  
2904 revenues as provided in this Subsection (7)(b); and

2905 (B) that is equal to the revenues generated by a 1/64% tax rate;

2906 (ii) deposit the revenues described in Subsection (7)(b)(i) into a special fund of the  
2907 county, or a city, town, or other political subdivision of the state located within that county, that  
2908 has issued bonds to finance sports or recreational facilities or that is leasing sports or  
2909 recreational facilities, in order to repay those bonds or to pay the lease payments; and

2910 (iii) continue to deposit those revenues into the special fund only as long as the bonds

2911 or leases are outstanding.

2912 Section 51. Section **59-12-205 (Effective 07/01/06)** is amended to read:

2913 **59-12-205 (Effective 07/01/06). Ordinances to conform with statutory**  
2914 **amendments -- Distribution of tax revenues -- Rulemaking authority -- Determination of**  
2915 **population.**

2916 (1) Each county, city, and town, in order to maintain in effect sales and use tax  
2917 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of  
2918 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales  
2919 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as  
2920 they relate to sales and use taxes.

2921 (2) Except as provided in Subsection (7):

2922 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall  
2923 be paid to each county, city, and town on the basis of the percentage that the population of the  
2924 county, city, or town bears to the total population of all counties, cities, and towns in the state;  
2925 and

2926 (b) notwithstanding Sections 59-12-207.1 through 59-12-207.3, 50% of each dollar  
2927 collected from the sales and use tax authorized by this part shall be paid to each county, city,  
2928 and town on the basis of the location where the transaction is consummated as determined  
2929 under this section.

2930 (3) For purposes of Subsection (2)(b), the location where a transaction is consummated  
2931 is determined in accordance with Subsections (4) through (6).

2932 (4) (a) For a transaction that is reported to the commission on a return other than a  
2933 simplified electronic return, the location where the transaction is consummated is determined  
2934 in accordance with Subsections (4)(b) through (h).

2935 (b) (i) Except as provided in Subsections (4)(c) through (h), for a transaction described  
2936 in Subsection (4)(b)(ii), the location where the transaction is consummated is the place of  
2937 business of the seller.

2938 (ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:

2939 (A) Subsection (4)(c)(ii);

2940 (B) Subsection (4)(d)(ii);

2941 (C) Subsection (4)(e)(ii);

2942 (D) Subsection (4)(f)(ii);

2943 (E) Subsection (4)(g)(ii); or

2944 (F) Subsection (4)(h).

2945 (c) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection  
2946 (4)(c)(ii), the location where the transaction is consummated is determined by allocating the  
2947 total revenues remitted to the commission each month that are generated by the tax imposed  
2948 under this section on the transactions described in Subsection (4)(c)(ii):

2949 (A) to each local taxing jurisdiction; and

2950 (B) on the basis of the population of each local taxing jurisdiction as compared to the  
2951 population of the state.

2952 (ii) Subsection (4)(c)(i) applies to a transaction:

2953 (A) made by a seller described in Subsection 59-12-107(1)(b); and

2954 (B) involving tangible personal property that is shipped from outside the state.

2955 (d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection  
2956 (4)(d)(ii), the location where the transaction is consummated is determined by allocating the  
2957 total revenues reported to the commission each month that are generated by the tax imposed  
2958 under this section on the transactions described in Subsection (4)(d)(ii):

2959 (A) to local taxing jurisdictions within a county; and

2960 (B) on the basis of the proportion of total revenues generated by the transactions  
2961 described in Subsection (4)(b)(ii) that are reported to the commission for that month within a  
2962 local taxing jurisdiction within that county as compared to the total revenues generated by the  
2963 transactions described in Subsection (4)(b)(ii) that are reported to the commission for that  
2964 month within all local taxing jurisdictions within that county.

2965 (ii) Subsection (4)(d)(i) applies to a transaction:

2966 (A) made from a location in the state other than a fixed place of business in the state;

2967 or

2968 (B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

2969 (II) involving tangible personal property that is shipped from outside the state.

2970 (e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection  
2971 (4)(e)(ii), the location where the transaction is consummated is determined by allocating the  
2972 total revenues reported to the commission each month that are generated by the tax imposed



2973 under this section on the transactions described in Subsection (4)(e)(ii):

2974 (A) to local taxing jurisdictions; and

2975 (B) on the basis of the proportion of the total revenues generated by the transactions  
2976 described in Subsection (4)(b)(ii) that are reported to the commission for that month within  
2977 each local taxing jurisdiction as compared to the total revenues generated by the transactions  
2978 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the  
2979 state.

2980 (ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property  
2981 purchased with a direct payment permit in accordance with Section 59-12-107.1.

2982 (f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection  
2983 (4)(f)(ii), the location where the transaction is consummated is each location where the good or  
2984 service described in Subsection 59-12-107.2(1)(b) is used.

2985 (ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:

2986 (A) described in Subsection 59-12-107.2(1)(b);

2987 (B) that is concurrently available for use in more than one location; and

2988 (C) is purchased using the form described in Section 59-12-107.2.

2989 (g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection  
2990 (4)(g)(ii), the location where the transaction is consummated is determined by allocating the  
2991 total revenues reported to the commission each month that are generated by the tax imposed  
2992 under this section on the transactions described in Subsection (4)(g)(ii):

2993 (A) to local taxing jurisdictions; and

2994 (B) on the basis of the proportion of the total revenues generated by the transactions  
2995 described in Subsection (4)(b)(ii) that are reported to the commission for that month within  
2996 each local taxing jurisdiction as compared to the total revenues generated by the transactions  
2997 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the  
2998 state.

2999 (ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if  
3000 the purchaser of the direct mail provides to the seller the form described in Subsection  
3001 59-12-107.3(1)(a) at the time of the purchase of the direct mail.

3002 (h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a service  
3003 described in Section 59-12-207.4, the location where the transaction is consummated is the

3004 same as the location of the transaction determined under Section 59-12-207.4.

3005 (5) (a) For a transaction that is reported to the commission on a simplified electronic  
3006 return, the location where the transaction is consummated is determined in accordance with  
3007 Subsections (5)(b) through (e).

3008 (b) (i) Except as provided in Subsections (5)(c) through (e), the location where a  
3009 transaction is consummated is determined by allocating the total revenues reported to the  
3010 commission each month on the simplified electronic return:

3011 (A) to local taxing jurisdictions; and

3012 (B) on the basis of the proportion of the total revenues generated by the transactions  
3013 described in Subsection (4)(b)(ii) that are reported to the commission in accordance with  
3014 Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the  
3015 total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported  
3016 to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.

3017 (ii) In making the allocations required by Subsection (5)(b)(i), the commission shall  
3018 use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported  
3019 to the commission:

3020 (A) in the report required by Subsection 59-12-105(2); and

3021 (B) if a local taxing jurisdiction reports revenues to the commission in accordance with  
3022 Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).

3023 (iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report to  
3024 the commission the revenues generated by a tax imposed by this chapter within the local taxing  
3025 jurisdiction if a seller:

3026 (I) opens an additional place of business within the local taxing jurisdiction after the  
3027 seller makes an initial application for a license under Section 59-12-106; and

3028 (II) estimates that the additional place of business will increase by 5% or more the  
3029 revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.

3030 (B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3031 the commission may make rules providing procedures and requirements for making the report  
3032 described in this Subsection (5)(b).

3033 (c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection  
3034 (5)(c)(ii), the location where the transaction is consummated is determined by allocating the

3035 total revenues reported to the commission each month that are generated by the tax imposed  
3036 under this section on the transactions described in Subsection (5)(c)(ii):

3037 (A) to local taxing jurisdictions within a county; and

3038 (B) on the basis of the proportion of the total revenues generated by the transactions  
3039 described in Subsection (4)(b)(ii) that are reported to the commission for that month within a  
3040 local taxing jurisdiction within that county as compared to the total revenues generated by the  
3041 transactions described in Subsection (4)(b)(ii) that are reported to the commission for that  
3042 month within all local taxing jurisdictions within that county.

3043 (ii) Subsection (5)(c)(i) applies to a transaction:

3044 (A) made from a location in the state other than a fixed place of business in the state;

3045 or

3046 (B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

3047 (II) involving tangible personal property that is shipped from outside the state.

3048 (d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in  
3049 Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined  
3050 by allocating the total revenues remitted to the commission each month that are generated by  
3051 the tax imposed under this section on the transactions made by a seller described in Subsection  
3052 59-12-107(1)(b):

3053 (i) to each local taxing jurisdiction; and

3054 (ii) on the basis of the population of each local taxing jurisdiction as compared to the  
3055 population of the state.

3056 (e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection  
3057 (5)(e)(ii), the location where the transaction is consummated is determined by allocating the  
3058 total revenues reported to the commission each month that are generated by the tax imposed  
3059 under this section on the transactions described in Subsection (5)(e)(ii):

3060 (A) to local taxing jurisdictions; and

3061 (B) on the basis of the proportion of the total revenues generated by the transactions  
3062 described in Subsection (4)(b)(ii) that are reported to the commission for that month within  
3063 each local taxing jurisdiction as compared to the total revenues generated by the transactions  
3064 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the  
3065 state.

(ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property purchased with a direct payment permit in accordance with Section 59-12-107.1.

(6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a fixed place of business in the state.

~~[(7) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.]~~

~~[(b) The commission shall proportionally reduce quarterly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.]~~

(7) (a) As used in this Subsection (7), "minimum tax revenue distribution" means the total amount of tax revenue distributions a county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2005-06.

(b) (i) Except as provided in Subsection (7)(c) or (d), for each fiscal year beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, a county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(A) the payment required by Subsection (2); or

(B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (7)(b)(i) for a county, city, or town is equal to the amount described in Subsection (7)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal-year period, the county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, a county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that county, city, or town is less than or equal to the product of:

(i) the minimum tax revenue distribution; and

(ii) .70.

3097 (d) (i) If a city or town is incorporated under Title 10, Chapter 2, Part 1, Incorporation,  
3098 on or after July 1, 2006, the incorporated city or town and the entire unincorporated area of  
3099 each county in which the incorporated city or town is located shall receive a tax revenue  
3100 distribution equal to the payment required by Subsection (2).

3101 (ii) If the boundaries of a county, city, or town change as a result of an annexation,  
3102 boundary adjustment, consolidation, disconnection, dissolution, or any other change affecting  
3103 the boundaries of the county, city, or town, that county, city, or town shall receive a tax revenue  
3104 distribution equal to the payment required by Subsection (2).

3105 (e) (i) The commission shall:

3106 (A) make monthly distributions of the revenues generated by the tax under this part to  
3107 each county, city, or town imposing the tax; and

3108 (B) proportionately adjust monthly distributions to counties, cities, and towns to ensure  
3109 that each county, city, or town receives for a fiscal year the amount required by Subsection  
3110 (7)(b).

3111 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3112 the commission may make rules for making:

3113 (A) distributions to counties, cities, and towns as required by Subsection (7)(e)(i)(A);  
3114 or

3115 (B) adjustments to distributions to counties, cities, and towns as required by Subsection  
3116 (7)(e)(i)(B).

3117 (8) (a) Population figures for purposes of this section shall be based on the most recent  
3118 official census or census estimate of the United States Census Bureau.

3119 (b) If a needed population estimate is not available from the United States Census  
3120 Bureau, population figures shall be derived from the estimate from the Utah Population  
3121 Estimates Committee created by executive order of the governor.

3122 (9) The population of a county for purposes of this section shall be determined solely  
3123 from the unincorporated area of the county.

3124 Section 52. Section **59-12-1102** (See **59-1-1201 re: Eff**) is amended to read:

3125 **59-12-1102 (See 59-1-1201 re: Eff). Base -- Rate -- Imposition of tax --**

3126 **Distribution of revenue -- Administration -- Enactment or repeal of tax -- Effective date --**

3127 **Notice requirements.**

3128 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), subject to  
3129 the provisions of Subsections (2) through (5), and in addition to any other tax authorized by  
3130 this chapter, a county may impose by ordinance a county option sales and use tax of [~~.25%~~  
3131 .28% upon the transactions described in Subsection 59-12-103(1).

3132 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this  
3133 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
3134 exempt from taxation under Section 59-12-104.

3135 (b) For purposes of this Subsection (1), the location of a transaction shall be  
3136 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

3137 (c) The county option sales and use tax under this section shall be imposed:

3138 (i) upon transactions that are located within the county, including transactions that are  
3139 located within municipalities in the county; and

3140 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of  
3141 January:

3142 (A) of the next calendar year after adoption of the ordinance imposing the tax if the  
3143 ordinance is adopted on or before May 25; or

3144 (B) of the second calendar year after adoption of the ordinance imposing the tax if the  
3145 ordinance is adopted after May 25.

3146 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under  
3147 this section shall be imposed:

3148 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before  
3149 September 4, 1997; or

3150 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997  
3151 but after September 4, 1997.

3152 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a  
3153 county shall hold two public hearings on separate days in geographically diverse locations in  
3154 the county.

3155 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting  
3156 time of no earlier than 6 p.m.

3157 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven  
3158 days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise in a newspaper of general circulation in the county:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published once each week for the two weeks preceding the earlier of the two public hearings.

(iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) Whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures, except that:

(i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a referendum election that qualifies for the ballot on the earlier of the next regular general election date or the next municipal general election date more than 155 days after adoption of an ordinance under this section;

(ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

(iii) the deadlines in Subsections 20A-7-606(2) and (3) do not apply, and the clerk shall take the actions required by those subsections before the referendum election.

(3) (a) If the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) If the aggregate population of the counties imposing a county option sales and use

3190 tax under Subsection (1) is greater than or equal to 75% of the state population:

3191 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to  
3192 the county in which the tax was collected; and

3193 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection  
3194 (1) in each county shall be distributed proportionately among all counties imposing the tax,  
3195 based on the total population of each county.

3196 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),  
3197 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not  
3198 equal at least \$75,000, then:

3199 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall  
3200 be increased so that, when combined with the amount distributed to the county under  
3201 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

3202 (ii) the amount to be distributed annually to all other counties under Subsection  
3203 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under  
3204 Subsection (3)(c)(i).

3205 (d) The commission shall establish rules to implement the distribution of the tax under  
3206 Subsections (3)(a), (b), and (c).

3207 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part  
3208 shall be administered, collected, and enforced in accordance with:

3209 (i) the same procedures used to administer, collect, and enforce the tax under:

3210 (A) Part 1, Tax Collection; or

3211 (B) Part 2, Local Sales and Use Tax Act; and

3212 (ii) Chapter 1, General Taxation Policies.

3213 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to  
3214 Subsections 59-12-205(2) through (9).

3215 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under  
3216 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable  
3217 distribution calculations under Subsection (3) have been made.

3218 (5) (a) For purposes of this Subsection (5):

3219 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
3220 Annexation to County.



- 3221 (ii) "Annexing area" means an area that is annexed into a county.
- 3222 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
- 3223 county enacts or repeals a tax under this part:
- 3224 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or
- 3225 (II) the repeal shall take effect on the first day of a calendar quarter; and
- 3226 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3227 the requirements of Subsection (5)(b)(ii) from the county.
- 3228 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 3229 (A) that the county will enact or repeal a tax under this part;
- 3230 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 3231 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 3232 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
- 3233 tax.
- 3234 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3235 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3236 (A) that begins after the effective date of the enactment of the tax; and
- 3237 (B) if the billing period for the transaction begins before the effective date of the
- 3238 enactment of the tax under Subsection (1).
- 3239 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3240 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3241 (A) that began before the effective date of the repeal of the tax; and
- 3242 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3243 of the tax imposed under Subsection (1).
- 3244 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3245 (A) Subsection 59-12-103(1)(b);
- 3246 (B) Subsection 59-12-103(1)(c);
- 3247 (C) Subsection 59-12-103(1)(d);
- 3248 (D) Subsection 59-12-103(1)(e);
- 3249 (E) Subsection 59-12-103(1)(f);
- 3250 (F) Subsection 59-12-103(1)(g);
- 3251 (G) Subsection 59-12-103(1)(h);

3252 (H) Subsection 59-12-103(1)(i);

3253 (I) Subsection 59-12-103(1)(j); or

3254 (J) Subsection 59-12-103(1)(k).

3255 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a  
3256 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3257 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

3258 (A) on the first day of a calendar quarter; and

3259 (B) beginning 60 days after the effective date of the enactment or repeal under  
3260 Subsection (5)(b)(i).

3261 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3262 the commission may by rule define the term "catalogue sale."

3263 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
3264 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
3265 part for an annexing area, the enactment or repeal shall take effect:

3266 (A) on the first day of a calendar quarter; and

3267 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3268 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3269 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3270 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
3271 repeal of a tax under this part for the annexing area;

3272 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3273 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3274 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3275 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3276 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3277 (A) that begins after the effective date of the enactment of the tax; and

3278 (B) if the billing period for the transaction begins before the effective date of the  
3279 enactment of the tax under Subsection (1).

3280 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3281 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3282 (A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 53. Section **59-13-202** is amended to read:

**59-13-202. Definitions -- Refund of tax for agricultural uses on income and corporate franchise tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

(1) As used in this section, "refundable tax credit" or "tax credit" means a tax credit that a person may claim:

(a) as provided by statute; and

(b) regardless of whether the person has a tax liability under Chapter 7, Corporate Franchise and Income Taxes, for the taxable year for which the person claims the tax credit.

~~[(+)]~~ (2) Any person [who] that purchases and uses any motor fuel within the state for

the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and ~~[who]~~ that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

~~[(2)] (3) (a) [Every]~~ A person desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the ~~[state income]~~ tax return ~~[or corporate franchise tax return]~~ the person files under Chapter 7, Corporate Franchise and Income Taxes.

~~(b)~~ A person not subject to filing a ~~[Utah income tax return or corporate franchise]~~ tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

~~(c)~~ Any person claiming a refundable ~~[motor fuel]~~ tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission. ~~[Credit]~~

~~(d)~~ A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

~~[(3)] (4)~~ In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of ~~[applicant]~~ the person;

(b) the ~~[applicant's]~~ person's address;

(c) location and number of acres owned and operated, location and number of acres rented and operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, type of fuel used, and power rating of each piece of equipment using fuel. If the ~~[applicant]~~ person is an operator of self-propelled or tractor-pulled farm machinery with which the ~~[applicant]~~ person works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The ~~[applicant]~~ person shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with

the commission in the name of the ~~[applicant]~~ person.

~~[(4)]~~ (5) Any person claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the ~~[claimant]~~ person, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The ~~[applicant]~~ person shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

~~[(5)]~~ (6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the ~~[claimant]~~ person. The total amount of claims for refunds shall be paid from motor fuel taxes.

~~[(6)]~~ (7) The commission may promulgate rules to enforce this part, and may refuse to accept as evidence of purchase or payment any instruments which show alteration or which fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, it may reject the claim or require additional evidence.

~~[(7)]~~ (8) Any person aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

~~[(8)]~~ (9) Any person ~~[who]~~ that makes any false claim, report, or statement, ~~[either]~~ as claimant, agent, or creditor, with intent to defraud or secure a refund to which the ~~[claimant]~~ person is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the person may not receive any refund as a claimant or as a creditor of a claimant for refund for a period of five years.

~~[(9)]~~ (10) Refunds to which ~~[taxpayers are]~~ a person is entitled under this part shall be paid from the Transportation Fund.

Section 54. Section **62A-4a-607** is amended to read:

**62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive parents.**

(1) (a) The division and all child placing agencies licensed under this part shall promote adoption when that is a possible and appropriate alternative for a child. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section 78-3a-312 or a primary permanency goal of adoption.

(b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

(2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.

(3) (a) A child placing agency licensed under this part shall inform each potential adoptive parent with whom it is working that:

(i) children in the custody of the state are available for adoption;

(ii) Medicaid coverage for medical, dental, and mental health services may be available for these children;

~~[(iii) tax benefits, including the tax credit provided for in Section 59-10-133, and financial assistance may be available to defray the costs of adopting these children;]~~

~~[(iv)]~~ (iii) training and ongoing support may be available to the adoptive parents of these children; and

~~[(v)]~~ (iv) information about individual children may be obtained by contacting the division's offices or its Internet site as explained by the child placing agency.

(b) A child placing agency shall:

(i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and

(ii) simultaneously distribute a copy of the pamphlet prepared by the division in accordance with Subsection (3)(d).

(c) As a condition of licensure, the child placing agency shall certify to the Office of Licensing at the time of license renewal that it has complied with the provisions of this section.

(d) Before July 1, 2000, the division shall:

(i) prepare a pamphlet that explains the information that is required by Subsection

3407 (3)(a); and

3408 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child  
3409 placing agencies.

3410 (e) The division shall respond to any inquiry made as a result of the notice provided in  
3411 Subsection (3)(a).

3412 Section 55. Section **63-38f-402** is amended to read:

3413 **63-38f-402. Definitions.**

3414 As used in this part:

3415 (1) "Business entity" means an entity under which business is conducted or transacted.

3416 ~~[(1)]~~ (2) "County applicant" means the governing authority of a county that meets the  
3417 requirements for designation as an enterprise zone under Section 63-38f-404.

3418 ~~[(2)]~~ (3) "Municipal applicant" means the governing authority of a city or town that  
3419 meets the requirements for designation as an enterprise zone under Section 63-38f-404.

3420 (4) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity  
3421 may:

3422 (a) claim:

3423 (i) as provided by statute; and

3424 (ii) in an amount that does not exceed the business entity's tax liability for a taxable  
3425 year; and

3426 (b) carry forward or carry back:

3427 (i) if allowed by statute; and

3428 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax  
3429 liability under Chapter 7, Corporate Franchise and Income Taxes, for the taxable year for  
3430 which the business entity claims the tax credit.

3431 ~~[(3)]~~ (5) "Tax incentives" or "tax benefits" means the nonrefundable tax credits  
3432 available under Section 63-38f-413.

3433 Section 56. Section **63-38f-412** is amended to read:

3434 **63-38f-412. Businesses qualifying for tax incentives.**

3435 The tax incentives described in this part are available only to a business ~~[firm]~~ entity for  
3436 which at least 51% of the employees employed at facilities of the ~~[firm]~~ business entity located  
3437 in the enterprise zone are individuals who, at the time of employment, reside in the county in

3438 which the enterprise zone is located.

3439 Section 57. Section **63-38f-413** is amended to read:

3440 **63-38f-413. State tax credits.**

3441 (1) Subject to the limitations of Subsections (2) through (4), the following [state]  
3442 nonrefundable tax credits against [~~individual income taxes or corporate franchise and income~~  
3443 ~~taxes~~] a tax under Chapter 7, Corporate Franchise and Income Taxes, are applicable in an  
3444 enterprise zone:

3445 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time  
3446 position filled for not less than six months during a given tax year;

3447 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%  
3448 of:

3449 (i) the county average monthly nonagricultural payroll wage for the respective industry  
3450 as determined by the Department of Workforce Services; or

3451 (ii) if the county average monthly nonagricultural payroll wage is not available for the  
3452 respective industry, the total average monthly nonagricultural payroll wage in the respective  
3453 county where the enterprise zone is located;

3454 (c) an additional tax credit of \$750 may be claimed if the new position is in a business  
3455 that adds value to agricultural commodities through manufacturing or processing;

3456 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each  
3457 new employee who is insured under an employer-sponsored health insurance program if the  
3458 employer pays at least 50% of the premium cost for two consecutive years;

3459 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit  
3460 corporation, except that the credit claimed may not exceed \$100,000:

3461 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal  
3462 Revenue Code;

3463 (ii) whose primary purpose is community and economic development; and

3464 (iii) that has been accredited by the board of directors of the Utah Rural Development  
3465 Council;

3466 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the  
3467 enterprise zone that has been vacant for two years or more; and

3468 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%



3469 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable  
3470 property.

3471 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax  
3472 credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time  
3473 employee positions or less in each of its taxable years.

3474 (b) A business entity that received a tax credit for its full-time employee positions  
3475 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time  
3476 employee position under Subsections (1)(a) through (d) if:

3477 (i) the business entity creates a new full-time employee position;

3478 (ii) the total number of full-time employee positions at the business entity is greater  
3479 than the number of full-time employee positions previously claimed by the business entity  
3480 under Subsections (1)(a) through (d); and

3481 (iii) the total number of tax credits the business entity has claimed for its current  
3482 taxable year, including the new full-time employee position for which the business entity is  
3483 claiming a tax credit, is less than or equal to 30.

3484 (c) A business entity existing in an enterprise zone on the date of its designation shall  
3485 calculate the number of full-time positions based on the average number of employees reported  
3486 to the Department of Workforce Services.

3487 (d) Construction jobs are not eligible for the tax [~~credit~~] credits under Subsections  
3488 (1)(a) through (d).

3489 (3) If the amount of a tax credit under this section exceeds a business entity's tax  
3490 liability under this chapter for a taxable year, the amount of the tax credit exceeding the  
3491 liability may be carried forward for a period that does not exceed the next three taxable years.

3492 (4) (a) If a business entity is located in a county that met the requirements of  
3493 Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January  
3494 1, 1998, because the county was located in a metropolitan statistical area in more than one  
3495 state, the business entity:

3496 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,  
3497 but beginning before December 31, 1997;

3498 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning  
3499 on or after January 1, 1997, but beginning before December 31, 1997; and

- 3500 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,  
3501 1998, if the county is designated as an enterprise zone in accordance with this part.
- 3502 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business  
3503 entity:
- 3504 (i) may claim the tax credit by filing for the taxable year beginning on or after January  
3505 1, 1997, but beginning before December 31, 1997:
- 3506 [~~(A) an individual income tax return;~~]
- 3507 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 3508 (B) an amended [~~individual income tax~~] return under Title 59, Chapter 7, Corporate  
3509 Franchise and Income Taxes;
- 3510 (C) a [~~corporate franchise and income tax~~] return under Title 59, Chapter 10,  
3511 Individual Income Tax Act; or
- 3512 (D) an amended [~~corporate franchise and income tax~~] return under Title 59, Chapter  
3513 10, Individual Income Tax Act; and
- 3514 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,  
3515 1998, in accordance with Subsection (3).
- 3516 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a  
3517 business entity engaged in retail trade or by a public utilities business.
- 3518 (6) A business entity may not claim or carry forward a tax credit available under this  
3519 part for a taxable year during which the business entity has claimed the targeted business  
3520 income tax credit available under Section 63-38f-503.
- 3521 Section 58. Section **63-38f-501** is amended to read:
- 3522 **63-38f-501. Definitions.**
- 3523 As used in this part:
- 3524 (1) "Allocated cap amount" means the total amount of the targeted business income tax  
3525 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata  
3526 share of the total amount of \$300,000 for each fiscal year allowed under Subsection  
3527 63-38f-503(2).
- 3528 (2) "Business applicant" means a business that meets the criteria established in Section  
3529 63-38f-502.
- 3530 (3) "Community investment project" means a project that includes one or more of the

3531 following criteria in addition to the normal operations of the business applicant:

3532 (a) substantial new employment;

3533 (b) new capital development; or

3534 (c) a combination of both Subsections (3)(a) and (b).

3535 (4) "Community investment project period" means the total number of years that the  
3536 office determines a business applicant is eligible for a targeted business income tax credit for  
3537 each community investment project.

3538 (5) "Enterprise zone" means an area within a county or municipality that has been  
3539 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

3540 (6) "Local zone administrator" means a person:

3541 (a) designated by the governing authority of the county or municipal applicant as the  
3542 local zone administrator in an enterprise zone application; and

3543 (b) approved by the office as the local zone administrator.

3544 (7) "Refundable tax credit" means a tax credit that a business applicant may claim:

3545 (a) as provided in this part; and

3546 (b) regardless of whether the business applicant has a tax liability under Chapter 7,  
3547 Corporate Franchise and Income Taxes, for the taxable year for which the business applicant  
3548 claims the tax credit.

3549 [~~(7)~~] (8) "Targeted business income tax credit " means [~~an income~~] a refundable tax  
3550 credit available under Section 63-38f-503.

3551 [~~(8)~~] (9) "Targeted business income tax credit eligibility form" means a document  
3552 provided annually to the business applicant by the office that complies with the requirements of  
3553 Subsection 63-38f-503(8).

3554 Section 59. Section **63-38f-502** is amended to read:

3555 **63-38f-502. Application for targeted business income tax credits.**

3556 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant  
3557 may elect to claim a targeted business income tax credit available under Section 63-38f-503 if  
3558 the business applicant:

3559 (i) is located in:

3560 (A) an enterprise zone; and

3561 (B) a county with:

3562 (I) a population of less than 25,000; and  
3563 (II) an unemployment rate that for six months or more of each calendar year is at least  
3564 one percentage point higher than the state average;  
3565 (ii) meets the requirements of Section 63-38f-412;  
3566 (iii) provides:  
3567 (A) a community investment project within the enterprise zone; and  
3568 (B) a portion of the community investment project during each taxable year for which  
3569 the business applicant claims the targeted business tax incentive; and  
3570 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is  
3571 not engaged in the following, as defined by the State Tax Commission by rule:  
3572 (A) construction;  
3573 (B) retail trade; or  
3574 (C) public utility activities.  
3575 (b) For a taxable year for which a business applicant claims a targeted business income  
3576 tax credit available under this part, the business applicant may not claim or carry forward a tax  
3577 credit available under Section 63-38f-413[;] or 59-7-610, ~~or 59-10-108.7~~.  
3578 (2) (a) A business applicant seeking to claim a targeted business income tax credit  
3579 under this part shall file an application as provided in Subsection (2)(b) with the local zone  
3580 administrator by no later than June 1 of the year in which the business applicant is seeking to  
3581 claim a targeted business income tax credit.  
3582 (b) The application described in Subsection (2)(a) shall include:  
3583 (i) any documentation required by the local zone administrator to demonstrate that the  
3584 business applicant meets the requirements of Subsection (1);  
3585 (ii) a plan developed by the business applicant that outlines:  
3586 (A) if the community investment project includes substantial new employment, the  
3587 projected number and anticipated wage level of the jobs that the business applicant plans to  
3588 create as the basis for qualifying for a targeted business income tax credit;  
3589 (B) if the community investment project includes new capital development, a  
3590 description of the capital development the business applicant plans to make as the basis for  
3591 qualifying for a targeted business income tax credit; and  
3592 (C) a description of how the business applicant's plan coordinates with:

3593 (I) the goals of the enterprise zone in which the business applicant is providing a  
3594 community investment project; and

3595 (II) the overall economic development goals of the county or municipality in which the  
3596 business applicant is providing a community investment project; and

3597 (iii) any additional information required by the local zone administrator.

3598 (3) (a) The local zone administrator shall:

3599 (i) evaluate an application filed under Subsection (2); and

3600 (ii) determine whether the business applicant is eligible for a targeted business income  
3601 tax credit.

3602 (b) If the local zone administrator determines that the business applicant is eligible for  
3603 a targeted business income tax credit, the local zone administrator shall:

3604 (i) certify that the business applicant is eligible for the targeted business income tax  
3605 credit;

3606 (ii) structure the targeted business income tax credit for the business applicant in  
3607 accordance with Section 63-38f-503; and

3608 (iii) monitor a business applicant to ensure compliance with this section.

3609 (4) A local zone administrator shall report to the office by no later than June 30 of each  
3610 year:

3611 (a) (i) any application approved by the local zone administrator during the last fiscal  
3612 year; and

3613 (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each  
3614 new business applicant; and

3615 (b) (i) the status of any existing business applicants that the local zone administrator  
3616 monitors; and

3617 (ii) any information required by the office to determine the status of an existing  
3618 business applicant.

3619 (5) (a) By July 15 of each year, the department shall notify the local zone administrator  
3620 of the allocated cap amount that each business applicant that the local zone administrator  
3621 monitors is eligible to claim.

3622 (b) By September 15 of each year, the local zone administrator shall notify, in writing,  
3623 each business applicant that the local zone administrator monitors of the allocated cap amount

determined by the office under Subsection (5)(a) that the business applicant is eligible to claim for a taxable year.

Section 60. Section **63-38f-503** is amended to read:

**63-38f-503. Targeted business income tax credit structure -- Duties of the local zone administrator -- Duties of the State Tax Commission.**

(1) For taxable years beginning on or after January 1, 2002, a business applicant that is certified under Subsection 63-38f-502(3) and issued a targeted business tax credit eligibility form by the office under Subsection (8) may claim a refundable [income] tax credit:

(a) against the business applicant's tax liability under[:~~(i) Title 59, Chapter 10, Individual Income Tax Act, or~~ (ii)] Title 59, Chapter 7, Corporate Franchise and Income Taxes; and

(b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

(i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

(ii) be carried forward or carried back;

(iii) exceed \$100,000 in total amount for the community investment project period during which the business applicant is eligible to claim a targeted business income tax credit; or

(iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

(A) 50% of the maximum amount allowed by the local zone administrator; or

(B) the allocated cap amount determined by the office under Subsection 63-38f-502(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

(a) criteria for maintaining eligibility for the targeted business income tax credit that are reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

(b) the maximum amount of the targeted business income tax credit the business applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section 63-38f-502 that shall be included in the report.

(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section 63-38f-502.

(7) The office or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section 63-38f-502.

(8) The office shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the office no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business

3686 applicant is eligible for that taxable year;

3687 (b) any reductions in the maximum amount of the targeted business income tax credit  
3688 because of failure to comply with a requirement of Subsection (3) or Section 63-38f-502;

3689 (c) the allocated cap amount that the business applicant may claim for that taxable  
3690 year; and

3691 (d) the actual amount of the targeted business income tax credit that the business  
3692 applicant may claim for that taxable year.

3693 (9) (a) A business applicant shall retain the targeted business income tax credit  
3694 eligibility form provided by the office under this Subsection (9).

3695 (b) The State Tax Commission may audit a business applicant to ensure:

3696 (i) eligibility for a targeted business income tax credit; or

3697 (ii) compliance with Subsection (3) or Section 63-38f-502.

3698 Section 61. Section **63-38f-1102** is amended to read:

3699 **63-38f-1102. Definitions.**

3700 As used in this part:

3701 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and  
3702 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other  
3703 organisms.

3704 (2) "Postconsumer waste material" means any product generated by a business or  
3705 consumer that has served its intended end use, and that has been separated from solid waste for  
3706 the purposes of collection, recycling, and disposition and that does not include secondary waste  
3707 material.

3708 (3) (a) "Recovered materials" means waste materials and by-products that have been  
3709 recovered or diverted from solid waste.

3710 (b) "Recovered materials" does not include those materials and by-products generated  
3711 from, and commonly reused within, an original manufacturing process.

3712 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and  
3713 the beneficial use of the materials and includes a series of activities by which materials that  
3714 would become or otherwise remain waste are diverted from the waste stream for collection,  
3715 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition  
3716 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of



the materials as substitutes for goods made from virgin materials.

(b) "Recycling" does not include burning municipal solid waste for energy recovery.

(5) "Recycling market development zone" or "zone" means an area designated by the office as meeting the requirements of this part.

(6) (a) "Secondary waste material" means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) "Secondary waste material" does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

(7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable tax credits available under ~~[Sections]~~ Section 59-7-608 ~~[and 59-10-108.7]~~.

Section 62. Section **63-38f-1110** is amended to read:

**63-38f-1110. Recycling market development zones credit.**

For a taxpayer within a recycling market development zone, there are allowed the nonrefundable tax credits ~~[against tax]~~ as provided by ~~[Sections]~~ Section 59-7-610 ~~[and 59-10-108.7]~~.

Section 63. Section **63-38f-1203** is amended to read:

**63-38f-1203. Definitions.**

As used in this part:

(1) "Board" means the Utah Capital Investment Board.

(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.

(3) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.

(4) "Contingent tax credit" means a contingent tax credit issued under this part that is available against a tax ~~[liabilities]~~ liability imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, ~~[and Chapter 10, Individual Income Tax Act,]~~ if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63-38f-1220(3)(b).

(5) "Corporation" means the Utah Capital Investment Corporation created under

3748 Section 63-38f-1207.

3749 (6) "Designated investor" means:

3750 (a) a person who purchases an equity interest in the Utah fund of funds; or

3751 (b) a transferee of a certificate or contingent tax credit.

3752 (7) "Designated purchaser" means:

3753 (a) a person who enters into a written undertaking with the board to purchase a  
3754 commitment; or

3755 (b) a transferee who assumes the obligations to make the purchase described in the  
3756 commitment.

3757 (8) "Person" means an individual, partnership, limited liability company, corporation,  
3758 association, organization, business trust, estate, trust, or any other legal or commercial entity.

3759 (9) "Redemption reserve" means the reserve established by the corporation to facilitate  
3760 the cash redemption of certificates.

3761 (10) "Utah fund of funds" means a limited partnership or limited liability company  
3762 established under Section 63-38f-1213 in which a designated investor purchases an equity  
3763 interest.

3764 Section 64. Section **63-55-209** is amended to read:

3765 **63-55-209. Repeal dates, Title 9.**

3766 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
3767 repealed July 1, 2014.

3768 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

3769 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is  
3770 repealed July 1, 2010.

3771 (b) ~~[Sections]~~ Section 59-7-610 ~~[and 59-10-108.7]~~, regarding tax credits for certain  
3772 persons in recycling market development zones, are repealed for taxable years beginning on or  
3773 after January 1, 2011.

3774 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under  
3775 Section 59-7-610 ~~[or 59-10-108.7]~~:

3776 (i) for the purchase price of machinery or equipment described in Section 59-7-610 ~~[or~~  
3777 ~~59-10-108.7]~~ if the machinery or equipment is purchased on or after July 1, 2010; or

3778 (ii) for an expenditure described in Subsection 59-7-610(1)(b) ~~[or 59-10-108.7(1)(b)]~~,

3779 if the expenditure is made on or after July 1, 2010.

3780 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit  
3781 in accordance with Section 59-7-610 [~~or 59-10-108.7~~] if:

3782 (i) the person is entitled to a tax credit under Section 59-7-610 [~~or 59-10-108.7~~]; and

3783 (ii) (A) for the purchase price of machinery or equipment described in Section  
3784 59-7-610 [~~or 59-10-108.7~~], the machinery or equipment is purchased on or before June 30,  
3785 2010; or

3786 (B) for an expenditure described in Subsection 59-7-610(1)(b) [~~or 59-10-108.7(1)(b)~~],  
3787 the expenditure is made on or before June 30, 2010.

3788 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July  
3789 1, 2008.

3790 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed  
3791 July 1, 2009.

3792 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

3793 Section 65. Section **63-55-259** is amended to read:

3794 **63-55-259. Repeal dates, Title 59.**

3795 (1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2006.

3796 (2) Section 59-9-102.5 is repealed December 31, 2010.

3797 [~~(3) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.~~]

3798 Section 66. Section **72-12-107** is amended to read:

3799 **72-12-107. Benefits of ride-sharing driver not taxable income.**

3800 Money and other benefits, other than salary, received by a driver in a ride-sharing  
3801 arrangement does not constitute income for the purpose of computing adjusted gross income  
3802 under Title 59, Chapter 10, Individual Income Tax.

3803 Section 67. **Repealer.**

3804 This bill repeals:

3805 Section **23-14-14.1, Wolf Depredation and Management Restricted Account --**  
3806 **Interest -- Use of contributions and interest.**

3807 Section **31A-32a-101, Title and scope.**

3808 Section **31A-32a-102, Definitions.**

3809 Section **31A-32a-103, Establishing medical care savings accounts.**

3810 Section 31A-32a-104, Administration of medical care savings account.  
3811 Section 31A-32a-105, Withdrawals -- Termination -- Transfers.  
3812 Section 31A-32a-106, Regulation of account administrators -- Administration of  
3813 tax deductions.  
3814 Section 31A-32a-107, Penalties for noncompliance with tax requirements.  
3815 Section 59-10-102, Declaration of intent.  
3816 Section 59-10-104.1, Exemption from taxation.  
3817 Section 59-10-105, Optional tax -- Calculation -- Commission authority to  
3818 prescribed tax tables -- Exemption.  
3819 Section 59-10-107, Credit for tax paid by estate or trust to another state.  
3820 Section 59-10-108, Credit for cash contributions to sheltered workshops.  
3821 Section 59-10-108.1, Tax credit for at-home parent.  
3822 Section 59-10-108.5, Historic preservation credit.  
3823 Section 59-10-108.7, Recycling market development zones tax credit.  
3824 Section 59-10-109, Targeted jobs tax credit.  
3825 Section 59-10-111, Federal taxable income defined.  
3826 Section 59-10-112, State taxable income of resident individual.  
3827 Section 59-10-127, Definitions -- Tax credit -- Cleaner burning fuels.  
3828 Section 59-10-128, Tax credit -- Items using cleaner burning fuels.  
3829 Section 59-10-129, Utah low-income housing tax credit.  
3830 Section 59-10-130, Tutoring tax credits for disabled dependents.  
3831 Section 59-10-131, Credits for research activities conducted in the state -- Carry  
3832 forward -- Commission to report modification or repeal of federal credits -- Tax Review  
3833 Commission study.  
3834 Section 59-10-132, Credits for machinery, equipment, or both primarily used for  
3835 conducting qualified research or basic research -- Carry forward -- Commission to report  
3836 modification or repeal of federal credits -- Tax Review Commission study.  
3837 Section 59-10-133, Tax credit for adoption of a child who has a special need.  
3838 Section 59-10-134, Renewable energy systems tax credit -- Definitions -- Individual  
3839 tax credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition  
3840 to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of

3841 **Uniform School Fund.**

3842       Section **59-10-134.1**, Refundable tax credit for hand tools used in farming  
3843 **operations -- Procedures for refund -- Transfers from General Fund to Uniform School**  
3844 **Fund -- Rulemaking authority.**

3845       Section **59-10-134.2**, Definitions -- Nonrefundable tax credit for live organ  
3846 **donation expenses -- Rulemaking authority.**

3847       Section **59-10-135**, Removal of tax credit from tax return and prohibition on  
3848 **claiming or carrying forward a tax credit -- Conditions for removal and prohibition on**  
3849 **claiming or carrying forward a tax credit -- Commission reporting requirements.**

3850       Section **59-10-209**, Adjustments to state taxable income of resident estates or trusts  
3851 **and beneficiaries.**

3852       Section **59-10-530**, Nongame wildlife contribution -- Credit to Wildlife Resources  
3853 **Account.**

3854       Section **59-10-530.5**, Homeless contribution -- Credit to Pamela Atkinson Homeless  
3855 **Trust Account.**

3856       Section **59-10-546**, Application of former law.

3857       Section **59-10-547**, Election Campaign Fund designations -- Transfer from General  
3858 **Fund -- Form and procedure.**

3859       Section **59-10-548**, Election Campaign Fund -- Contents -- Disbursement and  
3860 **distribution -- Limitations on expenditures.**

3861       Section **59-10-549**, Contributions for education.

3862       Section **59-10-550**, Checkoff for children's organ transplants -- Credit to Kurt  
3863 **Oscarson Children's Organ Transplant Trust Account.**

3864       Section **59-10-550.1**, Contribution to Wolf Depredation and Management  
3865 **Restricted Account.**

3866       Section **59-10-551**, Removal of designation and prohibitions on collection for  
3867 **certain contributions on income tax form -- Conditions for removal and prohibitions on**  
3868 **collection -- Commission reporting requirements.**

3869       Section **59-12-901**, Definitions.

3870       Section **59-12-902**, Sales tax refund for qualified emergency food agencies -- Use of  
3871 **amounts received as refund -- Administration -- Rulemaking authority.**

3872 Section 68. **Effective dates.**

3873 (1) Except as provided in Subsections (2) and (3), this bill takes effect for taxable years  
3874 beginning on or after January 1, 2007.

3875 (2) The amendments in this bill to Sections 9-4-1404, 59-12-104, 59-12-204,  
3876 59-12-205, and 59-12-1102 take effect on July 1, 2006.

3877 (3) The repeal of Sections 59-12-901 and 59-12-902 in this bill takes effect on July 1,  
3878 2006.

3879 Section 69. **Revisor instructions.**

3880 It is the intent of the Legislature that, in preparing the Utah Code database for  
3881 publication, the Office of Legislative Research and General Counsel shall replace the  
3882 references in Section 59-10-136 from "this bill" to the bill's designated chapter number in the  
3883 Laws of Utah.

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**Legislative Review Note**

**as of 2-7-06 3:32 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**