INCOME TAX - TAXATION OF
INDIVIDUALS, ESTATES, AND TRUSTS

2006 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Wayne A. Harper

LONG TITLE

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

Highlighted Provisions:
This bill:

- provides and modifies definitions;
- modifies the additions to and subtractions from federal taxable income of a resident or nonresident individual;
- modifies the adjustments to state taxable income for purposes of individual income taxes;
- addresses the calculation of state taxable income of a resident or nonresident estate or trust;
- modifies the additions to and subtractions from federal taxable income of a resident or nonresident estate or trust;
- modifies the adjustments to state taxable income for purposes of income taxes on estates and trusts;
- modifies the fiduciary adjustments for purposes of income taxes on estates and trusts;
- creates the Nonrefundable Tax Credit Act and renumbers and amends as part of this Act the nonrefundable income tax credits authorized under the Individual Income Tax Act;
creates the Refundable Tax Credit Act and renumbers and amends as part of this Act the refundable income tax credits authorized under the Individual Income Tax Act;

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

repeals obsolete language; and

makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

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

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

59-10-114, as last amended by Chapters 109 and 241, Laws of Utah 2005
59-10-115, as renumbered and amended by Chapter 2, Laws of Utah 1987
59-10-201, as last amended by Chapter 109, Laws of Utah 2005
59-10-201.1, as enacted by Chapter 345, Laws of Utah 1995
59-10-202, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session
59-10-204, as last amended by Chapter 345, Laws of Utah 1995
59-10-205, as last amended by Chapter 345, Laws of Utah 1995
59-10-207, as last amended by Chapter 345, Laws of Utah 1995
59-10-210, as last amended by Chapter 345, Laws of Utah 1995
59-13-202, as last amended by Chapter 86, Laws of Utah 2000
62A-4a-607, as last amended by Chapter 327, Laws of Utah 2001
63-38f-402, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-412, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-413, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-501, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-502, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-503, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-1102, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-1110, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-38f-1203, as renumbered and amended by Chapter 148, Laws of Utah 2005
63-55-209, as last amended by Chapters 37 and 90, Laws of Utah 2004

ENACTS:
59-10-209.1, Utah Code Annotated 1953
59-10-1001, Utah Code Annotated 1953
59-10-1002, Utah Code Annotated 1953
59-10-1101, Utah Code Annotated 1953
59-10-1102, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
59-10-1003, (Renumbered from 59-10-106, as renumbered and amended by Chapter 2,
59-10-1004, (Renumbered from 59-10-108, as last amended by Chapter 73, Laws of Utah 2001)

59-10-1005, (Renumbered from 59-10-108.1, as enacted by Chapter 272, Laws of Utah 1999)

59-10-1006, (Renumbered from 59-10-108.5, as last amended by Chapter 25, Laws of Utah 1995)

59-10-1007, (Renumbered from 59-10-108.7, as last amended by Chapter 148, Laws of Utah 2005)

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

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

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

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

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

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

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

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

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

59-10-1103, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of Utah 2005)
Be it enacted by the Legislature of the state of Utah:

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

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

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

(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] 59-10-1009 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] 59-10-1009 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 2. Section 19-1-404 is amended to read:


(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] 59-10-1009 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 3. 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;

(b) establishing air quality standards;

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

(i) install, maintain, and use emission monitoring devices, as the board finds necessary;
(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and

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

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

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

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

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

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

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

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

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

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

(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.,
(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] 59-10-1009;

(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 4. 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)(i).

(ii) If the beneficiary is designated after birth and before age 19, the payment of benefits provided under the account agreement must begin not 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) If a beneficiary age 19 or older is designated, 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 5. Section 59-2-102 is amended to read:
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
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(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:

(A) cause substantial damage to the item; or

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

(b) "Improvement" includes:

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

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

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

and

(ii) an item described in Subsection (17)(a) that:
(A) is temporarily detached from the land for repairs; and
(B) remains located on the land.
(c) Notwithstanding Subsections (17)(a) and (b), "improvement" does not include:
(i) an item considered to be personal property pursuant to rules made in accordance
with Section 59-2-107;
(ii) a moveable item that is attached to land:
(A) for stability only; or
(B) for an obvious temporary purpose;
(iii) (A) manufacturing equipment and machinery; or
(B) essential accessories to manufacturing equipment and machinery; or
(iv) an item attached to the land in a manner that facilitates removal without substantial
damage to:
(A) the land; or
(B) the item; or
(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
transportable factory-built housing unit is considered to be personal property under Section
59-2-1503.
(18) "Intangible property" means:
(a) property that is capable of private ownership separate from tangible property,
including:
(i) moneys;
(ii) credits;
(iii) bonds;
(iv) stocks;
(v) representative property;
(vi) franchises;
(vii) licenses;
(viii) trade names;
(ix) copyrights; and
(x) patents; or
(b) a low-income housing tax credit.

(19) "Low-income housing tax credit" means:
(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

or
(b) a low-income housing tax credit under:
(i) Section 59-7-607; or
(ii) Section 59-10-1010.

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

(21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(22) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(23) (a) "Mobile flight equipment" means tangible personal property that is:
(i) owned or operated by an:
(A) air charter service;
(B) air contract service; or
(C) airline; and
(ii) (A) capable of flight;
(B) attached to an aircraft that is capable of flight; or
(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
(I) during multiple flights;
(II) during a takeoff, flight, or landing; and
(III) as a service provided by an air charter service, air contract service, or airline.

(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 6. Section 59-6-101 is amended to read:


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.

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

[2] "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 for a tax

described in Subsection 59-6-102(3) 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 7. 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 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):

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

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

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


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 8. 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
(ii) the 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 59-10-1010 is an amount equal to the
product of:

(A) 12.5 cents; and

(B) the population of Utah.

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

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified
allocation plan.

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

(i) the number of affordable housing units to be created in Utah for low and moderate
income persons in the residential housing development of which the building is a part;
(ii) the level of area median income being served by the development;
(iii) the need for the tax credit for the economic feasibility of the development; and
(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:
(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit; or
(ii) any applicant for an allocation of the federal low-income housing tax credit.

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

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

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

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed 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 9. Section 59-7-614 is amended to read:
59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --
State tax credit in addition to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.
(1) As used in this section:
(a) "Active solar system":
(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and
(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.
(b) "Biomass system" means any system of apparatus and equipment capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage.
(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.
(d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.
(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.
(f) (i) "Commercial unit" means any building or structure which a business entity uses to transact its business except as provided in Subsection (1)(f)(ii); and
(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and
(B) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.

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

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

(i) "Passive solar system":

(i) means a direct thermal system which utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and
(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

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

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

(i) Section 59-2-404;
(ii) Section 59-2-405;
(iii) Section 59-2-405.1;
(iv) Section 59-2-405.2; or
(v) Section 59-2-405.3.

(l) "Utah Geological Survey" means the Utah Geological Survey established in Section 63-73-5.
(m) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried over for a period which does not exceed the next four taxable years.
(3) (a) The tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

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

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

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

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

Section 10. 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 59-10-1103.

(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 Utah sources; and
(ii) the amount of the withholding from the nonresident shareholder's share of the corporate earnings from Utah sources.
(b) An S corporation shall pay the commission the amount withheld under this section:
(i) by the due date of the corporation's return, not including extensions; and
(ii) on forms furnished by the commission.

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

59-10-103. Definitions.
(1) As used in this chapter:
(a) "Adoption expenses" means:
(i) any actual medical and hospital expenses of the mother of the adopted child which are incident to the child's birth;
(ii) any welfare agency fees or costs;
(iii) any child placement service fees or costs;
(iv) any legal fees or costs; or
(v) any other fees or costs relating to an adoption.
(b) "Adult with a disability" means an individual who:
(i) is 18 years of age or older;
(ii) is eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and
(iii) is not enrolled in:
(A) an education program for students with disabilities that is authorized under Section 53A-15-301; or
(B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.
(c) (i) For purposes of Subsection 59-10-114(2), "capital gain transaction" means a transaction that results in a:
(A) short-term capital gain; or
(B) long-term capital gain.
(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."
(d) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.
(e) "Corporation" includes:
(i) associations;
(ii) joint stock companies; and
(iii) insurance companies.
(f) "Dependent child with a disability" means an individual 21 years of age or younger who:
(A) is diagnosed by a school district representative under rules adopted by the State Board of Education as having a disability classified as:
(I) autism;
(II) deafness;
(III) preschool developmental delay;
(IV) dual sensory impairment;
(V) hearing impairment;
(VI) intellectual disability;
(VII) multidisability;
(VIII) orthopedic impairment;
(IX) other health impairment;
(X) traumatic brain injury; or
(XI) visual impairment;
(B) is not receiving residential services from:
(I) the Division of Services for People with Disabilities created under Section 62A-5-102; or
(II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
and
(C) is enrolled in:
(I) an education program for students with disabilities that is authorized under Section 53A-15-301; or
(II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
or
(ii) is identified under guidelines of the Department of Health as qualified for:
(A) Early Intervention; or
(B) Infant Development Services.
(g) "Employee" is as defined in Section 59-10-401.
(h) "Employer" is as defined in Section 59-10-401.
(i) "Fiduciary" means:
(i) a guardian;
(ii) a trustee;
(iii) an executor;
(iv) an administrator;
(v) a receiver;
(vi) a conservator; or
(vii) any person acting in any fiduciary capacity for any individual.
(j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

(k) "Individual" means a natural person and includes aliens and minors.

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

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

(n) "Nonresident individual" means an individual who is not a resident of this state.

(o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

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

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

(I) a trust;

(II) an estate; or

(III) a corporation.

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

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

(q) "Qualifying military service member" means a member of:

(i) The Utah Army National Guard;

(ii) The Utah Air National Guard; or
(iii) the following if the member is assigned to a unit that is located in the state:

(A) The Army Reserve;

(B) The Naval Reserve;

(C) The Air Force Reserve;

(D) The Marine Corps Reserve; or

(E) The Coast Guard Reserve.

(r) "Qualifying stock" means stock that is:

(i) (A) common; or

(B) preferred;

(ii) as defined by the commission by rule, originally issued to:

(A) a resident or nonresident individual; or

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

(I) was a partner when the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the resident or nonresident individual makes the subtraction from federal taxable income in accordance with Subsection 59-10-114(2)(m) (l); and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2003; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(s) (i) "Resident individual" means:

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

(B) an individual who is not domiciled in this state but:
(I) maintains a permanent place of abode in this state; and
(II) spends in the aggregate 183 or more days of the taxable year in this state.
(ii) For purposes of Subsection (1)(s)(i)(B), a fraction of a calendar day shall be
counted as a whole day.
(t) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
(u) For purposes of Subsection 59-10-114(2)(m)[(l)], "short-term capital gain" is as
defined in Section 1222, Internal Revenue Code.
(v) "Taxable income" and "state taxable income" are defined as provided in Sections
(w) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or
trust, whose income is subject in whole or part to the tax imposed by this chapter.
(x) "Uintah and Ouray Reservation" means the lands recognized as being included
within the Uintah and Ouray Reservation in:
(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)[(l)].
(z) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian
Tribe of the Uintah and Ouray Reservation.
"Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

"Wages" is as defined in Section 59-10-401.

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.

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.

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

"State taxable income" in the case of a resident individual means the resident individual's federal taxable income, as defined by Section 59-10-111, with the modifications, additions and subtractions, and adjustments provided in required by Section 59-10-114.

The state taxable income of a resident individual who is the beneficiary of an estate or trust shall be modified by the adjustments provided in Section 59-10-209.

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

Additions to and subtractions from federal taxable income of an individual.

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

(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 income taxes.
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:

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

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

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

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

(i) a state other than this state;

(ii) the District of Columbia;

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

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

(h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a
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1178 resident trust of income that was taxed at the trust level for federal tax purposes, but was
1179 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c); [and]
1180 (i) any distribution received by a resident beneficiary of a nonresident trust of income
1181 that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by
1182 any state; [and]
1183 (j) any adoption expense;
1184 (i) for which a resident or nonresident individual receives reimbursement from another
1185 person; and
1186 (ii) to the extent to which the resident or nonresident individual deducts that adoption
1187 expense from federal taxable income on a state or federal individual income tax return.
1188 (2) There shall be subtracted from federal taxable income of a resident or nonresident
1189 individual:
1190 (a) the interest [or dividends on obligations or securities of the United
1191 States and its possessions or of any authority, commission, or instrumentality of the United
1192 States, to the extent that interest or dividend is included in gross income for
1193 federal income tax purposes for the taxable year but exempt from state income taxes under the
1194 laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be
1195 reduced by any interest on indebtedness incurred or continued to purchase or carry the
1196 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in
1197 the production of interest or dividend income described in this Subsection (2)(a) to the extent
1198 that such expenses, including amortizable bond premiums, are deductible in determining
1199 federal taxable income;
1200 (b) [i] except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any
1201 income tax paid or payable to the United States after all allowable credits, as reported on the
1202 United States individual income tax return of the taxpayer for the same taxable year; [and]
1203 (ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or nonresident individual's United States individual income tax return allowed as a result of the
acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,
Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be
used in calculating the amount described in Subsection (2)(b)(i);]
(c) the amount of adoption expenses for one of the following taxable years as elected
by the resident or nonresident individual:
(i) regardless of whether a court issues an order granting the adoption, the taxable year
in which the adoption expenses are:
(A) paid; or
(B) incurred;
(ii) the taxable year in which a court issues an order granting the adoption; or
(iii) any year in which the resident or nonresident individual may claim the federal
adoption expenses credit under Section 23, Internal Revenue Code;
(d) amounts received by taxpayers under age 65 as retirement income which, for
purposes of this section, means pensions and annuities, paid from an annuity contract
purchased by an employer under a plan which meets the requirements of Section 404(a)(2),
Internal Revenue Code, or purchased by an employee under a plan which meets the
requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or
political subdivision thereof, or the District of Columbia, to the employee involved or the
surviving spouse;
(e) for each taxpayer age 65 or over before the close of the taxable year, a $7,500
personal retirement exemption;
(f) 75% of the amount of the personal exemption, as defined and calculated in the
Internal Revenue Code, for each dependent child with a disability and adult with a disability
who is claimed as a dependent on a taxpayer's return;
[(g) any amount included in federal taxable income that was received pursuant to any
federal law enacted in 1988 to provide reparation payments, as damages for human suffering,
to United States citizens and resident aliens of Japanese ancestry who were interned during
World War II;]
subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

(i) for:

(A) the taxpayer;

(B) the taxpayer's spouse; and

(C) the taxpayer's dependents; and

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

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

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

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

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

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

(II) who file a joint return, but do not qualify under Subsection (2)(i)(A);

the amount included in federal taxable income that was derived from money paid by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education
Savings Incentive Program, not to exceed amounts determined under Subsection
Section 53B-8a-106(1)(d), and investment income earned on account agreements entered into under
Section 53B-8a-106 that is included in federal taxable income, but only when the funds are
used for qualified higher education costs of the beneficiary;
[][(k)] (j) for taxable years beginning on or after January 1, 2000, any amounts paid for
premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the
amounts paid for long-term care insurance were not deducted under Section 213, Internal
Revenue Code, in determining federal taxable income;
[][(l)] (k) for taxable years beginning on or after January 1, 2000, if the conditions of
Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:
(i) during a time period that the Ute tribal member resides on homesteaded land
diminished from the Uintah and Ouray Reservation; and
(ii) from a source within the Uintah and Ouray Reservation;
[][(m)] (l) (i) for taxable years beginning on or after January 1, 2003, the total amount of
a resident or nonresident individual's short-term capital gain or long-term capital gain on a
capital gain transaction:
(A) that occurs on or after January 1, 2003;
(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:
(I) to purchase qualifying stock in a Utah small business corporation; and
(II) within a 12-month period after the day on which the capital gain transaction occurs;
and
(C) if, prior to the purchase of the qualifying stock described in Subsection
(2)(m)(l)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in
the Utah small business corporation that issued the qualifying stock; and
(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
commission may make rules:
(A) defining the term "gross proceeds"; and
(B) for purposes of Subsection (2)(m)(l)(i)(C), prescribing the circumstances under
which a resident or nonresident individual has an ownership interest in a Utah small business

corporation; [and]

[\text{(m)}] for the taxable year beginning on or after January 1, 2005, but beginning on

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

receives:

(i) for service:

(A) as a qualifying military service member; or

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

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

nonresident individual's federal individual income tax return for that taxable year[;]

(n) an amount received by a resident or nonresident individual or distribution received

by a resident or nonresident beneficiary of a resident trust:

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

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for

that taxable year on the federal individual income tax return of the resident or nonresident

individual or resident or nonresident beneficiary of a resident trust;

(o) 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 individual; and

(C) for the taxable year; and

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

that resident or nonresident individual's federal individual income tax return for that taxable

year; and

(p) an amount:
(i) received by an enrolled member of an American Indian tribe; and
(ii) to the extent that the state is not authorized or permitted to impose a tax under this
part on that amount in accordance with:

(A) federal law;
(B) a treaty; or
(C) a final decision issued by a court of competent jurisdiction.

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

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

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

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

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

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

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

(iii) for individual taxpayers, for each $1 of adjusted gross income earned over
$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.
(c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated by adding to federal adjusted gross income any interest income not otherwise included in federal adjusted gross income.

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

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

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

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

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

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

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

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

(i) may not:

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

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(k); or

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

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection
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(2)(l)(k):
(B) be in writing;
(C) be signed by:
(I) the governor; and
(II) the chair of the Business Committee of the Ute tribe;
(D) be conditioned on obtaining any approval required by federal law; and
(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(l)(k) 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)(l)(k) 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;
(II) 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 14. Section 59-10-115 is amended to read:

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

[(4) 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.

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.

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.

The commission shall [by rule prescribe for adjustments] allow an adjustment to state taxable income of 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 to state taxable income required by Subsection (1).

Section 15. 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 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 16. Section 59-10-201.1 is amended to read:

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

The state taxable income of a resident estate or trust means its federal taxable income as [defined] calculated 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 17. Section 59-10-202 is amended to read:

59-10-202. Additions to and subtractions from state taxable income of a 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 income as defined in Section 62, Internal Revenue Code, in determining federal taxable income;

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

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

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

(i) a state other than this state;

(ii) the District of Columbia;

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

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

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

(i) in an S corporation; and

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

(e) any fiduciary adjustments required by Section 59-10-210.
(2) There shall be subtracted from federal taxable income of a resident or nonresident estate or trust:

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

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

(c) income of an irrevocable resident trust if:

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

(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;

(d) if the conditions of Subsection (4)(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;

(e) (i) for taxable years beginning on or after January 1, 2003, the total amount of a resident or nonresident estate's or trust's short-term capital gain or long-term capital gain on a capital gain transaction:

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

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

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

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

and

(C) if, prior to the purchase of the qualifying stock described in Subsection (2)(e)(i)(B)(I), the resident or nonresident estate or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock; and

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

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

(B) for purposes of Subsection (2)(e)(i)(C), prescribing the circumstances under which a resident or nonresident estate or trust has an ownership interest in a Utah small business corporation;

(f) for the taxable year beginning on or after January 1, 2005, but beginning on or before December 31, 2005, the first $2,200 of income of a resident or nonresident estate or trust that is derived from a deceased qualifying military service member:

(i) for service:

(A) as a qualifying military service member; or
(B) under an order into active service in accordance with Section 39-1-5; and
(ii) to the extent that income is included in total income on that resident or nonresident estate's or trust's federal income tax return for estates and trusts for that taxable year;
(g) 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;
(h) 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 resident or nonresident estate's or trust's federal tax return for estates and trusts;
(i) an amount:
(i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and
(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
(A) federal law;
(B) a treaty; or
(C) a final decision issued by a court of competent jurisdiction; and
(j) any fiduciary adjustments required by Section 59-10-210.
(3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be added to federal taxable income of a resident or nonresident estate or trust if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(c)(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)(c)(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.

(4) (a) A subtraction for an amount described in Subsection (2)(d) is allowed only if:

(i) the income is derived from a deceased Ute tribal member; and

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

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

(i) may not:

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

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(d); or

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

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(d);

(B) be in writing;

(C) be signed by:

(I) the governor; and
(II) the chair of the Business Committee of the Ute tribe;

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

(E) state the effective date of the agreement.

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

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(d) 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)(d) 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 18. Section 59-10-204 is amended to read:

59-10-204. State taxable income of a 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 19. 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 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 20. 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 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 59-10-210 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 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 21. 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 state taxable income 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 to state taxable income required by
Subsection (1).

Section 22. Section 59-10-210 is amended to read:

[(1) The fiduciary adjustments are the amounts of the modifications described in
Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of
which the first estate or trust is a beneficiary-]
(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
or subtracted from federal taxable income:
(a) of:
(i) a resident or nonresident estate or trust; or
(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and
(b) as provided in this section.
(2) For purposes of Subsection (1), the fiduciary adjustments are the following
amounts:
(a) the additions to and subtractions from federal taxable income of a resident or
nonresident estate or trust required by Section 59-10-202, except for Subsection
59-10-202(2)(b); and
(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
The respective shares of an estate or trust and its beneficiaries, including solely for the purpose of this allocation, a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

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

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

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:

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

If the inequity is substantial:

(A) in amount; and

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

In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
commission may [by rule and upon such terms and conditions as it may prescribe, authorize the
use of such other appropriate and equitable method or methods] make rules authorizing a
fiduciary to use a method for determining [attribution and] the 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 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 23. 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 24. 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 Subsection 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.
"Claimant" does not include an estate or trust.

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 under this chapter 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 25. Section 59-10-1003, which is renumbered from Section 59-10-106 is renumbered and amended to read:

59-10-1003. Tax credit for tax paid by individual to another state.

(1) A resident individual shall be allowed a tax credit against the tax otherwise due under this chapter equal to the amount of the tax imposed:

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

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

(c) on income:

(i) derived from sources within that other state of the United States, District of Columbia, or possession of the United States; and
(ii) if that income is also subject to tax under this chapter.

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

(a) resident claimant;

(b) resident estate; or

(c) resident trust.

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

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

Section 26. Section 59-10-1004, which is renumbered from Section 59-10-108 is renumbered and amended to read:

59-10-1004. Tax credit for cash contributions to sheltered workshops.

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

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

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

Section 27. Section 59-10-1005, which is renumbered from Section 59-10-108.1 is renumbered and amended to read:

59-10-1005. Tax credit for at-home parent.

(1) As used in this section:
"At-home parent" means a parent:

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

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

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

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

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

"Parent" means an individual who:

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

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

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

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

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

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

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

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

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

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

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

(b) the federal adjusted gross income of all of the claimants filing the
individual income tax return is less than or equal to $50,000.

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

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

Section 28. Section 59-10-1006, which is renumbered from Section 59-10-108.5 is renumbered and amended to read:

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

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

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

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

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

(2) As used in this section:

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

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

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

(A) [the taxpayer’s] a claimant’s, estate’s, or trust’s personal labor;
(B) cost of acquisition of the property;
(C) any expenditure attributable to the enlargement of an existing building;
(D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or
(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.

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

Section 29. Section 59-10-1007, which is renumbered from Section 59-10-108.7 is renumbered and amended to read:

59-10-1007. Recycling market development zones tax credit.

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

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

(A) commercial composting; or
(B) manufacturing facilities or plant units that:
(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or
(II) reduce or reuse postconsumer waste material.
(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

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

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

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

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

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

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

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

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

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.
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(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claimant, estate, or trust claims or carries forward a tax credit under Section 63-38f-413.

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

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

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

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

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

Section 30. Section 59-10-1008, which is renumbered from Section 59-10-109 is renumbered and amended to read:


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

(a) has been receiving services:

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

(A) for persons with disabilities; and

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

(ii) for at least six consecutive months prior to working for the employer claimant,
estate, or trust claiming the tax credit under this section; or
(b) is eligible for services from the Division of Services for People with Disabilities at the time the individual begins working for the claimant, estate, or trust claiming the tax credit under this section.

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

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

(b) hires an individual with a disability who:

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

(ii) is paid at least minimum wages by that claimant, estate, or trust.

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

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

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

(4) The tax credit that may be taken by a claimant, estate, or trust under this section shall be:

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

(b) allowed only for the first two years the individual with a disability is employed by the claimant, estate, or trust.

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

(6) (a) The Division of Services for People with Disabilities shall certify that a claimant, estate, or trust qualifies for the tax credit provided in this section on a form provided by the commission.
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1990 (b) The form described in Subsection (6)(a) shall include the name and Social Security number of the individual for whom the tax credit is claimed.

1992 (c) The Division of Services for People with Disabilities shall provide the [employer] claimant, estate, or trust described in Subsection (6)(a) with a copy of the form described in this Subsection (6).

1995 (d) The [employer] claimant, estate, or trust described in Subsection (6)(a) shall retain the form described in this Subsection (6).

1997 Section 31. Section 59-10-1009, which is renumbered from Section 59-10-127 is renumbered and amended to read:

1999 [59-10-127].

2000 59-10-1009. Definitions -- Cleaner burning fuels tax credit.

2001 (1) As used in this section:

2002 (a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

2003 (b) "Certified by the board" means that:

2004 (i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

2006 (A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

2008 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the installation of conversion equipment; and

2010 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

2012 (I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

2014 (II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway Vehicles and Engines, using all fuels the motor vehicle is capable of using; or
(III) any other test or standard recognized by board rule; or
(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:
(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were before the installation of conversion equipment; and
(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:
(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or
(II) any other test or standard recognized by the board.
(c) "Clean fuel grant" means a grant the taxpayer a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.
(d) "Conversion equipment" means equipment referred to in Subsection (2)(a)(ii) or (2)(a)(iii).
(e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.
(f) "Incremental cost" has the same meaning as in Section 19-1-402.
(g) "OEM vehicle" has the same meaning as in Section 19-1-402.
(h) "Special mobile equipment":
(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and
(ii) includes construction or maintenance equipment.
(2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2010, a [taxpayer] claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:
(i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of $3,000 per vehicle, if
the vehicle:

(A) is fueled by propane, natural gas, or electricity;

(B) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or

(C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of $2,500 per vehicle, if the motor vehicle:

(A) is to be fueled by propane, natural gas, or electricity;

(B) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(ii)(A); or

(C) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

(iii) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of $1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(A) propane, natural gas, or electricity; or

(B) other fuel the board determines annually on or before July 1 to be:

(I) at least as effective in reducing air pollution as the fuels under Subsection (2)(a)(iii)(A); or

(II) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January 1, 2006, a [taxpayer] claimant, estate, or trust may not claim a tax credit under this section with respect to an electric-hybrid vehicle.

(3) [An individual] A claimant, estate, or trust shall provide proof of the purchase of an
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item for which a tax credit is allowed under this section by:
(a) providing proof to the board in the form the board requires by rule;
(b) receiving a written statement from the board acknowledging receipt of the proof;
and
(c) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:
(a) against any Utah tax owed in the taxable year by the [taxpayer] claimant, estate, or trust;
(b) in the taxable year in which the item is purchased for which the tax credit is claimed; and
(c) once per vehicle.

(5) If the amount of a tax credit claimed by a [taxpayer] claimant, estate, or trust under this section exceeds the [taxpayer's] claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 32. Section 59-10-1010, which is renumbered from Section 59-10-129 is renumbered and amended to read:

59-10-1010. 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] claimant, estate, or trust that specifies the percentage of the annual federal low-income housing [tax] credit that each [taxpayer] claimant, estate, or trust may take as an annual tax credit against [state income tax] a tax imposed by this chapter; or
(ii) a copy of the allocation certificate that the housing sponsor provides to the [taxpayer] claimant, estate, or trust.
(b) "Building" means a qualified low-income building as defined in Section 42(c),
(c) "Federal low-income housing [tax] credit" means the [tax] low-income housing 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] claimant, estate, or trust for a taxable year; and

(iii) that specifies the amount of a tax credit a [taxpayer] claimant, estate, or trust may claim under this section if the [taxpayer] claimant, estate, or trust 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 for [taxpayers] a claimant, estate, or trust 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] claimant, estate, or trust 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] claimant, estate, or trust 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] claimants, estates, and trusts may claim with respect to the building if the [taxpayers] claimants, estates, and trusts meet the requirements of this section; and
(ii) the percentage of tax credit a [taxpayer] claimant, estate, or trust may claim:
(A) under this section if the [taxpayer] claimant, estate, or trust meets the requirements of this section; and
(B) as provided in the agreement between the [taxpayer] claimant, estate, or trust 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 59-7-607 is an amount equal to the product of:
(A) 12.5 cents; and
(B) the population of Utah.

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

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

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

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;
(ii) the level of area median income being served by the development;
(iii) the need for the tax credit for the economic feasibility of the development; and
(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:
   (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has received an allocation of the federal low-income housing [tax] credit; or
   (ii) any applicant for an allocation of the federal low-income housing [tax] credit if that applicant is a claimant, estate, or trust.

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

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.
   (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.
   (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed 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] claimant, estate, or trust 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] claimants, estates, and trusts issued a special low-income housing tax credit certificate; and
(ii) for each [taxpayer] claimant, estate, or trust 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] claimant, estate, or trust pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a [taxpayer] claimant, estate, or trust is required to recapture a portion of any federal low-income housing [tax] credit, the [taxpayer] claimant, estate, or trust 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 tax 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 33. Section 59-10-1011, which is renumbered from Section 59-10-130 is renumbered and amended to read:


(1) For purposes of this section:

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

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

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

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

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

(A) approved by an individual education plan team;

(B) provided to a disabled dependent; and

(C) that supplement classroom instruction the disabled dependent described in Subsection (1)(b)(i)(B) receives at a public or private kindergarten, elementary, or secondary school in the state.

(ii) "Tutoring" does not include:

(A) purchases of instructional books and material; or

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

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

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

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

Section 34. Section 59-10-1012, which is renumbered from Section 59-10-131 is
renumbered and amended to read:

59-10-1012. Tax credits for research activities conducted in
the state -- Carry forward -- Commission to report modification or repeal of federal
credits.

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

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

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

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

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

(ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection
(4)(f); or
(iii) claim a portion of the tax credit and carry forward a portion of the tax credit as provided in Subsections (1)(b)(i) and (ii).

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

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

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

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

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

(4) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

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

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

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

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

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

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

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only those expenses incurred in conducting qualified research in this state;

(e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax credits provided for in this section shall not terminate if the credits terminate under Section 41, Internal Revenue Code; and

(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code, governing the carry forward and carry back of federal tax credits, if the amount of a tax credit claimed by a taxpayer claimant, estate, or trust under this section exceeds the taxpayer's claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years;

and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(6) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Tax Review Commission within 60 days after the day on which the modification or repeal becomes effective.

[(7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall review the credits provided for in this section on or before the earlier of:]

[(i) October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; and]

[(ii) the day on which the commission makes rules under Subsection (5).]
(b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to review the credits provided for in this section if the only modification to a federal tax credit under Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Tax Review Commission shall address in a review under this section the:

(i) cost of the credit;
(ii) purpose and effectiveness of the credit;
(iii) whether the credit benefits the state; and
(iv) whether the credit should be:
   (A) continued;
   (B) modified; or
   (C) repealed.

(d) If the Tax Review Commission reviews the credits provided for in this section, the Tax Review Commission shall report its findings to the Revenue and Taxation Interim Committee on or before the November interim meeting of the year in which the Tax Review Commission reviews the credits.

Section 35. Section 59-10-1013, which is renumbered from Section 59-10-132 is renumbered and amended to read:

[59-10-132]. 59-10-1013. Credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of federal credits.

(1) As used in this section:
(a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.
(b) "Equipment" includes:
   (i) computers;
(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include sales or use taxes imposed on an item of machinery or equipment.

(d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer claimant, estate, or trust shall qualify for the following nonrefundable tax credits for the taxable year in which the machinery, equipment, or both, meets the requirements of either Subsection (2)(a)(i) or (2)(a)(ii):

(i) a tax credit of 6% of the purchase price of either machinery, equipment, or both:

(A) purchased by the taxpayer claimant, estate, or trust during the taxable year;

(B) that is not exempt from sales or use taxes; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price paid by the taxpayer claimant, estate, or trust for either machinery, equipment, or both:

(A) purchased by the taxpayer claimant, estate, or trust during the taxable year;

(B) that is not exempt from sales or use taxes;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) If a taxpayer claimant, estate, or trust qualifying for a tax credit under Subsection (2)(a) seeks to claim the tax credit, the taxpayer claimant, estate, or trust shall:

(i) claim the tax credit or a portion of the tax credit for the taxable year immediately following the taxable year for which the taxpayer claimant, estate, or trust qualifies for the tax credit;
(ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection 2383 (5); or

(iii) claim a portion of the tax credit and carry forward a portion of the tax credit as provided in Subsections (2)(b)(i) and (ii).

(c) Notwithstanding Subsection (2)(a), if a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

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

(4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax credits provided for in this section shall not terminate if the credits terminate under Section 41, Internal Revenue Code.

(5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code, governing the carry forward and carry back of federal tax credits, if the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years;

and

(b) may not be carried back to a taxable year preceding the current taxable year.

(6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that either machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(7) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Tax Review
Commission within 60 days after the day on which the modification or repeal becomes effective.

[(8) (a) Except as provided in Subsection (8)(b), the Tax Review Commission shall review the credits provided for in this section on or before the earlier of:

[(i) October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or]

[(ii) October 1, 2004.]

[(b) Notwithstanding Subsection (8)(a), the Tax Review Commission is not required to review the credits provided for in this section if the only modification to a federal tax credit under Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.]

[(c) The Tax Review Commission shall address in a review under this section the:

[(i) cost of the credit;]

[(ii) purpose and effectiveness of the credit;]

[(iii) whether the credit benefits the state; and]

[(iv) whether the credit should be:

[(A) continued;]

[(B) modified; or]

[(C) repealed.]

[(d) If the Tax Review Commission reviews the credits provided for in this section, the Tax Review Commission shall report its findings to the Revenue and Taxation Interim Committee on or before the November interim meeting of the year in which the Tax Review Commission reviews the credits.]

Section 36. Section 59-10-1014, which is renumbered from Section 59-10-134 is renumbered and amended to read:

[59-10-134]. 59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations -- State tax credit in addition to allowable federal credits --
As used in this part:

(a) "Active solar system":
(i) means a system of equipment capable of collecting and converting incident solar
radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
by a separate apparatus to storage or to the point of use; and
(ii) includes water heating, space heating or cooling, and electrical or mechanical
energy generation.

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

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

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

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

(f) (i) "Commercial unit" means any building or structure which a business entity uses
to transact its business, except as provided in Subsection (1)(f)(ii); and
(ii) (A) in the case of an active solar system used for agricultural water pumping or a
wind system, each individual energy generating device shall be a commercial unit; and
(B) if an energy system is the building or structure which a business entity uses to
transact its business, a commercial unit is the complete energy system itself.

(g) "Hydroenergy system" means a system of apparatus and equipment capable of
intercepting and converting kinetic water energy into electrical or mechanical energy and
transferring this form of energy by separate apparatus to the point of use or storage.
[(h) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.]

[(i) "Passive solar system":

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

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

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

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

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

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

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

[(2) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2006, any individual taxpayer a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section if:

(a) the individual taxpayer a claimant, estate, or trust that is not a business entity
purchases and completes or participates in the financing of a residential energy system to
supply all or part of the energy for the [individual taxpayer's] claimant's, estate's, or trust's
residential unit in the state; or
(b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to [an
individual taxpayer] another claimant, estate, or trust that is not a business entity prior to
making a claim for a tax credit under Subsection (6) or Section 59-7-614; and
(ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit
to the [individual taxpayer] claimant, estate, or trust that is not a business entity as provided in
Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

(3) (a) [An individual taxpayer meeting the requirements of] The tax credit described
in Subsection (2) is [entitled to a tax credit] equal to 25% of the costs of the energy system,
including installation costs, against any income tax liability of the [individual taxpayer]
claimant, estate, or trust under this chapter for the taxable year in which the residential energy
system is completed and placed in service.
(b) The total amount of the tax credit under this section may not exceed $2,000 per
residential unit.
(c) The tax credit under this section is allowed for any residential energy system
completed and placed in service on or after January 1, 2001, but on or before December 31,
2006.

(4) (a) The tax credit provided for in this section shall be claimed in the return for the
taxable year in which the energy system is completed and placed in service.
(b) Additional residential energy systems or parts of residential energy systems may be
similarly claimed in returns for subsequent taxable years as long as the total amount claimed
does not exceed $2,000 per residential unit.
(c) If the amount of the tax credit under this section exceeds the income tax liability of
the [individual taxpayer] claimant, estate, or trust claiming the tax credit under this section for
that taxable year, then the amount not used may be carried over for a period which does not
exceed the next four taxable years.
(5) (a) Individual taxpayers who lease A claimant, estate, or trust that is not a business entity that leases a residential energy system installed on a residential unit [are] is eligible for the residential energy tax credits if [the lessee can confirm] that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the [state] tax credit.

(b) Only the principal recovery portion of the lease payments, which is the cost incurred by the [taxpayer] claimant, estate, or trust in acquiring the residential energy system excluding interest charges and maintenance expenses, is eligible for the tax credits.

(c) Individual taxpayers who lease residential energy systems are eligible to A claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period [no greater than] that does not exceed seven years from the initiation of the lease.

(6) (a) A claimant, estate, or trust that is a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the claimant, estate, or trust that is a business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (6).

(b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2006, a claimant, estate, or trust that is a business entity is entitled to a tax credit equal to 25% of the costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(ii) The total amount of the tax credit under this Subsection (6) may not exceed $2,000 per residential unit.

(iii) The tax credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(c) If a claimant, estate, or trust that is a business entity sells a residential unit to an individual taxpayer a claimant, estate, or trust that is not a business entity prior to making a claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business
entity may:

(i) assign its right to this tax credit to the individual taxpayer claimant, estate, or trust that is not a business entity; and

(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax credit to an individual taxpayer a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the individual taxpayer claimant, estate, or trust that is a business entity may claim the tax credit as if the individual taxpayer claimant, estate, or trust that is not a business entity had completed or participated in the costs of the residential energy system under this section.

(7) (a) A claimant, estate, or trust that is a business entity that purchases or participates in the financing of a commercial energy system is entitled to a nonrefundable tax credit as provided in this Subsection (7) if:

(i) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust that is a business entity; or

(ii) the claimant, estate, or trust that is a business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit equal to 10% of the costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(ii) The total amount of the tax credit under this Subsection (7) may not exceed $50,000 per commercial unit.

(iii) The tax credit under this Subsection (7) is allowed for any commercial energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(c) A claimant, estate, or trust that is a business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if the [lessee can confirm] claimant, estate, or trust confirms that the lessor irrevocably elects not
to claim the tax credit.

(d) Only the principal recovery portion of the lease payments, which is the cost incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).

(e) A claimant, estate, or trust that is a business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (7) for a period that does not exceed seven years from the initiation of the lease.

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

(b) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(c) If the amount of a tax credit under this section exceeds the tax liability of the claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a period which does not exceed the next four taxable years.

(9) The tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

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

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

(11) The Utah Geological Survey and the commission are authorized to promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are necessary to implement this section.
(12) The Uniform School Fund shall be reimbursed by transfers from the General Fund for any tax credits taken under this section.

Section 37. Section 59-10-1015, which is renumbered from Section 59-10-134.2 is renumbered and amended to read:

59-10-1015. Definitions -- Tax credit for live organ donation expenses -- Rulemaking authority.

(1) As used in this section:

(a) "human organ" means:

(i) human bone marrow; or

(ii) any part of a human:

(A) intestine;

(B) kidney;

(C) liver;

(D) lung; or

(E) pancreas;

(b) "live organ donation" means that an individual who is living donates one or more of that individual's human organs:

(i) to another human; and

(ii) to be transplanted:

(A) using a medical procedure; and

(B) to the body of the other human; and

(c) (i) "live organ donation expenses" means the total amount of expenses:

(A) incurred by a [taxpayer] claimant; and

(B) that:

(I) are not reimbursed to that [taxpayer] claimant by any person;

(II) are directly related to a live organ donation by:

(Aa) the [taxpayer] claimant; or

(Bb) another individual that the [taxpayer] claimant is allowed to claim as a dependent
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in accordance with Section 151, Internal Revenue Code; and

(III) are for:

(Aa) travel;

(Bb) lodging; or

(Cc) a lost wage; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define "lost wage."

(2) For taxable years beginning on or after January 1, 2005, a taxpayer claimant may claim a nonrefundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter;

(c) for live organ donation expenses incurred during the taxable year for which the live organ donation occurs; and

(d) in an amount equal to the lesser of:

(i) the actual amount of the live organ donation expenses; or

(ii) $10,000.

(3) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the taxpayer's tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 38. Section 59-10-1016, which is renumbered from Section 59-10-135 is renumbered and amended to read:

59-10-1016. Removal of tax credit from tax return and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.

(1) As used in this section:

(a) "Tax credit" means a nonrefundable tax credit listed on a tax return.

(b) "Tax return" means an individual income tax return filed in
(2) Beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit from each tax return on which the tax credit appears; and

(b) a [person] claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

(3) The commission shall remove a tax credit from a tax return and a [person] claimant, estate, or trust filing a tax return may not claim or carry forward a tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all [persons] claimants, estates, or trusts filing tax returns is less than $10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than ten [persons] claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met:

(a) report to the Revenue and Taxation Interim Committee that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a [person] claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a [person] claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.
Section 39. Section 59-10-1101 is enacted to read:

**Part 11. Refundable Tax Credit Act**

59-10-1101. Title.

This part is known as the "Refundable Tax Credit Act."

Section 40. Section 59-10-1102 is enacted to read:

59-10-1102. Definitions.

As used in this part:

(1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a), "claimant" means a resident or nonresident person.

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

(2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident estate or a resident estate.

(3) "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 a taxable year.

(4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident trust or a resident trust.

Section 41. Section 59-10-1103, which is renumbered from Section 59-10-108.2 is renumbered and amended to read:

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] a nonrefundable tax credit as defined in Section 59-10-1002 or a refundable tax credit other than the tax credit described in Subsection (1), the nonresident shareholder described in Subsection (1)(a) shall file [an individual income] a tax return under this chapter to claim those nonrefundable tax credits or refundable tax credits.

Section 42. Section 59-10-1104, which is renumbered from Section 59-10-133 is renumbered and amended to read:

[59-10-133]. 59-10-1104. Tax credit for adoption of a child who has a special need.

(1) As used in this section, a "child who has a special need" means a child who meets at least one of the following conditions:

(a) the child is five years of age or older;

(b) the child:

(i) is under the age of 18; and

(ii) has a physical, emotional, or mental disability; or

(c) the child is a member of a sibling group placed together for adoption.

(2) For taxable years beginning on or after January 1, 2005, a [taxpayer] claimant who adopts in this state a child who has a special need may claim on the [taxpayer's] claimant's
individual income tax return for the taxable year a refundable tax credit of $1,000 against taxes otherwise due under this chapter for:

(a) adoptions for which a court issues an order granting the adoption on or after January 1, 2005;

(b) the taxable year during which a court issues an order granting the adoption; and

(c) each child who has a special need whom the claimant adopts.

(3) The credit provided for in this section may not be carried forward or carried back.

(4) Nothing in this section shall affect the ability of any claimant who adopts a child who has a special need to receive adoption assistance under Section 62A-4a-907.

Section 43. Section 59-10-1105, which is renumbered from Section 59-10-134.1 is renumbered and amended to read:

[59-10-134.1]. 59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Uniform School Fund -- Rulemaking authority.

(1) For taxable years beginning on or after January 1, 2004, a claimant, estate, or trust may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than $250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:


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(a) shall retain the following to establish the amount of tax the [resident or nonresident individual] claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;
(ii) an invoice; or
(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b), the commission shall:

(i) make a refund to a [resident or nonresident individual who] claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the [resident or nonresident individual's] claimant's, estate's, or trust's tax liability under this chapter; and
(ii) transfer at least annually from the General Fund into the Uniform School Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a [resident or nonresident individual] claimant, estate, or trust as required by Subsection (3)(a)(i); or
(ii) transfers from the General Fund into the Uniform School Fund as required by Subsection (3)(a)(ii).

Section 44. Section 59-13-202 is amended to read:

59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income 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:

(a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.
(ii) "Claimant" does not include an estate or trust.
(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:
   (i) as provided by statute; and
   (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:
      (A) Chapter 7, Corporate Franchise and Income Taxes; or
      (B) Chapter 10, Individual Income Tax Act.

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

[(1) (2) Any [person who] claimant, estate, or trust 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 person] A claimant, estate, or trust 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 claimant, estate, or trust files under:
   (i) Chapter 7, Corporate Franchise and Income Taxes; or

(b) A [person] claimant, estate, or trust 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] claimant, estate, or trust 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.
In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;
(b) the claimant's, estate's, or trust'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 claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust 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 claimant, estate, or trust 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 claimant, estate, or trust.

Any claimant, estate, or trust 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, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust 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.

Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

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.

Any claimant, estate, or trust 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.

Any who makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust 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 claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

Refunds to which taxpayers are entitled under this part shall be paid from the Transportation Fund.

Section 45. 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 temporally 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]
59-10-1104, and financial assistance may be available to defray the costs of adopting these
children;
(iv) training and ongoing support may be available to the adoptive parents of these
children; and
(v) 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
(3)(a); and
(ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child
placing agencies.

(e) The division shall respond to any inquiry made as a result of the notice provided in
Section 46. Section 63-38f-402 is amended to read:

**63-38f-402. Definitions.**

As used in this part:

1. "Business entity" means an entity:
   a. including a claimant, estate, or trust; and
   b. under which business is conducted or transacted.

2. "Claimant" means a resident or nonresident person that has:
   a. Utah taxable income as defined in Section 59-7-101; or
   b. state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability or Information.

3. "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63-38f-404.

4. "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

5. "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63-38f-404.

6. "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 under:
         i. Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
         ii. Title 59, Chapter 10, Individual Income Tax Act; 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 for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

"Tax incentives" or "tax benefits" means the nonrefundable tax credits available under described in Section 63-38f-413.

(8) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Section 47. Section 63-38f-412 is amended to read:


The tax incentives described in this part are available only to a business entity for which at least 51% of the employees employed at facilities of the business entity located in the enterprise zone are individuals who, at the time of employment, reside in the county in which the enterprise zone is located.

Section 48. Section 63-38f-413 is amended to read:

63-38f-413. State tax credits.

(1) Subject to the limitations of Subsections (2) through (4), the following nonrefundable tax credits against individual income taxes or corporate franchise and income taxes a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of $750 may be claimed by a business entity for each new full-time position filled for not less than six months during a given tax year;

(b) an additional $500 tax credit may be claimed if the new position pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective
county where the enterprise zone is located;

(c) an additional tax credit of $750 may be claimed if the new position is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of $200 may be claimed for two consecutive years for each new employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for two consecutive years;

(e) a tax credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed $100,000:

(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(ii) whose primary purpose is community and economic development; and

(iii) that has been accredited by the board of directors of the Utah Rural Development Council;

(f) a tax credit of 25% of the first $200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(g) an annual investment tax credit of 10% of the first $250,000 in investment, and 5% of the next $1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time employee positions or less in each of its taxable years.

(b) A business entity that received a tax credit for its full-time employee positions under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time employee position under Subsections (1)(a) through (d) if:

(i) the business entity creates a new full-time employee position;

(ii) the total number of full-time employee positions at the business entity is greater than the number of full-time employee positions previously claimed by the business entity under Subsections (1)(a) through (d); and
(iii) the total number of tax credits the business entity has claimed for its current taxable year, including the new full-time employee position for which the claimant, estate, or trust that is a business entity is claiming a tax credit, is less than or equal to 30.

(c) A business entity existing in an enterprise zone on the date of its designation shall calculate the number of full-time positions based on the average number of employees reported to the Department of Workforce Services.

(d) Construction jobs are not eligible for the tax credit under Subsections (1)(a) through (d).

(3) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next three taxable years.

(4) (a) If a business entity is located in a county that met the requirements of Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January 1, 1998, because the county was located in a metropolitan statistical area in more than one state, the business entity:

(i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997, but beginning before December 31, 1997;

(ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning on or after January 1, 1997, but beginning before December 31, 1997; and

(iii) may qualify for tax credits for any taxable year beginning on or after January 1, 1998, if the county is designated as an enterprise zone in accordance with this part.

(b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business entity:

(i) may claim the tax credit by filing for the taxable year beginning on or after January 1, 1997, but beginning before December 31, 1997:

[(A) an individual income tax return;]

[(A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) an amended [individual income tax] return under Title 59, Chapter 7, Corporate]
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Franchise and Income Taxes;

(C) a [corporate franchise and income tax] return under Title 59, Chapter 10, Individual Income Tax Act; or

(D) an amended [corporate franchise and income tax] return under Title 59, Chapter 10, Individual Income Tax Act; and

(ii) may carry forward the tax credit to a taxable year beginning on or after January 1, 1998, in accordance with Subsection (3).

(5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a business entity engaged in retail trade or by a public utilities business.

(6) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63-38f-503.

Section 49. Section 63-38f-501 is amended to read:


As used in this part:

(1) "Allocated cap amount" means the total amount of the targeted business income tax credit that a business applicant is allowed to claim for a taxable year that represents a pro rata share of the total amount of $300,000 for each fiscal year allowed under Subsection 63-38f-503(2).

(2) "Business applicant" means a business that:

(a) is a:

(i) claimant;

(ii) estate; or

(iii) trust; and

(b) meets the criteria established in Section 63-38f-502.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.
"Community investment project" means a project that includes one or more of the following criteria in addition to the normal operations of the business applicant:

(a) substantial new employment;

(b) new capital development; or

(c) a combination of both Subsections [(3) (4) (a) and (b)].

"Community investment project period" means the total number of years that the office determines a business applicant is eligible for a targeted business income tax credit for each community investment project.

"Enterprise zone" means an area within a county or municipality that has been designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

"Estate" means a nonresident estate or a resident estate.

"Local zone administrator" means a person:

(a) designated by the governing authority of the county or municipal applicant as the local zone administrator in an enterprise zone application; and

(b) approved by the office as the local zone administrator.

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

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

"Targeted business income tax credit" means a refundable tax credit available under Section 63-38f-503.

"Targeted business income tax credit eligibility form" means a document provided annually to the business applicant by the office that complies with the requirements of Subsection 63-38f-503(8).

"Trust" means a nonresident trust or a resident trust.
Section 50. Section 63-38f-502 is amended to read:


(1) (a) For taxable years beginning on or after January 1, 2002, a business applicant may elect to claim a targeted business income tax credit available under Section 63-38f-503 if the business applicant:

(i) is located in:

(A) an enterprise zone; and

(B) a county with:

(I) a population of less than 25,000; and

(II) an unemployment rate that for six months or more of each calendar year is at least one percentage point higher than the state average;

(ii) meets the requirements of Section 63-38f-412;

(iii) provides:

(A) a community investment project within the enterprise zone; and

(B) a portion of the community investment project during each taxable year for which the business applicant claims the targeted business tax incentive; and

(iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is not engaged in the following, as defined by the State Tax Commission by rule:

(A) construction;

(B) retail trade; or

(C) public utility activities.

(b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 63-38f-413, 59-7-610, or 59-10-1007.

(2) (a) A business applicant seeking to claim a targeted business income tax credit under this part shall file an application as provided in Subsection (2)(b) with the local zone administrator by no later than June 1 of the year in which the business applicant is seeking to claim a targeted business income tax credit.
(b) The application described in Subsection (2)(a) shall include:

(i) any documentation required by the local zone administrator to demonstrate that the business applicant meets the requirements of Subsection (1);

(ii) a plan developed by the business applicant that outlines:

(A) if the community investment project includes substantial new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;

(B) if the community investment project includes new capital development, a description of the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit; and

(C) a description of how the business applicant's plan coordinates with:

(I) the goals of the enterprise zone in which the business applicant is providing a community investment project; and

(II) the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project; and

(iii) any additional information required by the local zone administrator.

(3) (a) The local zone administrator shall:

(i) evaluate an application filed under Subsection (2); and

(ii) determine whether the business applicant is eligible for a targeted business income tax credit.

(b) If the local zone administrator determines that the business applicant is eligible for a targeted business income tax credit, the local zone administrator shall:

(i) certify that the business applicant is eligible for the targeted business income tax credit;

(ii) structure the targeted business income tax credit for the business applicant in accordance with Section 63-38f-503; and

(iii) monitor a business applicant to ensure compliance with this section.

(4) A local zone administrator shall report to the office by no later than June 30 of each
year:
   (a) (i) any application approved by the local zone administrator during the last fiscal year; and
   (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each new business applicant; and
   (b) (i) the status of any existing business applicants that the local zone administrator monitors; and
   (ii) any information required by the office to determine the status of an existing business applicant.

(5) (a) By July 15 of each year, the department shall notify the local zone administrator of the allocated cap amount that each business applicant that the local zone administrator monitors is eligible to claim.

(b) By September 15 of each year, the local zone administrator shall notify, in writing, 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 51. 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 7, Corporate Franchise and Income Taxes; or

      (ii) Title 59, Chapter 10, Individual Income Tax Act; and

   (b) subject to requirements and limitations provided by this part.
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 applicant is eligible for that taxable year;
   (b) any reductions in the maximum amount of the targeted business income tax credit because of failure to comply with a requirement of Subsection (3) or Section 63-38f-502;
   (c) the allocated cap amount that the business applicant may claim for that taxable year; and
   (d) the actual amount of the targeted business income tax credit that the business
applicant may claim for that taxable year.

(9) (a) A business applicant shall retain the targeted business income tax credit eligibility form provided by the office under this Subsection (9).

(b) The State Tax Commission may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; or

(ii) compliance with Subsection (3) or Section 63-38f-502.

Section 52. Section 63-38f-1102 is amended to read:

63-38f-1102. Definitions.

As used in this part:

(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste.

(b) "Recovered materials" does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition 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 59-7-608 and 59-10-1007.
Section 53. 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 credits against tax as provided by Sections 59-7-610 and 59-10-1007.
Section 54. 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) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.
(b) "Claimant" does not include an estate or trust.
(4) "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.
(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, 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).

"Corporation" means the Utah Capital Investment Corporation created under
Section 63-38f-1207.

"Designated investor" means:
(a) a person who purchases an equity interest in the Utah fund of funds; or
(b) a transferee of a certificate or contingent tax credit.

"Designated purchaser" means:
(a) a person who enters into a written undertaking with the board to purchase a
commitment; or
(b) a transferee who assumes the obligations to make the purchase described in the
commitment.

"Estate" means a nonresident estate or a resident estate.

"Person" means an individual, partnership, limited liability company,
corporation, association, organization, business trust, estate, trust, or any other legal or
commercial entity.

"Redemption reserve" means the reserve established by the corporation to
facilitate the cash redemption of certificates.

"Taxpayer" means a taxpayer:
(a) of an investor; and
(b) if that taxpayer is a:
(i) claimant;
(ii) estate; or
(iii) trust.

"Trust" means a nonresident trust or a resident trust.

"Utah fund of funds" means a limited partnership or limited liability
company established under Section 63-38f-1213 in which a designated investor purchases an
equity interest.
Section 55. Section **63-55-209** is amended to read:

**63-55-209. Repeal dates, Title 9.**

(1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is repealed July 1, 2014.

(2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

(3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is repealed July 1, 2010.

(b) Sections 59-7-610 and **59-10-1007**, regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2011.

(c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under Section 59-7-610 or **59-10-1007**:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or **59-10-1007** if the machinery or equipment is purchased on or after July 1, 2010;

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or **59-10-1007(1)(b)**, if the expenditure is made on or after July 1, 2010.

(d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or **59-10-1007** if:

(i) the person is entitled to a tax credit under Section 59-7-610 or **59-10-1007**;

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or **59-10-1007**, the machinery or equipment is purchased on or before June 30, 2010; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or **59-10-1007(1)(b)**, the expenditure is made on or before June 30, 2010.

(4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July 1, 2008.
(5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed July 1, 2009.

(6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

Section 56. **Repealer.**

This bill repeals:

Section 59-10-107, **Credit for tax paid by estate or trust to another state.**

Section 59-10-128, **Tax credit -- Items using cleaner burning fuels.**

Section 59-10-209, **Adjustments to state taxable income of resident estates or trusts and beneficiaries.**

Section 57. **Retrospective operation.**

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