

**Representative Wayne A. Harper** proposes the following substitute bill:

**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



26 trusts;

27       ▶ creates the Nonrefundable Tax Credit Act and renumbers and amends as part of this  
28 Act the nonrefundable income tax credits authorized under the Individual Income  
29 Tax Act;

30       ▶ creates the Refundable Tax Credit Act and renumbers and amends as part of this  
31 Act the refundable income tax credits authorized under the Individual Income Tax  
32 Act;

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

35       ▶ repeals obsolete language; and

36       ▶ makes technical changes.

37 **Monies Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       This bill has retrospective operation for taxable years beginning on or after January 1,  
41 2006.

42 **Utah Code Sections Affected:**

43 AMENDS:

44       **19-1-403**, as last amended by Chapter 108 and renumbered and amended by Chapter  
45 294, Laws of Utah 2005

46       **19-1-404**, as renumbered and amended by Chapter 294, Laws of Utah 2005

47       **19-2-104**, as last amended by Chapter 131, Laws of Utah 2003

48       **53B-8a-106**, as last amended by Chapter 109, Laws of Utah 2005

49       **59-2-102**, as last amended by Chapters 162, 243, 281 and 303, Laws of Utah 2004

50       **59-6-101**, as last amended by Chapter 3, Laws of Utah 1988

51       **59-6-102**, as last amended by Chapter 28, Laws of Utah 2002

52       **59-7-607**, as last amended by Chapter 113, Laws of Utah 2005

53       **59-7-614**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005

54       **59-7-703**, as last amended by Chapter 110, Laws of Utah 2003

55       **59-10-103**, as last amended by Chapter 241, Laws of Utah 2005

56       **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995

- 57           **59-10-114**, as last amended by Chapters 109 and 241, Laws of Utah 2005
- 58           **59-10-115**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 59           **59-10-201**, as last amended by Chapter 109, Laws of Utah 2005
- 60           **59-10-201.1**, as enacted by Chapter 345, Laws of Utah 1995
- 61           **59-10-202**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session
- 62           **59-10-204**, as last amended by Chapter 345, Laws of Utah 1995
- 63           **59-10-205**, as last amended by Chapter 345, Laws of Utah 1995
- 64           **59-10-207**, as last amended by Chapter 345, Laws of Utah 1995
- 65           **59-10-210**, as last amended by Chapter 345, Laws of Utah 1995
- 66           **59-13-202**, as last amended by Chapter 86, Laws of Utah 2000
- 67           **62A-4a-607**, as last amended by Chapter 327, Laws of Utah 2001
- 68           **63-38f-402**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 69           **63-38f-412**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 70           **63-38f-413**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 71           **63-38f-501**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 72           **63-38f-502**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 73           **63-38f-503**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 74           **63-38f-1102**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 75           **63-38f-1110**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 76           **63-38f-1203**, as renumbered and amended by Chapter 148, Laws of Utah 2005
- 77           **63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004

78 ENACTS:

- 79           **59-10-209.1**, Utah Code Annotated 1953
- 80           **59-10-1001**, Utah Code Annotated 1953
- 81           **59-10-1002**, Utah Code Annotated 1953
- 82           **59-10-1101**, Utah Code Annotated 1953
- 83           **59-10-1102**, Utah Code Annotated 1953

84 RENUMBERS AND AMENDS:

- 85           **59-10-1003**, (Renumbered from 59-10-106, as renumbered and amended by Chapter 2,
- 86 Laws of Utah 1987)
- 87           **59-10-1004**, (Renumbered from 59-10-108, as last amended by Chapter 73, Laws of

88 Utah 2001)  
89 **59-10-1005**, (Renumbered from 59-10-108.1, as enacted by Chapter 272, Laws of Utah  
90 1999)  
91 **59-10-1006**, (Renumbered from 59-10-108.5, as last amended by Chapter 25, Laws of  
92 Utah 1995)  
93 **59-10-1007**, (Renumbered from 59-10-108.7, as last amended by Chapter 148, Laws of  
94 Utah 2005)  
95 **59-10-1008**, (Renumbered from 59-10-109, as last amended by Chapter 198, Laws of  
96 Utah 2003)  
97 **59-10-1009**, (Renumbered from 59-10-127, as last amended by Chapters 108 and 294,  
98 Laws of Utah 2005)  
99 **59-10-1010**, (Renumbered from 59-10-129, as last amended by Chapter 113, Laws of  
100 Utah 2005)  
101 **59-10-1011**, (Renumbered from 59-10-130, as last amended by Chapter 145, Laws of  
102 Utah 2002)  
103 **59-10-1012**, (Renumbered from 59-10-131, as last amended by Chapter 59, Laws of  
104 Utah 1999)  
105 **59-10-1013**, (Renumbered from 59-10-132, as last amended by Chapter 59, Laws of  
106 Utah 1999)  
107 **59-10-1014**, (Renumbered from 59-10-134, as last amended by Chapters 217, 244 and  
108 294, Laws of Utah 2005)  
109 **59-10-1015**, (Renumbered from 59-10-134.2, as enacted by Chapter 290, Laws of Utah  
110 2005)  
111 **59-10-1016**, (Renumbered from 59-10-135, as enacted by Chapter 62, Laws of Utah  
112 2002)  
113 **59-10-1103**, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of  
114 Utah 2003)  
115 **59-10-1104**, (Renumbered from 59-10-133, as last amended by Chapter 263, Laws of  
116 Utah 2005)  
117 **59-10-1105**, (Renumbered from 59-10-134.1, as enacted by Chapter 312, Laws of Utah  
118 2003)

119 REPEALS:

120 **59-10-107**, as renumbered and amended by Chapter 2, Laws of Utah 1987

121 **59-10-128**, as last amended by Chapter 198, Laws of Utah 2003

122 **59-10-209**, as last amended by Chapter 345, Laws of Utah 1995



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

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

126 **19-1-403. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with**  
127 **fund monies.**

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

129 (b) The fund consists of:

130 (i) appropriations to the fund;

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

132 (iii) interest earnings on cash balances; and

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

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

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

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

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

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

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

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

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

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

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

149 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit

150 claimed under Section 59-7-605 or [~~59-10-127~~] 59-10-1009 for the vehicle for which a grant is  
151 requested; or

152 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of  
153 any tax credit claimed under Section 59-7-605 or [~~59-10-127~~] 59-10-1009 for the vehicle for  
154 which a grant is requested.

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

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

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

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

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

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

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

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

170 Section 2. Section ~~19-1-404~~ is amended to read:

171 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

172 (1) The department shall:

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

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

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

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

180 Section 59-7-605 or [~~59-10-127~~] 59-10-1009 for the motor vehicle for which a grant is

181 requested to assure that the sum of the tax credit and grant does not exceed:

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

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

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

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

188 (v) specifying repayment periods;

189 (vi) specifying procedures for:

190 (A) awarding loans and grants; and

191 (B) collecting loans; and

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

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

194 (B) agree in writing to use the clean fuel for which each vehicle is converted or

195 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled  
196 beginning from the time of conversion or purchase of the vehicle;

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

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

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

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

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

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

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

212 rate.

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

216 Section 3. Section **19-2-104** is amended to read:

217 **19-2-104. Powers of board.**

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

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

223 (b) establishing air quality standards;

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

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

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

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

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

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

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

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

240 (h) with the approval of the governor, implementing in air quality nonattainment areas  
241 employer-based trip reduction programs applicable to businesses having more than 100  
242 employees at a single location and applicable to federal, state, and local governments to the



243 extent necessary to attain and maintain ambient air quality standards consistent with the state  
244 implementation plan and federal requirements under the standards set forth in Subsection (2);  
245 and

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

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

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

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

253 (3) The board may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

304 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work

- 305 involving friable asbestos-containing materials, or asbestos inspections; ~~or~~
- 306 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public  
307 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard  
308 Emergency Response Act of 1986;
- 309 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,  
310 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
- 311 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,  
312 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
- 313 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et  
314 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to  
315 be accredited as inspectors, management planners, abatement project designers, asbestos  
316 abatement contractors and supervisors, or asbestos abatement workers;
- 317 (t) establish certification requirements for asbestos project monitors, which shall  
318 provide for experience-based certification of persons who, prior to establishment of the  
319 certification requirements, had received relevant asbestos training, as defined by rule, and had  
320 acquired at least 1,000 hours of experience as project monitors;
- 321 (u) establish certification procedures and requirements for certification of the  
322 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the  
323 tax credit granted in Section 59-7-605 or ~~[59-10-127]~~ 59-10-1009;
- 324 (v) establish a program to certify private sector air quality permitting professionals  
325 (AQPP), as described in Section 19-2-109.5; and
- 326 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et  
327 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as  
328 inspectors, risk assessors, supervisors, project designers, or abatement workers.
- 329 (4) Any rules adopted under this chapter shall be consistent with provisions of federal  
330 laws, if any, relating to control of motor vehicles or motor vehicle emissions.
- 331 (5) Nothing in this chapter authorizes the board to require installation of or payment for  
332 any monitoring equipment by the owner or operator of a source if the owner or operator has  
333 installed or is operating monitoring equipment that is equivalent to equipment which the board  
334 would require under this section.

335 Section 4. Section **53B-8a-106** is amended to read:

336 **53B-8a-106. Account agreements.**

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

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

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

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

347 (d) The maximum amount of investments that may be subtracted from federal taxable  
348 income of a resident or nonresident individual under Subsection 59-10-114(2)(~~f~~) (i) shall be  
349 \$1,510 for each individual beneficiary for the 2005 calendar year and an amount adjusted  
350 annually thereafter to reflect increases in the Consumer Price Index.

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

354 (ii) If the beneficiary is designated after birth and before age 19, the payment of  
355 benefits provided under the account agreement must begin not later than the beneficiary's 27th  
356 birthday.

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

359 (ii) If a beneficiary age 19 or older is designated, the payment of benefits provided  
360 under the account agreement must begin not later than ten years from the account agreement  
361 date.

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

364 (4) Each account agreement shall provide that:

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

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

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

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

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

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

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

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

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

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

385 (8) Each account agreement shall provide that:

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

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

391 Section 5. Section **59-2-102** is amended to read:

392 **59-2-102. Definitions.**

393 As used in this chapter and title:

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

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

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

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

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

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

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

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

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

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

421 (c) vehicles which are:

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

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

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

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

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

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

429 public, or religious school or school activities.

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

433 (i) a county; and

434 (ii) a school district.

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

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

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

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

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

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

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

449 (i) \$5,000; or

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

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

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

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

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

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

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

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

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

479 (15) "Geothermal resource" means:

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

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

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

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

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

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



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

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

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

500 (b) "Improvement" includes:  
501 (i) an accessory to an item described in Subsection (17)(a) if the accessory is:  
502 (A) essential to the operation of the item described in Subsection (17)(a); and  
503 (B) installed solely to serve the operation of the item described in Subsection (17)(a);

504 and  
505 (ii) an item described in Subsection (17)(a) that:  
506 (A) is temporarily detached from the land for repairs; and  
507 (B) remains located on the land.

508 (c) Notwithstanding Subsections (17)(a) and (b), "improvement" does not include:  
509 (i) an item considered to be personal property pursuant to rules made in accordance  
510 with Section 59-2-107;

511 (ii) a moveable item that is attached to land:  
512 (A) for stability only; or  
513 (B) for an obvious temporary purpose;

514 (iii) (A) manufacturing equipment and machinery; or  
515 (B) essential accessories to manufacturing equipment and machinery; or  
516 (iv) an item attached to the land in a manner that facilitates removal without substantial  
517 damage to:

518 (A) the land; or  
519 (B) the item; or  
520 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that  
521 transportable factory-built housing unit is considered to be personal property under Section

522 59-2-1503.

523 (18) "Intangible property" means:

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

525 including:

526 (i) moneys;

527 (ii) credits;

528 (iii) bonds;

529 (iv) stocks;

530 (v) representative property;

531 (vi) franchises;

532 (vii) licenses;

533 (viii) trade names;

534 (ix) copyrights; and

535 (x) patents; or

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

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

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

539 or

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

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

542 (ii) Section [~~59-10-129~~] 59-10-1010.

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

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

545 valuable mineral.

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

547 otherwise removing a mineral from a mine.

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

549 (i) owned or operated by an:

550 (A) air charter service;

551 (B) air contract service; or

552 (C) airline; and

553 (ii) (A) capable of flight;  
554 (B) attached to an aircraft that is capable of flight; or  
555 (C) contained in an aircraft that is capable of flight if the tangible personal property is  
556 intended to be used:

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

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

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

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

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

568 (25) "Personal property" includes:

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

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

572 (c) bridges and ferries;

573 (d) livestock which, for the purposes of the exemption provided under Section  
574 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

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

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

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

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

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

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

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

593 (c) improvements.

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

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

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

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

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

602 (ii) where an aircraft:

603 (A) takes off; or

604 (B) lands.

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

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

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

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

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

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

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

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

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

625 **59-6-101. Definitions.**

626 As used in this chapter:

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

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

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

631 ~~[(1)]~~ (3) "Minerals" means either metalliferous minerals as defined in Section  
632 59-2-102, nonmetalliferous minerals as defined in Section 59-2-102, or both.

633 ~~[(2)]~~ (4) "Producer" means any person who produces or extracts minerals from deposits  
634 in this state or who is the first purchaser of minerals produced or extracted from deposits in this  
635 state.

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

638 (a) as provided by statute; and

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

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

643 Section 7. Section **59-6-102** is amended to read:

644 **59-6-102. Producer's obligation to deduct and withhold payments -- Amount --**  
645 **Exempt payments -- Credit against tax.**

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

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

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

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

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

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

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

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

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

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

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

668 Section 8. Section **59-7-607** is amended to read:

669 **59-7-607. Utah low-income housing tax credit.**

670 (1) As used in this section:

671 (a) "Allocation certificate" means:

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

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

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

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

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

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

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

687 (i) prescribed by the commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

713 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year  
714 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing  
715 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue  
716 Code, pursuant to this section and Section [~~59-10-129~~] 59-10-1010 is an amount equal to the  
717 product of:

718 (A) 12.5 cents; and

719 (B) the population of Utah.

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

722 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and  
723 procedures for allocating the tax credit under this section and Section [~~59-10-129~~] 59-10-1010  
724 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified  
725 allocation plan.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

759 (i) to the commission;

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

761 (iii) with the housing sponsor's tax return for each taxable year for which the housing  
762 sponsor issues a special low-income housing tax credit certificate described in this Subsection  
763 (7).

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

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

769 (ii) The state recapture amount shall be equal to the percentage of the state tax credit

770 that equals the proportion the federal recapture amount bears to the original federal low-income  
771 housing tax credit amount subject to recapture.

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

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

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

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

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

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

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

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

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

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

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

790 Section 9. Section **59-7-614** is amended to read:

791 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**  
792 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**  
793 **authority -- Reimbursement of Uniform School Fund.**

794 (1) As used in this section:

795 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

821 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
822 59-10-103 and an individual as defined in Section 59-10-103.

823 (i) "Passive solar system":

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

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

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

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

- 835 (i) Section 59-2-404;
- 836 (ii) Section 59-2-405;
- 837 (iii) Section 59-2-405.1;
- 838 (iv) Section 59-2-405.2; or
- 839 (v) Section 59-2-405.3.

840 (l) "Utah Geological Survey" means the Utah Geological Survey established in Section  
841 63-73-5.

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

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

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

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

856 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system  
857 completed and placed in service on or after January 1, 2001, but on or before December 31,  
858 2006.

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

- 861 (A) assign its right to this tax credit to the individual taxpayer; and
- 862 (B) if the business entity assigns its right to the tax credit to an individual taxpayer

863 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the  
864 individual taxpayer had completed or participated in the costs of the residential energy system  
865 under Section [~~59-10-134~~] 59-10-1014.

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

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

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

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

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

879 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy  
880 system completed and placed in service on or after January 1, 2001, but on or before December  
881 31, 2006.

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

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

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

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

893 (ii) Additional energy systems or parts of energy systems may be claimed for

894 subsequent years.

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

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

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

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

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

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

912 Section 10. Section **59-7-703** is amended to read:

913 **59-7-703. Payment or withholding of tax on behalf of nonresident shareholders --**

914 **Rate.**

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

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

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

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

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

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

925 (ii) applying the apportionment formula to determine the amount apportioned to Utah;  
926 (iii) reducing the amount apportioned to Utah by the percentage of ownership  
927 attributable to resident shareholders; and  
928 (iv) applying the rate to the remaining balance.

929 (3) (a) For a nonresident shareholder who is required to file a return under this chapter:  
930 (i) the nonresident shareholder may claim a credit on the nonresident shareholder's  
931 return for the amount of tax paid or withheld by the S corporation on behalf of the nonresident  
932 shareholder;

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

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

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

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

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

941 (4) Notwithstanding Subsection (2), the obligation to pay or withhold a tax under  
942 Subsection (2) does not apply to an organization that is exempt under Subsection  
943 59-7-102(1)(a) from the taxes imposed by this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

969 (ii) on forms furnished by the commission.

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

971 **59-10-103. Definitions.**

972 (1) As used in this chapter:

973 (a) "Adoption expenses" means:

974 (i) any actual medical and hospital expenses of the mother of the adopted child which  
975 are incident to the child's birth;

976 (ii) any welfare agency fees or costs;

977 (iii) any child placement service fees or costs;

978 (iv) any legal fees or costs; or

979 (v) any other fees or costs relating to an adoption.

980 (b) "Adult with a disability" means an individual who:

981 (i) is 18 years of age or older;

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

984 (iii) is not enrolled in:

985 (A) an education program for students with disabilities that is authorized under Section

986 53A-15-301; or



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

988 (c) (i) For purposes of Subsection 59-10-114(2)[~~(m)~~] (l), "capital gain transaction"

989 means a transaction that results in a:

990 (A) short-term capital gain; or

991 (B) long-term capital gain.

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

993 the commission may by rule define the term "transaction."

994 (d) "Commercial domicile" means the principal place from which the trade or business

995 of a Utah small business corporation is directed or managed.

996 (e) "Corporation" includes:

997 (i) associations;

998 (ii) joint stock companies; and

999 (iii) insurance companies.

1000 (f) "Dependent child with a disability" means an individual 21 years of age or younger

1001 who:

1002 (i) (A) is diagnosed by a school district representative under rules adopted by the State

1003 Board of Education as having a disability classified as:

1004 (I) autism;

1005 (II) deafness;

1006 (III) preschool developmental delay;

1007 (IV) dual sensory impairment;

1008 (V) hearing impairment;

1009 (VI) intellectual disability;

1010 (VII) multidisability;

1011 (VIII) orthopedic impairment;

1012 (IX) other health impairment;

1013 (X) traumatic brain injury; or

1014 (XI) visual impairment;

1015 (B) is not receiving residential services from:

1016 (I) the Division of Services for People with Disabilities created under Section

1017 62A-5-102; or

1018 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;

1019 and

1020 (C) is enrolled in:

1021 (I) an education program for students with disabilities that is authorized under Section

1022 53A-15-301; or

1023 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;

1024 or

1025 (ii) is identified under guidelines of the Department of Health as qualified for:

1026 (A) Early Intervention; or

1027 (B) Infant Development Services.

1028 (g) "Employee" is as defined in Section 59-10-401.

1029 (h) "Employer" is as defined in Section 59-10-401.

1030 (i) "Fiduciary" means:

1031 (i) a guardian;

1032 (ii) a trustee;

1033 (iii) an executor;

1034 (iv) an administrator;

1035 (v) a receiver;

1036 (vi) a conservator; or

1037 (vii) any person acting in any fiduciary capacity for any individual.

1038 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the

1039 homesteaded land that was held to have been diminished from the Uintah and Ouray

1040 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

1041 (k) "Individual" means a natural person and includes aliens and minors.

1042 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all

1043 or part of the trust without the consent of a person who has a substantial beneficial interest in

1044 the trust and the interest would be adversely affected by the exercise of the settlor's power to

1045 revoke or terminate all or part of the trust.

1046 (m) For purposes of Subsection 59-10-114(2)~~(m)~~ (l), "long-term capital gain" is as

1047 defined in Section 1222, Internal Revenue Code.

1048 (n) "Nonresident individual" means an individual who is not a resident of this state.

1049 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a  
1050 resident estate or trust.

1051 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other  
1052 unincorporated organization:

1053 (A) through or by means of which any business, financial operation, or venture is  
1054 carried on; and

1055 (B) which is not, within the meaning of this chapter:

1056 (I) a trust;

1057 (II) an estate; or

1058 (III) a corporation.

1059 (ii) "Partnership" does not include any organization not included under the definition of  
1060 "partnership" in Section 761, Internal Revenue Code.

1061 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
1062 organization described in Subsection (1)(p)(i).

1063 (q) "Qualifying military service member" means a member of:

1064 (i) The Utah Army National Guard;

1065 (ii) The Utah Air National Guard; or

1066 (iii) the following if the member is assigned to a unit that is located in the state:

1067 (A) The Army Reserve;

1068 (B) The Naval Reserve;

1069 (C) The Air Force Reserve;

1070 (D) The Marine Corps Reserve; or

1071 (E) The Coast Guard Reserve.

1072 (r) "Qualifying stock" means stock that is:

1073 (i) (A) common; or

1074 (B) preferred;

1075 (ii) as defined by the commission by rule, originally issued to:

1076 (A) a resident or nonresident individual; or

1077 (B) a partnership if the resident or nonresident individual making a subtraction from  
1078 federal taxable income in accordance with Subsection 59-10-114(2)~~(m)~~ (l):

1079 (I) was a partner when the stock was issued; and

1080 (II) remains a partner until the last day of the taxable year for which the resident or  
1081 nonresident individual makes the subtraction from federal taxable income in accordance with  
1082 Subsection 59-10-114(2)[~~(m)~~] (l); and

1083 (iii) issued:

1084 (A) by a Utah small business corporation;

1085 (B) on or after January 1, 2003; and

1086 (C) for:

1087 (I) money; or

1088 (II) other property, except for stock or securities.

1089 (s) (i) "Resident individual" means:

1090 (A) an individual who is domiciled in this state for any period of time during the  
1091 taxable year, but only for the duration of the period during which the individual is domiciled in  
1092 this state; or

1093 (B) an individual who is not domiciled in this state but:

1094 (I) maintains a permanent place of abode in this state; and

1095 (II) spends in the aggregate 183 or more days of the taxable year in this state.

1096 (ii) For purposes of Subsection (1)(s)(i)(B), a fraction of a calendar day shall be  
1097 counted as a whole day.

1098 (t) "Resident estate" or "resident trust" is as defined in Section 75-7-103.

1099 (u) For purposes of Subsection 59-10-114(2)[~~(m)~~] (l), "short-term capital gain" is as  
1100 defined in Section 1222, Internal Revenue Code.

1101 (v) "Taxable income" and "state taxable income" are defined as provided in Sections  
1102 59-10-111, 59-10-112, [~~59-10-116~~], 59-10-201.1, and 59-10-204.

1103 (w) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or  
1104 trust, whose income is subject in whole or part to the tax imposed by this chapter.

1105 (x) "Uintah and Ouray Reservation" means the lands recognized as being included  
1106 within the Uintah and Ouray Reservation in:

1107 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

1108 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

1109 (y) (i) "Utah small business corporation" means a corporation that:

1110 (A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue

1111 Code;

1112 (B) except as provided in Subsection (1)(y)(ii), meets the requirements of Section  
1113 1244(c)(1)(C), Internal Revenue Code; and

1114 (C) has its commercial domicile in this state.

1115 (ii) Notwithstanding Subsection (1)(y)(i)(B), the time period described in Section  
1116 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a  
1117 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the  
1118 resident or nonresident individual makes a subtraction from federal taxable income in  
1119 accordance with Subsection 59-10-114(2)~~[(m)]~~ (l).

1120 (z) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian  
1121 Tribe of the Uintah and Ouray Reservation.

1122 (aa) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

1123 (bb) "Wages" is as defined in Section 59-10-401.

1124 (2) (a) Any term used in this chapter has the same meaning as when used in  
1125 comparable context in the laws of the United States relating to federal income taxes unless a  
1126 different meaning is clearly required.

1127 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall  
1128 mean the Internal Revenue Code or other provisions of the laws of the United States relating to  
1129 federal income taxes that are in effect for the taxable year.

1130 (c) Any reference to a specific section of the Internal Revenue Code or other provision  
1131 of the laws of the United States relating to federal income taxes shall include any  
1132 corresponding or comparable provisions of the Internal Revenue Code as hereafter amended,  
1133 redesignated, or reenacted.

1134 Section 12. Section **59-10-112** is amended to read:

1135 **59-10-112. State taxable income of resident individual.**

1136 "State taxable income" in the case of a resident individual means ~~his~~ the resident  
1137 individual's federal taxable income ~~[f]~~, as defined by Section 59-10-111~~]~~, with the  
1138 ~~[modifications,] additions and subtractions[, and adjustments provided in]~~ required by Section  
1139 59-10-114. ~~[The state taxable income of a resident individual who is the beneficiary of an~~  
1140 ~~estate or trust shall be modified by the adjustments provided in Section 59-10-209.]~~

1141 Section 13. Section **59-10-114** is amended to read:

1142           **59-10-114. Additions to and subtractions from federal taxable income of an**  
1143 **individual.**

1144           (1) There shall be added to federal taxable income of a resident or nonresident  
1145 individual:

1146           (a) the amount of any income tax imposed by this or any predecessor Utah individual  
1147 income tax law and the amount of any income tax imposed by the laws of another state, the  
1148 District of Columbia, or a possession of the United States, to the extent deducted from federal  
1149 adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal  
1150 taxable income;

1151           (b) a lump sum distribution that the taxpayer does not include in adjusted gross income  
1152 on the taxpayer's federal individual income tax return for the taxable year;

1153           (c) for taxable years beginning on or after January 1, 2002, the amount of a child's  
1154 income calculated under Subsection (5) that:

1155           (i) a parent elects to report on the parent's federal individual income tax return for the  
1156 taxable year; and

1157           (ii) the parent does not include in adjusted gross income on the parent's federal  
1158 individual income tax return for the taxable year;

1159           (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue  
1160 Code;

1161           (e) a withdrawal from a medical care savings account and any penalty imposed in the  
1162 taxable year if:

1163           (i) the taxpayer did not deduct or include the amounts on the taxpayer's federal  
1164 individual income tax return pursuant to Section 220, Internal Revenue Code; and

1165           (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);

1166           (f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher  
1167 Education Savings Incentive Program, in the year in which the amount is disbursed;

1168           (g) except as provided in Subsection (6), for taxable years beginning on or after  
1169 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after  
1170 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by  
1171 one or more of the following entities:

1172           (i) a state other than this state;

1173 (ii) the District of Columbia;

1174 (iii) a political subdivision of a state other than this state; or

1175 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through

1176 (iii);

1177 (h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a

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~~ a dividend 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 ~~includable~~ 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)(i);]~~ 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~~

1204 ~~January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or~~  
1205 ~~nonresident individual's United States individual income tax return allowed as a result of the~~  
1206 ~~acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,~~  
1207 ~~Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be~~  
1208 ~~used in calculating the amount described in Subsection (2)(b)(i);]~~

1209 (c) the amount of adoption expenses for one of the following taxable years as elected  
1210 by the resident or nonresident individual:

1211 (i) regardless of whether a court issues an order granting the adoption, the taxable year  
1212 in which the adoption expenses are:

1213 (A) paid; or

1214 (B) incurred;

1215 (ii) the taxable year in which a court issues an order granting the adoption; or

1216 (iii) any year in which the resident or nonresident individual may claim the federal  
1217 adoption expenses credit under Section 23, Internal Revenue Code;

1218 (d) amounts received by taxpayers under age 65 as retirement income which, for  
1219 purposes of this section, means pensions and annuities, paid from an annuity contract  
1220 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),  
1221 Internal Revenue Code, or purchased by an employee under a plan which meets the  
1222 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or  
1223 political subdivision thereof, or the District of Columbia, to the employee involved or the  
1224 surviving spouse;

1225 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500  
1226 personal retirement exemption;

1227 (f) 75% of the amount of the personal exemption, as defined and calculated in the  
1228 Internal Revenue Code, for each dependent child with a disability and adult with a disability  
1229 who is claimed as a dependent on a taxpayer's return;

1230 ~~[(g) any amount included in federal taxable income that was received pursuant to any~~  
1231 ~~federal law enacted in 1988 to provide reparation payments, as damages for human suffering,~~  
1232 ~~to United States citizens and resident aliens of Japanese ancestry who were interned during~~  
1233 ~~World War II;]~~

1234 ~~[(h)]~~ (g) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during



1235 the taxable year for health care insurance, as defined in Title 31A, Chapter 1, General  
1236 Provisions:

- 1237 (i) for:
- 1238 (A) the taxpayer;
- 1239 (B) the taxpayer's spouse; and
- 1240 (C) the taxpayer's dependents; and
- 1241 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or  
1242 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

1243 ~~(f)~~ (h) (i) except as ~~otherwise~~ provided in this Subsection (2)~~(f)~~(h), the amount of  
1244 a contribution made during the taxable year on behalf of the taxpayer to a medical care savings  
1245 account and interest earned on a contribution to a medical care savings account established  
1246 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the  
1247 contribution is accepted by the account administrator as provided in the Medical Care Savings  
1248 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal  
1249 individual income tax return pursuant to Section 220, Internal Revenue Code; and

- 1250 (ii) a contribution deductible under this Subsection (2)~~(f)~~(h) may not exceed either of  
1251 the following:
- 1252 (A) the maximum contribution allowed under the Medical Care Savings Account Act  
1253 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is  
1254 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that  
1255 covers the other spouse, and each spouse has a medical care savings account; or
- 1256 (B) the maximum contribution allowed under the Medical Care Savings Account Act  
1257 for the tax year for taxpayers:
- 1258 (I) who do not file a joint return; or
- 1259 (II) who file a joint return, but do not qualify under Subsection (2)~~(f)~~(h)(ii)(A);

1260 ~~(f)~~ (i) the amount included in federal taxable income that was derived from money  
1261 paid by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education  
1262 Savings Incentive Program, not to exceed amounts determined under Subsection  
1263 53B-8a-106(1)(d), and investment income earned on account agreements entered into under  
1264 Section 53B-8a-106 that is included in federal taxable income, but only when the funds are  
1265 used for qualified higher education costs of the beneficiary;

1266           ~~(k)~~ (j) for taxable years beginning on or after January 1, 2000, any amounts paid for  
1267 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the  
1268 amounts paid for long-term care insurance were not deducted under Section 213, Internal  
1269 Revenue Code, in determining federal taxable income;

1270           ~~(h)~~ (k) for taxable years beginning on or after January 1, 2000, if the conditions of  
1271 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

1272           (i) during a time period that the Ute tribal member resides on homesteaded land  
1273 diminished from the Uintah and Ouray Reservation; and

1274           (ii) from a source within the Uintah and Ouray Reservation;

1275           ~~(m)~~ (l) (i) for taxable years beginning on or after January 1, 2003, the total amount of  
1276 a resident or nonresident individual's short-term capital gain or long-term capital gain on a  
1277 capital gain transaction:

1278           (A) that occurs on or after January 1, 2003;

1279           (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

1280           (I) to purchase qualifying stock in a Utah small business corporation; and

1281           (II) within a 12-month period after the day on which the capital gain transaction occurs;

1282 and

1283           (C) if, prior to the purchase of the qualifying stock described in Subsection  
1284 (2)~~(m)~~(l)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in  
1285 the Utah small business corporation that issued the qualifying stock; and

1286           (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1287 commission may make rules:

1288           (A) defining the term "gross proceeds"; and

1289           (B) for purposes of Subsection (2)~~(m)~~(l)(i)(C), prescribing the circumstances under  
1290 which a resident or nonresident individual has an ownership interest in a Utah small business  
1291 corporation; ~~and~~

1292           ~~(n)~~ (m) for the taxable year beginning on or after January 1, 2005, but beginning on  
1293 or before December 31, 2005, the first \$2,200 of income a qualifying military service member  
1294 receives:

1295           (i) for service:

1296           (A) as a qualifying military service member; or

1297 (B) under an order into active service in accordance with Section 39-1-5; and  
1298 (ii) to the extent that income is included in adjusted gross income on that resident or  
1299 nonresident individual's federal individual income tax return for that taxable year[-];  
1300 (n) an amount received by a resident or nonresident individual or distribution received  
1301 by a resident or nonresident beneficiary of a resident trust:  
1302 (i) if that amount or distribution constitutes a refund of taxes imposed by:  
1303 (A) a state; or  
1304 (B) the District of Columbia; and  
1305 (ii) to the extent that amount or distribution is included in adjusted gross income for  
1306 that taxable year on the federal individual income tax return of the resident or nonresident  
1307 individual or resident or nonresident beneficiary of a resident trust;  
1308 (o) the amount of a railroad retirement benefit:  
1309 (i) paid:  
1310 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
1311 seq.;  
1312 (B) to a resident or nonresident individual; and  
1313 (C) for the taxable year; and  
1314 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
1315 that resident or nonresident individual's federal individual income tax return for that taxable  
1316 year; and  
1317 (p) an amount:  
1318 (i) received by an enrolled member of an American Indian tribe; and  
1319 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
1320 part on that amount in accordance with:  
1321 (A) federal law;  
1322 (B) a treaty; or  
1323 (C) a final decision issued by a court of competent jurisdiction.  
1324 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted  
1325 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or  
1326 \$4,800, except that:  
1327 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income

1328 earned over \$32,000, the amount of the retirement income exemption that may be subtracted  
1329 shall be reduced by 50 cents;

1330 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1331 earned over \$16,000, the amount of the retirement income exemption that may be subtracted  
1332 shall be reduced by 50 cents; and

1333 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1334 \$25,000, the amount of the retirement income exemption that may be subtracted shall be  
1335 reduced by 50 cents.

1336 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption  
1337 shall be further reduced according to the following schedule:

1338 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1339 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50  
1340 cents;

1341 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1342 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50  
1343 cents; and

1344 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1345 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

1346 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be  
1347 calculated by adding to federal adjusted gross income any interest income not otherwise  
1348 included in federal adjusted gross income.

1349 (d) For purposes of determining ownership of items of retirement income common law  
1350 doctrine will be applied in all cases even though some items may have originated from service  
1351 or investments in a community property state. Amounts received by the spouse of a living  
1352 retiree because of the retiree's having been employed in a community property state are not  
1353 deductible as retirement income of such spouse.

1354 (e) For purposes of Subsection (2)~~(f)~~(g), a subtraction for an amount paid for health  
1355 care insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

1356 (i) for an amount that is reimbursed or funded in whole or in part by the federal  
1357 government, the state, or an agency or instrumentality of the federal government or the state;  
1358 and

1359 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded  
1360 in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

1361 (4) (a) A subtraction for an amount described in Subsection (2)(~~+~~)(k) is allowed only  
1362 if:

1363 (i) the taxpayer is a Ute tribal member; and

1364 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1365 requirements of this Subsection (4).

1366 (b) The agreement described in Subsection (4)(a):

1367 (i) may not:

1368 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1369 (B) provide a subtraction under this section greater than or different from the  
1370 subtraction described in Subsection (2)(~~+~~)(k); or

1371 (C) affect the power of the state to establish rates of taxation; and

1372 (ii) shall:

1373 (A) provide for the implementation of the subtraction described in Subsection  
1374 (2)(~~+~~)(k);

1375 (B) be in writing;

1376 (C) be signed by:

1377 (I) the governor; and

1378 (II) the chair of the Business Committee of the Ute tribe;

1379 (D) be conditioned on obtaining any approval required by federal law; and

1380 (E) state the effective date of the agreement.

1381 (c) (i) The governor shall report to the commission by no later than February 1 of each  
1382 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is  
1383 in effect.

1384 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the  
1385 subtraction permitted under Subsection (2)(~~+~~)(k) is not allowed for taxable years beginning on  
1386 or after the January 1 following the termination of the agreement.

1387 (d) For purposes of Subsection (2)(~~+~~)(k) and in accordance with Title 63, Chapter 46a,  
1388 Utah Administrative Rulemaking Act, the commission may make rules:

1389 (i) for determining whether income is derived from a source within the Uintah and

1390 Ouray Reservation; and

1391 (ii) that are substantially similar to how federal adjusted gross income derived from  
1392 Utah sources is determined under Section 59-10-117.

1393 (5) (a) For purposes of this Subsection (5), "Form 8814" means:

1394 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's  
1395 Interest and Dividends; or

1396 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
1397 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
1398 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
1399 on 2000 Form 8814 is reported on a form other than Form 8814; and

1400 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
1401 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
1402 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
1403 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
1404 8814.

1405 (b) The amount of a child's income added to adjusted gross income under Subsection  
1406 (1)(c) is equal to the difference between:

1407 (i) the lesser of:

1408 (A) the base amount specified on Form 8814; and

1409 (B) the sum of the following reported on Form 8814:

1410 (I) the child's taxable interest;

1411 (II) the child's ordinary dividends; and

1412 (III) the child's capital gain distributions; and

1413 (ii) the amount not taxed that is specified on Form 8814.

1414 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences  
1415 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be  
1416 added to federal taxable income of a resident or nonresident individual if, as annually  
1417 determined by the commission:

1418 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the  
1419 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
1420 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

1421 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose  
1422 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of  
1423 this state:

1424 (i) the entity; or

1425 (ii) (A) the state in which the entity is located; or

1426 (B) the District of Columbia, if the entity is located within the District of Columbia.

1427 Section 14. Section **59-10-115** is amended to read:

1428 **59-10-115. Adjustments to state taxable income.**

1429 ~~[(1) If any provision of the Internal Revenue Code requires the inclusion of an item of~~  
1430 ~~gross income or the allowance of an item of deduction from gross income in the computation~~  
1431 ~~of federal taxable income of the taxpayer for any taxable year beginning on or after the~~  
1432 ~~effective date of this chapter, and if such item has been taken into account in computing the~~  
1433 ~~taxable income of the taxpayer for state income tax purposes for any prior taxable year, the~~  
1434 ~~commission shall make or allow such adjustments to the taxpayer's state taxable income as are~~  
1435 ~~necessary to prevent the inclusion for a second time or the deduction for a second time of such~~  
1436 ~~item for state income tax purposes.]~~

1437 ~~[(2) If in a return filed for any taxable year beginning on or after the effective date of~~  
1438 ~~this chapter, the taxpayer reports gain or loss from the disposition of property or claims a~~  
1439 ~~deduction for depreciation of property, and if his basis for gain or loss on the disposition of~~  
1440 ~~such property or for allowance of the depreciation deduction for the exhaustion, wear, and tear~~  
1441 ~~thereof (including a reasonable allowance for obsolescence) is different for federal income tax~~  
1442 ~~purposes than it would be for state income tax purposes if the provisions of former Title 59,~~  
1443 ~~Chapter 14, were applicable to such taxable year, the commission shall (anything in this~~  
1444 ~~chapter to the contrary notwithstanding) allow or make such adjustment to state taxable income~~  
1445 ~~of the taxpayer for such taxable year as will result in the use by the taxpayer of the same basis,~~  
1446 ~~for such purpose, that he would be allowed or required to use in reporting such gain or loss or~~  
1447 ~~claiming such depreciation deduction if the provisions of former Title 59, Chapter 14, were~~  
1448 ~~applicable to the taxable year.]~~

1449 ~~[(3) If the taxpayer receives, in any taxable year beginning on or after the effective date~~  
1450 ~~of this chapter, a distribution from an electing small business corporation, as defined by~~  
1451 ~~Section 1371(b) of the Internal Revenue Code, of a net share of the corporation's undistributed~~

1452 taxable income for a taxable year or years prior to the taxable year in which such distribution is  
1453 made, the commission shall make such adjustment to state taxable income as will prevent  
1454 escape from taxation by this state of such undistributed taxable income previously taxed to the  
1455 taxpayer for federal income tax purposes but not for state income tax purposes.]

1456 ~~[(4)]~~ (1) The commission shall ~~[by rule prescribe for adjustments]~~ allow an adjustment  
1457 to state taxable income of ~~[the]~~ a taxpayer ~~[in circumstances other than those specified by~~  
1458 ~~Subsections (1), (2), and (3) of this section where, solely by reason of the enactment of this~~  
1459 ~~chapter,]~~ if the taxpayer would otherwise;

1460 (a) receive ~~[or have received]~~ a double tax benefit under this part; or

1461 (b) suffer ~~[or have suffered]~~ a double tax detriment under this part. ~~[Anything in this~~  
1462 ~~section or this chapter to the contrary notwithstanding, the commission may not make any~~  
1463 ~~adjustment pursuant to this section which will result in an increase or decrease of tax liability~~  
1464 ~~the amount of which is less than \$25.]~~

1465 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1466 commission may make rules to allow for the adjustment to state taxable income required by  
1467 Subsection (1).

1468 Section 15. Section **59-10-201** is amended to read:

1469 **59-10-201. Taxation of resident trusts and estates.**

1470 (1) A tax determined in accordance with the rates prescribed by Section 59-10-104 for  
1471 individuals filing separately is imposed for each taxable year on the state taxable income of  
1472 each resident estate or trust, except for trusts taxed as corporations.

1473 (2) A resident estate or trust shall be allowed the credit provided in Section  
1474 ~~[59-10-106]~~ 59-10-1003, relating to an income tax imposed by another state, except that the  
1475 limitation shall be computed by reference to the taxable income of the estate or trust.

1476 (3) The property of the trust established in Title 53B, Chapter 8a, Higher Education  
1477 Savings Incentive Program, and its income from operations and investments are exempt from  
1478 all taxation by the state under this chapter.

1479 Section 16. Section **59-10-201.1** is amended to read:

1480 **59-10-201.1. State taxable income of resident estate or trust defined.**

1481 The state taxable income of a resident estate or trust means its federal taxable income as  
1482 ~~[defined]~~ calculated in ~~[Subsections (a) and (b);]~~ Section 641 (a) and (b), Internal Revenue



1483 Code, as adjusted by Sections 59-10-202, 59-10-209.1, and [~~59-10-209~~] 59-10-210.

1484 Section 17. Section **59-10-202** is amended to read:

1485 **59-10-202. Additions to and subtractions from state taxable income of resident or**  
 1486 **nonresident estate or trust.**

1487 (1) There shall be added to federal taxable income of a resident or nonresident estate or  
 1488 trust:

1489 (a) the amount of any income tax imposed by this or any predecessor Utah individual  
 1490 income tax law and the amount of any income tax imposed by the laws of another state, the  
 1491 District of Columbia, or a possession of the United States, to the extent deducted from federal  
 1492 adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal  
 1493 taxable income;

1494 (b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the  
 1495 Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue  
 1496 Code in determining federal adjusted gross income; [~~and~~]

1497 [~~(c) the amount of any gain as defined in Section 644(b) of the Internal Revenue Code,~~  
 1498 ~~to the extent deductible under Section 641(c) of the Internal Revenue Code in determining the~~  
 1499 ~~federal taxable income of a trust.]~~

1500 (c) except as provided in Subsection (3), for taxable years beginning on or after  
 1501 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after  
 1502 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by  
 1503 one or more of the following entities:

1504 (i) a state other than this state;

1505 (ii) the District of Columbia;

1506 (iii) a political subdivision of a state other than this state; or

1507 (iv) an agency or instrumentality of an entity described in Subsections (1)(c)(i) through  
 1508 (iii);

1509 (d) any portion of federal taxable income for a taxable year if that federal taxable  
 1510 income is derived from stock:

1511 (i) in an S corporation; and

1512 (ii) that is held by an electing small business trust; and

1513 (e) any fiduciary adjustments required by Section 59-10-210.

1514 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
1515 estate or trust:

1516 (a) the interest or [~~dividends~~] a dividend on obligations or securities of the United  
1517 States and its possessions or of any authority, commission, or instrumentality of the United  
1518 States, to the extent [~~includable~~] that interest or dividend is included in gross income for  
1519 federal income tax purposes for the taxable year but exempt from state income taxes under the  
1520 laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced  
1521 by any interest on indebtedness incurred or continued to purchase or carry the obligations or  
1522 securities described in this Subsection (2), and by any expenses incurred in the production of  
1523 interest or dividend income described in this Subsection (2) to the extent that such expenses,  
1524 including amortizable bond premiums, are deductible in determining federal taxable income;

1525 (b) 1/2 of the net amount of any income tax paid or payable to the United States after  
1526 all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the  
1527 same taxable year; [~~and~~]

1528 (c) income of an irrevocable resident trust if:

1529 (i) the income would not be treated as state taxable income derived from Utah sources  
1530 under Section 59-10-204 if received by a nonresident trust;

1531 (ii) the trust first became a resident trust on or after January 1, 2004;

1532 (iii) no assets of the trust were held, at any time after January 1, 2003, in another  
1533 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

1534 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

1535 (v) the amount subtracted under this Subsection (2) is reduced to the extent the settlor  
1536 or any other person is treated as an owner of any portion of the trust under Subtitle A,  
1537 Subchapter J, Subpart E of the Internal Revenue Code; and

1538 (vi) the amount subtracted under this Subsection (2) is reduced by any interest on  
1539 indebtedness incurred or continued to purchase or carry the assets generating the income  
1540 described in this Subsection (2), and by any expenses incurred in the production of income  
1541 described in this Subsection (2), to the extent that those expenses, including amortizable bond  
1542 premiums, are deductible in determining federal taxable income[.];

1543 (d) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or  
1544 nonresident estate or trust derived from a deceased Ute tribal member:

1545 (i) during a time period that the Ute tribal member resided on homesteaded land  
1546 diminished from the Uintah and Ouray Reservation; and  
1547 (ii) from a source within the Uintah and Ouray Reservation;  
1548 (e) (i) for taxable years beginning on or after January 1, 2003, the total amount of a  
1549 resident or nonresident estate's or trust's short-term capital gain or long-term capital gain on a  
1550 capital gain transaction:  
1551 (A) that occurs on or after January 1, 2003;  
1552 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:  
1553 (I) to purchase qualifying stock in a Utah small business corporation; and  
1554 (II) within a 12-month period after the day on which the capital gain transaction occurs;  
1555 and  
1556 (C) if, prior to the purchase of the qualifying stock described in Subsection  
1557 (2)(e)(i)(B)(I), the resident or nonresident estate or trust did not have an ownership interest in  
1558 the Utah small business corporation that issued the qualifying stock; and  
1559 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1560 commission may make rules:  
1561 (A) defining the term "gross proceeds"; and  
1562 (B) for purposes of Subsection (2)(e)(i)(C), prescribing the circumstances under which  
1563 a resident or nonresident estate or trust has an ownership interest in a Utah small business  
1564 corporation;  
1565 (f) for the taxable year beginning on or after January 1, 2005, but beginning on or  
1566 before December 31, 2005, the first \$2,200 of income of a resident or nonresident estate or  
1567 trust that is derived from a deceased qualifying military service member:  
1568 (i) for service:  
1569 (A) as a qualifying military service member; or  
1570 (B) under an order into active service in accordance with Section 39-1-5; and  
1571 (ii) to the extent that income is included in total income on that resident or nonresident  
1572 estate's or trust's federal income tax return for estates and trusts for that taxable year;  
1573 (g) any amount:  
1574 (i) received by a resident or nonresident estate or trust;  
1575 (ii) that constitutes a refund of taxes imposed by:

1576 (A) a state; or  
1577 (B) the District of Columbia; and  
1578 (iii) to the extent that amount is included in total income on that resident or nonresident  
1579 estate's or trust's federal tax return for estates and trusts for that taxable year:  
1580 (h) the amount of a railroad retirement benefit:  
1581 (i) paid:  
1582 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
1583 seq.:  
1584 (B) to a resident or nonresident estate or trust derived from a deceased resident or  
1585 nonresident individual; and  
1586 (C) for the taxable year; and  
1587 (ii) to the extent that railroad retirement benefit is included in total income on that  
1588 resident or nonresident estate's or trust's federal tax return for estates and trusts;  
1589 (i) an amount:  
1590 (i) received by a resident or nonresident estate or trust if that amount is derived from a  
1591 deceased enrolled member of an American Indian tribe; and  
1592 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
1593 part on that amount in accordance with:  
1594 (A) federal law;  
1595 (B) a treaty; or  
1596 (C) a final decision issued by a court of competent jurisdiction; and  
1597 (j) any fiduciary adjustments required by Section 59-10-210.  
1598 (3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences  
1599 of indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be  
1600 added to federal taxable income of a resident or nonresident estate or trust if, as annually  
1601 determined by the commission:  
1602 (a) for an entity described in Subsection (1)(c)(i) or (ii), the entity and all of the  
1603 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
1604 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or  
1605 (b) for an entity described in Subsection (1)(c)(iii) or (iv), the following do not impose  
1606 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of

1607 this state:

1608       (i) the entity; or

1609       (ii) (A) the state in which the entity is located; or

1610       (B) the District of Columbia, if the entity is located within the District of Columbia.

1611       (4) (a) A subtraction for an amount described in Subsection (2)(d) is allowed only if:

1612       (i) the income is derived from a deceased Ute tribal member; and

1613       (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

1614 requirements of this Subsection (4).

1615       (b) The agreement described in Subsection (4)(a):

1616       (i) may not:

1617       (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1618       (B) provide a subtraction under this section greater than or different from the

1619 subtraction described in Subsection (2)(d); or

1620       (C) affect the power of the state to establish rates of taxation; and

1621       (ii) shall:

1622       (A) provide for the implementation of the subtraction described in Subsection (2)(d);

1623       (B) be in writing;

1624       (C) be signed by:

1625       (I) the governor; and

1626       (II) the chair of the Business Committee of the Ute tribe;

1627       (D) be conditioned on obtaining any approval required by federal law; and

1628       (E) state the effective date of the agreement.

1629       (c) (i) The governor shall report to the commission by no later than February 1 of each

1630 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is

1631 in effect.

1632       (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the

1633 subtraction permitted under Subsection (2)(d) is not allowed for taxable years beginning on or

1634 after the January 1 following the termination of the agreement.

1635       (d) For purposes of Subsection (2)(d) and in accordance with Title 63, Chapter 46a,

1636 Utah Administrative Rulemaking Act, the commission may make rules:

1637       (i) for determining whether income is derived from a source within the Uintah and

1638 Ouray Reservation; and

1639 (ii) that are substantially similar to how federal adjusted gross income derived from  
1640 Utah sources is determined under Section 59-10-117.

1641 Section 18. Section **59-10-204** is amended to read:

1642 **59-10-204. State taxable income of nonresident estate or trust defined.**

1643 The state taxable income of a nonresident estate or trust shall be its [~~federal~~] state  
1644 taxable income as [defined] calculated in Section 59-10-201.1, derived from Utah sources  
1645 determined in accordance with the principles of Section 59-10-117, and adjusted as provided in  
1646 Section 59-10-207.

1647 Section 19. Section **59-10-205** is amended to read:

1648 **59-10-205. Tax on income derived from Utah sources.**

1649 A tax is imposed on the state taxable income, as [~~defined~~] calculated in Section  
1650 59-10-204, of every nonresident estate or trust in accordance with the rates prescribed in  
1651 Section 59-10-104 for individuals filing separately. The tax shall only be applied to income  
1652 derived from Utah sources as adjusted by Section 59-10-207, including such items from  
1653 another estate or trust of which the first estate or trust is a beneficiary.

1654 Section 20. Section **59-10-207** is amended to read:

1655 **59-10-207. Share of a nonresident estate or trust and beneficiaries in state taxable**  
1656 **income.**

1657 (1) The share of a nonresident estate or trust and its beneficiaries in items of income,  
1658 gain, loss, and deduction entering into the definition of distributable net income and the share  
1659 for purposes of Section 59-10-116 of a nonresident beneficiary of any estate or trust in estate or  
1660 trust income, gain, loss, and deduction shall be determined as follows:

1661 (a) To the amount of items of income, gain, loss, and deduction that enter into the  
1662 definition of distributable net income there shall be added or subtracted, as the case may be, the  
1663 modifications described in Sections 59-10-202 and [~~59-10-209~~] 59-10-210 to the extent they  
1664 relate to items of income, gain, loss, and deduction that also enter into the definition of  
1665 distributable net income. No modification shall be made under this section that has the effect  
1666 of duplicating an item already reflected in the definition of distributable net income.

1667 (b) The amount determined under Subsection (1)(a) shall be allocated among the estate  
1668 or trust and its beneficiaries (including solely for the purpose of this allocation, resident

1669 beneficiaries) in proportion to their respective shares of federal distributable net income. The  
1670 amounts so allocated shall have the same character as for federal income tax purposes.

1671 (c) If the estate or trust has no federal distributable net income for the taxable year, the  
1672 share of each beneficiary in the net amount determined under Subsection (1)(a) shall be in  
1673 proportion to his share of the estate or trust income for such year, under state law or the terms  
1674 of the governing instrument, that is required to be distributed currently and any other amounts  
1675 of such income distributed in such year. Any balance of such net income shall be allocated to  
1676 the estate or trust.

1677 (2) The commission may by rule establish such other method or methods of  
1678 determining the respective shares of the beneficiaries and of the estate or trust in its income  
1679 derived from sources in this state, and in the modifications related thereto, as may be  
1680 appropriate and equitable. The fiduciary may elect to use any other methods prescribed in this  
1681 subsection only when the allocation of such respective shares under this section would result in  
1682 an inequity in the allocation which is substantial both in amount and in relation to the total  
1683 amount of the modifications referred to in Subsection (1)(a).

1684 Section 21. Section **59-10-209.1** is enacted to read:

1685 **59-10-209.1. Adjustments to state taxable income.**

1686 (1) The commission shall allow an adjustment to state taxable income of a resident or  
1687 nonresident estate or trust if the resident or nonresident estate or trust would otherwise:

1688 (a) receive a double tax benefit under this chapter; or

1689 (b) suffer a double tax detriment under this chapter.

1690 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1691 commission may make rules to allow for the adjustment to state taxable income required by  
1692 Subsection (1).

1693 Section 22. Section **59-10-210** is amended to read:

1694 **59-10-210. Fiduciary adjustments.**

1695 ~~[(1) The fiduciary adjustments are the amounts of the modifications described in~~  
1696 ~~Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of~~  
1697 ~~which the first estate or trust is a beneficiary.]~~

1698 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to  
1699 or subtracted from federal taxable income:

- 1700 (a) of:
- 1701 (i) a resident or nonresident estate or trust; or
- 1702 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and
- 1703 (b) as provided in this section.
- 1704 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
- 1705 amounts:
- 1706 (a) the additions to and subtractions from federal taxable income of a resident or
- 1707 nonresident estate or trust required by Section 59-10-202, except for Subsection
- 1708 59-10-202(2)(b); and
- 1709 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
- 1710 (i) Section 59-6-102;
- 1711 (ii) Part 10, Nonrefundable Tax Credit Act;
- 1712 (iii) Part 11, Refundable Tax Credit Act;
- 1713 (iv) Section 59-13-202;
- 1714 (v) Section 63-38f-413; or
- 1715 (vi) Section 63-38f-503.
- 1716 ~~[(2)]~~ (3) (a) The respective shares of an estate or trust and its beneficiaries, [(including
- 1717 solely] including for the purpose of this allocation[;] a nonresident [beneficiaries] beneficiary,
- 1718 in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of
- 1719 federal distributable net income of the estate or trust.
- 1720 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
- 1721 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
- 1722 allocated in proportion to [his] that beneficiary's share of the estate or trust income for [such]
- 1723 the taxable year[; which] that is, under state law or the governing instrument, required to be
- 1724 distributed currently plus any other amounts of [such] that income distributed in [such] that
- 1725 taxable year. [Any]
- 1726 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
- 1727 the fiduciary adjustments shall be allocated to the estate or trust.
- 1728 ~~[(3) The]~~ (4) (a) The commission shall allow a fiduciary to use a method for
- 1729 determining the allocation of the fiduciary adjustments described in Subsection (2) other than
- 1730 the method described in Subsection (3) if using the method described in Subsection (3) results



1731 in an inequity:

1732 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1733 (ii) if the inequity is substantial:

1734 (A) in amount; and

1735 (B) in relation to the total amount of the fiduciary adjustments described in Subsection  
1736 (2).

1737 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1738 commission may [by rule and upon such terms and conditions as it may prescribe, authorize the  
1739 use of such other appropriate and equitable method or methods] make rules authorizing a  
1740 fiduciary to use a method for determining [attribution and] the allocation of the fiduciary  
1741 adjustments[. The fiduciary may elect to use any other methods prescribed in this subsection  
1742 only when the allocation of such respective fiduciary adjustments under this section would  
1743 result in an inequity in the allocation which is substantial both in amount and in relation to the  
1744 total amount of the modifications referred to in Subsection (1). (4) The taxable income of an  
1745 estate or trust shall be adjusted by the deduction of the income of that estate or trust to the  
1746 extent of and for so long as such income is distributed or is distributable to or otherwise  
1747 accrues to the benefit of a person who has been declared by a court of competent jurisdiction to  
1748 be mentally incompetent. The commission may promulgate rules necessary to provide for this  
1749 adjustment.] described in Subsection (2) other than the method described in Subsection (3) if  
1750 using the method described in Subsection (3) results in an inequity:

1751 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1752 (ii) if the inequity is substantial:

1753 (A) in amount; and

1754 (B) in relation to the total amount of the fiduciary adjustments described in Subsection  
1755 (2).

1756 Section 23. Section **59-10-1001** is enacted to read:

1757 **Part 10. Nonrefundable Tax Credit Act**

1758 **59-10-1001. Title.**

1759 This part is known as the "Nonrefundable Tax Credit Act."

1760 Section 24. Section **59-10-1002** is enacted to read:

1761 **59-10-1002. Definitions.**

1762 As used in this part:

1763 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2),  
 1764 "claimant" means a resident or nonresident person that has state taxable income under Part 1,  
 1765 Determination and Reporting of Tax Liability and Information.

1766 (b) "Claimant" does not include an estate or trust.

1767 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident  
 1768 estate or a resident estate that has state taxable income under Part 2, Trusts and Estates.

1769 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,  
 1770 or trust may:

1771 (a) claim:

1772 (i) as provided by statute; and

1773 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability  
 1774 under this chapter for a taxable year; and

1775 (b) carry forward or carry back:

1776 (i) if allowed by statute; and

1777 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or  
 1778 trust's tax liability under this chapter for a taxable year.

1779 (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust  
 1780 or a resident trust that has state taxable income under Part 2, Trusts and Estates.

1781 Section 25. Section **59-10-1003**, which is renumbered from Section 59-10-106 is  
 1782 renumbered and amended to read:

1783 **~~[59-10-106].~~ 59-10-1003. Tax credit for tax paid by individual to another**  
 1784 **state.**

1785 (1) ~~[A resident individual shall be allowed a]~~ Except as provided in Subsection (2), a  
 1786 claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due  
 1787 under this chapter equal to the amount of the tax imposed;

1788 (a) on ~~[him]~~ that claimant, estate, or trust for the taxable year;

1789 (b) by another state of the United States, the District of Columbia, or a possession of  
 1790 the United States~~[-];~~ and

1791 (c) on income;

1792 (i) derived from sources ~~[therein which]~~ within that other state of the United States,

1793 District of Columbia, or possession of the United States; and

1794 (ii) if that income is also subject to tax under this chapter.

1795 (2) A tax credit under this section may only be claimed by a:

1796 (a) resident claimant;

1797 (b) resident estate; or

1798 (c) resident trust.

1799 [~~2~~] (3) The application of the tax credit provided under this section [~~shall~~] may not  
1800 operate to reduce the tax payable under this chapter to an amount less than would have been  
1801 payable were the income from the other state disregarded.

1802 [~~3~~] (4) The tax credit provided by this section shall be computed and claimed in  
1803 accordance with rules prescribed by the commission.

1804 Section 26. Section **59-10-1004**, which is renumbered from Section 59-10-108 is  
1805 renumbered and amended to read:

1806 ~~[59-10-108].~~ **59-10-1004. Tax credit for cash contributions to sheltered**  
1807 **workshops.**

1808 (1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due  
1809 the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash  
1810 contributions made by a claimant, estate, or trust within the taxable year to nonprofit  
1811 rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that  
1812 are certified by the Department of Human Services as a qualifying facility.

1813 (2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the  
1814 cash contributions to the qualifying rehabilitation facilities, but the allowed tax credit may not  
1815 exceed \$200.

1816 (3) The amount of contribution claimed as a tax credit under this section may not also  
1817 be claimed as a charitable deduction in determining net taxable income.

1818 Section 27. Section **59-10-1005**, which is renumbered from Section 59-10-108.1 is  
1819 renumbered and amended to read:

1820 ~~[59-10-108.1].~~ **59-10-1005. Tax credit for at-home parent.**

1821 (1) As used in this section:

1822 (a) "At-home parent" means a parent:

1823 (i) who provides full-time care at the parent's residence for one or more of the parent's

1824 own qualifying children;

1825 (ii) who claims the qualifying child as a dependent on the parent's individual income  
1826 tax return for the taxable year for which the parent claims the credit; and

1827 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for  
1828 which the parent claims the credit:

1829 (A) the total wages, tips, and other compensation listed on all of the parent's federal  
1830 Forms W-2; and

1831 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or  
1832 Loss From Business.

1833 (b) "Parent" means an individual who:

1834 (i) is the biological mother or father of a qualifying child;

1835 (ii) is the stepfather or stepmother of a qualifying child;

1836 (iii) (A) legally adopts a qualifying child; or

1837 (B) has a qualifying child placed in the individual's home:

1838 (I) by a child placing agency as defined in Section 62A-4a-601; and

1839 (II) for the purpose of legally adopting the child;

1840 (iv) is a foster parent of a qualifying child; or

1841 (v) is a legal guardian of a qualifying child.

1842 (c) "Qualifying child" means a child who is no more than 12 months of age on the last  
1843 day of the taxable year for which the tax credit is claimed.

1844 (2) For taxable years beginning on or after January 1, 2000, a [taxpayer] claimant may  
1845 claim on the [taxpayer's] claimant's individual income tax return a nonrefundable tax credit of  
1846 \$100 for each qualifying child if:

1847 (a) the [taxpayer] claimant or another [taxpayer] claimant filing a joint individual  
1848 income tax return with the [taxpayer] claimant is an at-home parent; and

1849 (b) the federal adjusted gross income of all of the [taxpayers] claimants filing the  
1850 individual income tax return is less than or equal to \$50,000.

1851 (3) A [taxpayer] claimant may not carry forward or carry back a tax credit authorized  
1852 by this section.

1853 (4) It is the intent of the Legislature that for fiscal years beginning on or after fiscal  
1854 year 2000-01, the Legislature appropriate from the General Fund a sufficient amount to replace

1855 Uniform School Fund revenues expended to provide for the tax credit under this section.

1856 Section 28. Section **59-10-1006**, which is renumbered from Section 59-10-108.5 is  
1857 renumbered and amended to read:

1858 ~~[59-10-108.5].~~ **59-10-1006. Historic preservation tax credit.**

1859 (1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to  
1860 ~~[resident individuals]~~ a claimant, estate, or trust, as a nonrefundable tax credit against the  
1861 income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more  
1862 than \$10,000, incurred in connection with any residential certified historic building. When  
1863 qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed by this  
1864 section shall apply to the full amount of expenditures.

1865 (b) All rehabilitation work to which the tax credit may be applied shall be approved by  
1866 the State Historic Preservation Office prior to completion of the rehabilitation project as  
1867 meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can  
1868 provide corrective comments to the ~~[taxpayer]~~ claimant, estate, or trust in order to preserve the  
1869 historical qualities of the building.

1870 (c) Any amount of tax credit remaining may be carried forward to each of the five  
1871 taxable years following the qualified expenditures.

1872 (d) The commission, in consultation with the Division of State History, shall  
1873 promulgate rules to implement this section.

1874 (2) As used in this section:

1875 (a) "Certified historic building" means a building that is listed on the National Register  
1876 of Historic Places within three years of taking the credit under this section or that is located in a  
1877 National Register Historic District and the building has been designated by the Division of  
1878 State History as being of significance to the district.

1879 (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable  
1880 to the rehabilitation and restoration of the physical elements of the building, including the  
1881 historic decorative elements, and the upgrading of the structural, mechanical, electrical, and  
1882 plumbing systems to applicable codes.

1883 (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

1884 (A) ~~[the taxpayer's]~~ a claimant's, estate's, or trust's personal labor;

1885 (B) cost of acquisition of the property;

- 1886 (C) any expenditure attributable to the enlargement of an existing building;
- 1887 (D) rehabilitation of a certified historic building without the approval required in
- 1888 Subsection (1)(b); or
- 1889 (E) any expenditure attributable to landscaping and other site features, outbuildings,
- 1890 garages, and related features.
- 1891 (c) "Residential" means a building used for residential use, either owner occupied or
- 1892 income producing.

1893 Section 29. Section **59-10-1007**, which is renumbered from Section 59-10-108.7 is

1894 renumbered and amended to read:

1895 ~~[59-10-108.7].~~ **59-10-1007. Recycling market development zones tax credit.**

1896 (1) For taxable years beginning on or after January 1, 1996, ~~[an individual]~~ a claimant,

1897 estate, or trust in a recycling market development zone as defined in Section 63-38f-1102 may

1898 claim a nonrefundable tax credit as provided in this section.

1899 (a) (i) There shall be allowed a ~~[nonrefundable]~~ tax credit of 5% of the purchase price

1900 paid for machinery and equipment used directly in:

- 1901 (A) commercial composting; or
- 1902 (B) manufacturing facilities or plant units that:
  - 1903 (I) manufacture, process, compound, or produce recycled items of tangible personal
  - 1904 property for sale; or
  - 1905 (II) reduce or reuse postconsumer waste material.

1906 (ii) The Governor's Office of Economic Development shall certify that the machinery

1907 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling

1908 process:

- 1909 (A) on a form provided by the commission; and
- 1910 (B) before a ~~[taxpayer]~~ claimant, estate, or trust is allowed a tax credit under this
- 1911 section.

1912 (iii) The Governor's Office of Economic Development shall provide a ~~[taxpayer]~~

1913 claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form

1914 described in Subsection (1)(a)(ii).

1915 (iv) The ~~[taxpayer]~~ claimant, estate, or trust described in Subsection (1)(a)(iii) shall

1916 retain a copy of the form received under Subsection (1)(a)(iii).

1917 (b) There shall be allowed a [~~nonrefundable~~] tax credit equal to 20% of net  
1918 expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and  
1919 utilities made by the [~~taxpayer~~] claimant, estate, or trust for establishing and operating  
1920 recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

1921 (2) The total [~~nonrefundable~~] tax credit allowed under this section may not exceed 40%  
1922 of the Utah income tax liability of the [~~taxpayer~~] claimant, estate, or trust prior to any tax  
1923 credits in the taxable year of purchase prior to claiming the tax credit authorized by this  
1924 section.

1925 (3) (a) Any tax credit not used for the taxable year in which the purchase price on  
1926 composting or recycling machinery and equipment was paid may be carried [~~over for credit~~]  
1927 forward against the [~~individual's income taxes~~] claimant's, estate's, or trusts's tax liability under  
1928 this chapter in the three succeeding taxable years until the total tax credit amount is used.

1929 (b) Tax credits not claimed by [~~an individual~~] a claimant, estate, or trust on the  
1930 [~~individual's state income tax~~] claimant's, estate's, or trust's tax return under this chapter within  
1931 three years are forfeited.

1932 (4) The commission shall make rules governing what information shall be filed with  
1933 the commission to verify the entitlement to and amount of a tax credit.

1934 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after  
1935 January 1, 2001, a [~~taxpayer~~] claimant, estate, or trust may not claim or carry forward a tax  
1936 credit described in Subsection (1)(a) in a taxable year during which the [~~taxpayer~~] claimant,  
1937 estate, or trust claims or carries forward a tax credit under Section 63-38f-413.

1938 (b) For a taxable year other than a taxable year during which the [~~taxpayer~~] claimant,  
1939 estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a),  
1940 a [~~taxpayer~~] claimant, estate, or trust may claim or carry forward a tax credit described in  
1941 Subsection (1)(a):

1942 (i) if the [~~taxpayer~~] claimant, estate, or trust may claim or carry forward the tax credit  
1943 in accordance with Subsections (1) and (2); and

1944 (ii) subject to Subsections (3) and (4).

1945 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January  
1946 1, 2001, a [~~taxpayer~~] claimant, estate, or trust may not claim a tax credit described in  
1947 Subsection (1)(b) in a taxable year during which the [~~taxpayer~~] claimant, estate, or trust claims

1948 or carries forward a tax credit under Section 63-38f-413.

1949 (7) A [~~taxpayer~~] claimant, estate, or trust may not claim or carry forward a tax credit  
1950 available under this section for a taxable year during which the [~~taxpayer~~] claimant, estate, or  
1951 trust has claimed the targeted business income tax credit available under Section 63-38f-503.

1952 Section 30. Section **59-10-1008**, which is renumbered from Section 59-10-109 is  
1953 renumbered and amended to read:

1954 ~~[59-10-109]~~. **59-10-1008. Targeted jobs nonrefundable tax credit.**

1955 (1) As used in this section, "individual with a disability" means an individual who:

1956 (a) has been receiving services:

1957 (i) from a day-training program that is:

1958 (A) for persons with disabilities; and

1959 (B) certified by the Department of Human Services as a qualifying program; and

1960 (ii) for at least six consecutive months prior to working for the [~~employer~~] claimant,  
1961 estate, or trust claiming the tax credit under this section; or

1962 (b) is eligible for services from the Division of Services for People with Disabilities at  
1963 the time the individual begins working for the [~~employer~~] claimant, estate, or trust claiming the  
1964 tax credit under this section.

1965 (2) For taxable years beginning on or after January 1, 1995, there is allowed a  
1966 nonrefundable tax credit against tax otherwise due under this chapter for [~~an employer~~] a  
1967 claimant, estate, or trust that:

1968 (a) meets the unemployment and workers' compensation requirements of Title 34A,  
1969 Utah Labor Code; and

1970 (b) hires an individual with a disability who:

1971 (i) works in this state for at least 180 days in a taxable year for that [~~employer~~]  
1972 claimant, estate, or trust; and

1973 (ii) is paid at least minimum wages by that [~~employer~~] claimant, estate, or trust.

1974 (3) The tax credit shall be in an amount equal to:

1975 (a) 10% of the gross wages earned in the first 180 days of employment by the  
1976 individual with a disability from the [~~employer~~] claimant, estate, or trust seeking the tax credit;  
1977 and

1978 (b) 20% of the gross wages earned in the remaining taxable year by the individual with



1979 a disability from the [~~employer~~] claimant, estate, or trust seeking the tax credit.

1980 (4) The tax credit [~~which~~] that may be taken by [~~an employer~~] a claimant, estate, or  
1981 trust under this section shall be:

1982 (a) limited to \$3,000 per year per individual with a disability; and

1983 (b) allowed only for the first two years the individual with a disability is employed by  
1984 the [~~employer~~] claimant, estate, or trust.

1985 (5) Any amount of tax credit remaining may be carried forward two taxable years  
1986 following the taxable year of the employment eligible for the tax credit provided in this section.

1987 (6) (a) The Division of Services for People with Disabilities shall certify that [~~an~~  
1988 ~~employer~~] a claimant, estate, or trust qualifies for the tax credit provided in this section on a  
1989 form provided by the commission.

1990 (b) The form described in Subsection (6)(a) shall include the name and Social Security  
1991 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~~]  
1993 claimant, estate, or trust described in Subsection (6)(a) with a copy of the form described in  
1994 this Subsection (6).

1995 (d) The [~~employer~~] claimant, estate, or trust described in Subsection (6)(a) shall retain  
1996 the form described in this Subsection (6).

1997 Section 31. Section **59-10-1009**, which is renumbered from Section 59-10-127 is  
1998 renumbered and amended to read:

1999 **~~[59-10-127]~~. 59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

2000 (1) As used in this section:

2001 (a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air  
2002 Conservation Act.

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

2004 (i) a motor vehicle on which conversion equipment has been installed meets the  
2005 following criteria:

2006 (A) before the installation of conversion equipment, the vehicle does not exceed the  
2007 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,  
2008 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

2009 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels

2010 listed in Subsection (2)(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the  
2011 installation of conversion equipment; and

2012 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

2013 (I) certification of the conversion equipment by the federal Environmental Protection  
2014 Agency or by a state whose certification standards are recognized by the board;

2015 (II) testing the motor vehicle, before and after installation of the conversion equipment,  
2016 in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway  
2017 Vehicles and Engines, using all fuels the motor vehicle is capable of using; or

2018 (III) any other test or standard recognized by board rule; or

2019 (ii) special mobile equipment on which conversion equipment has been installed meets  
2020 the following criteria:

2021 (A) the special mobile equipment's emissions of regulated pollutants, when operating  
2022 on fuels listed in Subsection (2)(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were  
2023 before the installation of conversion equipment; and

2024 (B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

2025 (I) certification of the conversion equipment by the federal Environmental Protection  
2026 Agency or by a state whose certification standards are recognized by the board; or

2027 (II) any other test or standard recognized by the board.

2028 (c) "Clean fuel grant" means a grant [~~the taxpayer~~] a claimant, estate, or trust receives  
2029 under Title 19, Chapter 1, Part 4, Clean Fuels Conversion Program Act, for reimbursement of a  
2030 portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

2031 (d) "Conversion equipment" means equipment referred to in Subsection (2)(a)(ii) or  
2032 (2)(a)(iii).

2033 (e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.

2034 (f) "Incremental cost" has the same meaning as in Section 19-1-402.

2035 (g) "OEM vehicle" has the same meaning as in Section 19-1-402.

2036 (h) "Special mobile equipment":

2037 (i) means any mobile equipment or vehicle not designed or used primarily for the  
2038 transportation of persons or property; and

2039 (ii) includes construction or maintenance equipment.

2040 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after

2041 January 1, 2001, but beginning on or before December 31, 2010, a [taxpayer] claimant, estate,  
2042 or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an  
2043 amount equal to:

2044 (i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the  
2045 amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if  
2046 the vehicle:

2047 (A) is fueled by propane, natural gas, or electricity;

2048 (B) is fueled by other fuel the board determines annually on or before July 1 to be at  
2049 least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or

2050 (C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of  
2051 1990, 42 U.S.C. Sec. 7521 et seq.;

2052 (ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor  
2053 vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to  
2054 a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

2055 (A) is to be fueled by propane, natural gas, or electricity;

2056 (B) is to be fueled by other fuel the board determines annually on or before July 1 to be  
2057 at least as effective in reducing air pollution as fuels under Subsection (2)(a)(ii)(A); or

2058 (C) will meet the federal clean fuel vehicle standards in the federal Clean Air Act  
2059 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

2060 (iii) 50% of the cost of equipment for conversion, if certified by the board, of a special  
2061 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a  
2062 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile  
2063 equipment is to be fueled by:

2064 (A) propane, natural gas, or electricity; or

2065 (B) other fuel the board determines annually on or before July 1 to be:

2066 (I) at least as effective in reducing air pollution as the fuels under Subsection

2067 (2)(a)(iii)(A); or

2068 (II) substantially more effective in reducing air pollution than the fuel for which the  
2069 engine was originally designed.

2070 (b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January  
2071 1, 2006, a [taxpayer] claimant, estate, or trust may not claim a tax credit under this section with

2072 respect to an electric-hybrid vehicle.

2073 (3) ~~[An individual]~~ A claimant, estate, or trust shall provide proof of the purchase of an  
2074 item for which a tax credit is allowed under this section by:

2075 (a) providing proof to the board in the form the board requires by rule;

2076 (b) receiving a written statement from the board acknowledging receipt of the proof;

2077 and

2078 (c) retaining the written statement described in Subsection (3)(b).

2079 (4) Except as provided by Subsection (5), the tax credit under this section is allowed

2080 only:

2081 (a) against any Utah tax owed in the taxable year by the ~~[taxpayer]~~ claimant, estate, or  
2082 trust;

2083 (b) in the taxable year in which the item is purchased for which the tax credit is

2084 claimed; and

2085 (c) once per vehicle.

2086 (5) If the amount of a tax credit claimed by a ~~[taxpayer]~~ claimant, estate, or trust under  
2087 this section exceeds the ~~[taxpayer's]~~ claimant's, estate's, or trust's tax liability under this chapter  
2088 for a taxable year, the amount of the tax credit exceeding the tax liability may be carried  
2089 forward for a period that does not exceed the next five taxable years.

2090 Section 32. Section **59-10-1010**, which is renumbered from Section 59-10-129 is  
2091 renumbered and amended to read:

2092 ~~[59-10-129]~~. **59-10-1010. Utah low-income housing tax credit.**

2093 (1) As used in this section:

2094 (a) "Allocation certificate" means:

2095 (i) the certificate prescribed by the commission and issued by the Utah Housing  
2096 Corporation to each ~~[taxpayer]~~ claimant, estate, or trust that specifies the percentage of the  
2097 annual federal low-income housing ~~[tax]~~ credit that each ~~[taxpayer]~~ claimant, estate, or trust  
2098 may take as an annual tax credit against ~~[state income]~~ a tax imposed by this chapter; or

2099 (ii) a copy of the allocation certificate that the housing sponsor provides to the

2100 ~~[taxpayer]~~ claimant, estate, or trust.

2101 (b) "Building" means a qualified low-income building as defined in Section 42(c),

2102 Internal Revenue Code.

2103 (c) "Federal low-income housing [~~tax~~] credit" means the [~~tax~~] low-income housing  
 2104 credit under Section 42, Internal Revenue Code.

2105 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership  
 2106 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability  
 2107 company in the case of a limited liability company.

2108 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah  
 2109 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

2110 (f) "Special low-income housing tax credit certificate" means a certificate:

2111 (i) prescribed by the commission;

2112 (ii) that a housing sponsor issues to a [~~taxpayer~~] claimant, estate, or trust for a taxable  
 2113 year; and

2114 (iii) that specifies the amount of a tax credit a [~~taxpayer~~] claimant, estate, or trust may  
 2115 claim under this section if the [~~taxpayer~~] claimant, estate, or trust meets the requirements of  
 2116 this section.

2117 [~~(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this~~  
 2118 ~~section which is the corporation in the case of a C corporation, the partners in the case of a~~  
 2119 ~~partnership, the shareholders in the case of an S corporation, and the members in the case of a~~  
 2120 ~~limited liability company.]~~

2121 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a  
 2122 nonrefundable tax credit against taxes otherwise due under this chapter for [~~taxpayers~~] a  
 2123 claimant, estate, or trust issued an allocation certificate.

2124 (b) The tax credit shall be in an amount equal to the greater of the amount of:

2125 (i) federal low-income housing [~~tax~~] credit to which the [~~taxpayer~~] claimant, estate, or  
 2126 trust is allowed during that year multiplied by the percentage specified in an allocation  
 2127 certificate issued by the Utah Housing Corporation; or

2128 (ii) tax credit specified in the special low-income housing tax credit certificate that the  
 2129 housing sponsor issues to the [~~taxpayer~~] claimant, estate, or trust as provided in Subsection  
 2130 (2)(c).

2131 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

2132 (i) the total amount of low-income housing tax credit under this section that:

2133 (A) a housing sponsor is allowed for a building; and

2134 (B) all of the [~~taxpayers~~] claimants, estates, and trusts may claim with respect to the  
2135 building if the [~~taxpayers~~] claimants, estates, and trusts meet the requirements of this section;  
2136 and

2137 (ii) the percentage of tax credit a [~~taxpayer~~] claimant, estate, or trust may claim:

2138 (A) under this section if the [~~taxpayer~~] claimant, estate, or trust meets the requirements  
2139 of this section; and

2140 (B) as provided in the agreement between the [~~taxpayer~~] claimant, estate, or trust and  
2141 the housing sponsor.

2142 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year  
2143 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing  
2144 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue  
2145 Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

2146 (A) 12.5 cents; and

2147 (B) the population of Utah.

2148 (ii) For purposes of this section, the population of Utah shall be determined in  
2149 accordance with Section 146(j), Internal Revenue Code.

2150 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and  
2151 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate  
2152 the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

2153 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)  
2154 based on:

2155 (i) the number of affordable housing units to be created in Utah for low and moderate  
2156 income persons in the residential housing development of which the building is a part;

2157 (ii) the level of area median income being served by the development;

2158 (iii) the need for the tax credit for the economic feasibility of the development; and

2159 (iv) the extended period for which the development commits to remain as affordable  
2160 housing.

2161 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under  
2162 this section:

2163 (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has  
2164 received an allocation of the federal low-income housing [~~tax~~] credit; or

2165 (ii) any applicant for an allocation of the federal low-income housing [~~tax~~] credit if that  
2166 applicant is a claimant, estate, or trust.

2167 (b) The Utah Housing Corporation may not require fees for applications of the tax  
2168 credit under this section in addition to those fees required for applications for the federal  
2169 low-income housing [~~tax~~] credit.

2170 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to  
2171 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the  
2172 Utah Housing Corporation.

2173 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors  
2174 by issuing an allocation certificate to qualifying housing sponsors.

2175 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed  
2176 percentage of the federal low-income housing [~~tax~~] credit as determined by the Utah Housing  
2177 Corporation.

2178 (c) The percentage specified in an allocation certificate may not exceed 100% of the  
2179 federal low-income housing [~~tax~~] credit.

2180 (6) A housing sponsor shall provide a copy of the allocation certificate to each  
2181 [~~taxpayer~~] claimant, estate, or trust that is issued a special low-income housing tax credit  
2182 certificate.

2183 (7) (a) A housing sponsor shall provide to the commission a list of:

2184 (i) the [~~taxpayers~~] claimants, estates, and trusts issued a special low-income housing  
2185 tax credit certificate; and

2186 (ii) for each [~~taxpayer~~] claimant, estate, or trust described in Subsection (7)(a)(i), the  
2187 amount of tax credit listed on the special low-income housing tax credit certificate.

2188 (b) A housing sponsor shall provide the list required by Subsection (7)(a):

2189 (i) to the commission;

2190 (ii) on a form provided by the commission; and

2191 (iii) with the housing sponsor's tax return for each taxable year for which the housing  
2192 sponsor issues a special low-income housing tax credit certificate described in this Subsection  
2193 (7).

2194 (8) (a) All elections made by the [~~taxpayer~~] claimant, estate, or trust pursuant to  
2195 Section 42, Internal Revenue Code, shall apply to this section.

2196 (b) (i) If a [taxpayer] claimant, estate, or trust is required to recapture a portion of any  
2197 federal low-income housing [tax] credit, the [taxpayer] claimant, estate, or trust shall also be  
2198 required to recapture a portion of any state tax credits authorized by this section.

2199 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
2200 that equals the proportion the federal recapture amount bears to the original federal low-income  
2201 housing [tax] credit amount subject to recapture.

2202 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be  
2203 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

2204 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may  
2205 be carried over for allocation in the subsequent year.

2206 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the  
2207 tax credit exceeds the tax, may be carried back three years or may be carried forward five years  
2208 as a tax credit [~~against the tax~~].

2209 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

2210 (i) before the application of the tax credits earned in the current year; and

2211 (ii) on a first-earned first-used basis.

2212 (11) Any tax credit taken in this section may be subject to an annual audit by the  
2213 commission.

2214 (12) The Utah Housing Corporation shall provide an annual report to the Revenue and  
2215 Taxation Interim Committee which shall include at least:

2216 (a) the purpose and effectiveness of the tax credits; and

2217 (b) the benefits of the tax credits to the state.

2218 (13) The commission may, in consultation with the Utah Housing Corporation,  
2219 promulgate rules to implement this section.

2220 Section 33. Section **59-10-1011**, which is renumbered from Section 59-10-130 is  
2221 renumbered and amended to read:

2222 ~~[59-10-130]~~. **59-10-1011. Tutoring tax credits for disabled dependents.**

2223 (1) For purposes of this section:

2224 (a) "Disabled dependent" means a person who:

2225 (i) is disabled under Section 53A-15-301;

2226 (ii) attends a public or private kindergarten, elementary, or secondary school; and



2227 (iii) is eligible to receive disability program monies under Section 53A-17a-111.

2228 (b) (i) "Tutoring" means educational services:

2229 (A) approved by an individual education plan team;

2230 (B) provided to a disabled dependent; and

2231 (C) that supplement classroom instruction the disabled dependent described in

2232 Subsection (1)(b)(i)(B) receives at a public or private kindergarten, elementary, or secondary  
2233 school in the state.

2234 (ii) "Tutoring" does not include:

2235 (A) purchases of instructional books and material; or

2236 (B) payments for attendance at extracurricular activities including sporting events,  
2237 musical or dramatic events, speech activities, or driver education.

2238 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after  
2239 January 1, 1996, but beginning on or before December 31, 2009, a [taxpayer] claimant allowed  
2240 to claim a disabled dependent as a dependent under this section may claim for each disabled  
2241 dependent a nonrefundable tutoring tax credit in an amount equal to 25% of the costs paid by  
2242 the [taxpayer] claimant for tutoring the disabled dependent.

2243 (b) The [~~nonrefundable~~] tutoring tax credit under Subsection (2)(a) may not exceed  
2244 \$100.

2245 (3) The [~~nonrefundable~~] tutoring tax credit under Subsection (2) may be claimed by a  
2246 [taxpayer] claimant only in the taxable year in which the [taxpayer] claimant pays the tutoring  
2247 costs for which the tax credit is claimed.

2248 Section 34. Section **59-10-1012**, which is renumbered from Section 59-10-131 is  
2249 renumbered and amended to read:

2250 ~~[59-10-131].~~ **59-10-1012. Tax credits for research activities conducted in**  
2251 **the state -- Carry forward -- Commission to report modification or repeal of federal**  
2252 **credits -- Tax Review Commission study.**

2253 (1) (a) For taxable years beginning on or after January 1, 1999, but beginning before  
2254 December 31, 2010, a [taxpayer] claimant, estate, or trust meeting the requirements of this  
2255 section shall qualify for the following nonrefundable tax credits for increasing research  
2256 activities in this state:

2257 (i) a research tax credit of 6% of the [taxpayer's] claimant's, estate's, or trust's qualified

2258 research expenses for the current taxable year that exceed the base amount provided for under  
2259 Subsection (4); and

2260 (ii) a tax credit for payments to qualified organizations for basic research as provided  
2261 in Section 41(e), Internal Revenue Code of 6% for the current taxable year that exceed the base  
2262 amount provided for under Subsection (4).

2263 (b) If a [~~taxpayer~~] claimant, estate, or trust qualifying for a tax credit under Subsection  
2264 (1)(a) seeks to claim the tax credit, the [~~taxpayer~~] claimant, estate, or trust shall:

2265 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately  
2266 following the taxable year for which the [~~taxpayer~~] claimant, estate, or trust qualifies for the tax  
2267 credit;

2268 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection  
2269 (4)(f); or

2270 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as  
2271 provided in Subsections (1)(b)(i) and (ii).

2272 (c) The tax credits provided for in this section do not include the alternative  
2273 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

2274 (2) For purposes of claiming a tax credit under this section, a unitary group as defined  
2275 in Section 59-7-101 is considered to be one [~~taxpayer~~] claimant.

2276 (3) Except as specifically provided for in this section:

2277 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in  
2278 Section 41, Internal Revenue Code; and

2279 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating  
2280 the tax credits authorized under Subsection (1).

2281 (4) For purposes of this section:

2282 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),  
2283 Internal Revenue Code, except that:

2284 (i) the base amount does not include the calculation of the alternative incremental  
2285 credit provided for in Section 41(c)(4), Internal Revenue Code;

2286 (ii) a [~~taxpayer's~~] claimant's, estate's, or trust's gross receipts include only those gross  
2287 receipts attributable to sources within this state as provided in [~~Chapter 7, Part 3, Allocation~~  
2288 ~~and Apportionment of Income -- Utah UDITPA Provisions~~] Section 59-10-118; and

2289 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating  
2290 the base amount, a [~~taxpayer~~] claimant, estate, or trust:

2291 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)  
2292 regardless of whether the [~~taxpayer~~] claimant, estate, or trust meets the requirements of Section  
2293 41(c)(3)(B)(i)(I) or (II); and

2294 (B) may not revoke an election to be treated as a start-up company under Subsection  
2295 (4)(a)(iii)(A);

2296 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except  
2297 that the term includes only basic research conducted in this state;

2298 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except  
2299 that the term includes only qualified research conducted in this state;

2300 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal  
2301 Revenue Code, except that the term includes only those expenses incurred in conducting  
2302 qualified research in this state;

2303 (e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax  
2304 credits provided for in this section shall not terminate if the credits terminate under Section 41,  
2305 Internal Revenue Code; and

2306 (f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,  
2307 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit  
2308 claimed by a [~~taxpayer~~] claimant, estate, or trust under this section exceeds the [~~taxpayer's~~]  
2309 claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the  
2310 tax credit exceeding the liability:

2311 (i) may be carried forward for a period that does not exceed the next 14 taxable years;  
2312 and

2313 (ii) may not be carried back to a taxable year preceding the current taxable year.

2314 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2315 commission may make rules for purposes of this section prescribing a certification process for  
2316 qualified organizations to ensure that amounts paid to the qualified organizations are for basic  
2317 research conducted in this state.

2318 (6) If a federal [~~tax~~] credit under Section 41, Internal Revenue Code, is modified or  
2319 repealed, the commission shall report the modification or repeal to the Tax Review

2320 Commission within 60 days after the day on which the modification or repeal becomes  
2321 effective.

2322 ~~[(7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall~~  
2323 ~~review the credits provided for in this section on or before the earlier of:]~~

2324 ~~[(i) October 1 of the year after the year in which the commission reports under~~  
2325 ~~Subsection (6) a modification or repeal of a federal tax credit under Section 41, Internal~~  
2326 ~~Revenue Code; or]~~

2327 ~~[(ii) October 1, 2004.]~~

2328 ~~[(b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to~~  
2329 ~~review the credits provided for in this section if the only modification to a federal tax credit~~  
2330 ~~under Section 41, Internal Revenue Code, is the extension of the termination date provided for~~  
2331 ~~in Section 41(h), Internal Revenue Code.]~~

2332 ~~[(c) The Tax Review Commission shall address in a review under this section the:]~~

2333 ~~[(i) cost of the credit;]~~

2334 ~~[(ii) purpose and effectiveness of the credit;]~~

2335 ~~[(iii) whether the credit benefits the state; and]~~

2336 ~~[(iv) whether the credit should be:]~~

2337 ~~[(A) continued;]~~

2338 ~~[(B) modified; or]~~

2339 ~~[(C) repealed.]~~

2340 ~~[(d) If the Tax Review Commission reviews the credits provided for in this section, the~~  
2341 ~~Tax Review Commission shall report its findings to the Revenue and Taxation Interim~~  
2342 ~~Committee on or before the November interim meeting of the year in which the Tax Review~~  
2343 ~~Commission reviews the credits:]~~

2344 Section 35. Section **59-10-1013**, which is renumbered from Section 59-10-132 is  
2345 renumbered and amended to read:

2346 **~~[59-10-132].~~ 59-10-1013. Credits for machinery, equipment, or both**  
2347 **primarily used for conducting qualified research or basic research -- Carry forward --**  
2348 **Commission to report modification or repeal of federal credits -- Tax Review Commission**  
2349 **study.**

2350 (1) As used in this section:

2351 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except  
2352 that the term includes only basic research conducted in this state.

2353 (b) "Equipment" includes:

2354 (i) computers;

2355 (ii) computer equipment; and

2356 (iii) computer software.

2357 (c) "Purchase price":

2358 (i) includes the cost of installing an item of machinery or equipment; and

2359 (ii) does not include sales or use taxes imposed on an item of machinery or equipment.

2360 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

2361 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except  
2362 that the term includes only qualified research conducted in this state.

2363 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after  
2364 January 1, 1999, but beginning before December 31, 2010, a [taxpayer] claimant, estate, or  
2365 trust shall qualify for the following nonrefundable tax credits for the taxable year in which the  
2366 machinery, equipment, or both, meets the requirements of either Subsection (2)(a)(i) or  
2367 (2)(a)(ii):

2368 (i) a tax credit of 6% of the purchase price of either machinery, equipment, or both:

2369 (A) purchased by the [taxpayer] claimant, estate, or trust during the taxable year;

2370 (B) that is not exempt from sales or use taxes; and

2371 (C) that is primarily used to conduct qualified research in this state; and

2372 (ii) a tax credit of 6% of the purchase price paid by the [taxpayer] claimant, estate, or  
2373 trust for either machinery, equipment, or both:

2374 (A) purchased by the [taxpayer] claimant, estate, or trust during the taxable year;

2375 (B) that is not exempt from sales or use taxes;

2376 (C) that is donated to a qualified organization; and

2377 (D) that is primarily used to conduct basic research in this state.

2378 (b) If a [taxpayer] claimant, estate, or trust qualifying for a tax credit under Subsection  
2379 (2)(a) seeks to claim the tax credit, the [taxpayer] claimant, estate, or trust shall:

2380 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately  
2381 following the taxable year for which the [taxpayer] claimant, estate, or trust qualifies for the tax

2382 credit;

2383 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection  
2384 (5); or

2385 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as  
2386 provided in Subsections (2)(b)(i) and (ii).

2387 (c) Notwithstanding Subsection (2)(a), if a [taxpayer] claimant, estate, or trust qualifies  
2388 for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the  
2389 [taxpayer] claimant, estate, or trust may not claim the tax credit or carry the tax credit forward  
2390 if the machinery, equipment, or both, is primarily used to conduct qualified research in the state  
2391 for a time period that is less than 12 consecutive months.

2392 (3) For purposes of claiming a tax credit under this section, a unitary group as defined  
2393 in Section 59-7-101 is considered to be one [taxpayer] claimant.

2394 (4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax  
2395 credits provided for in this section shall not terminate if the credits terminate under Section 41,  
2396 Internal Revenue Code.

2397 (5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,  
2398 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit  
2399 claimed by a [taxpayer] claimant, estate, or trust under this section exceeds a [taxpayer's]  
2400 claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the  
2401 tax credit exceeding the liability:

2402 (a) may be carried forward for a period that does not exceed the next 14 taxable years;  
2403 and

2404 (b) may not be carried back to a taxable year preceding the current taxable year.

2405 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2406 commission may make rules for purposes of this section prescribing a certification process for  
2407 qualified organizations to ensure that either machinery, equipment, or both provided to the  
2408 qualified organization is to be primarily used to conduct basic research in this state.

2409 (7) If a federal [tax] credit under Section 41, Internal Revenue Code, is modified or  
2410 repealed, the commission shall report the modification or repeal to the Tax Review  
2411 Commission within 60 days after the day on which the modification or repeal becomes  
2412 effective.

2413 ~~[(8) (a) Except as provided in Subsection (8)(b), the Tax Review Commission shall~~  
 2414 ~~review the credits provided for in this section on or before the earlier of:]~~

2415 ~~[(i) October 1 of the year after the year in which the commission reports under~~  
 2416 ~~Subsection (7) a modification or repeal of a federal tax credit under Section 41, Internal~~  
 2417 ~~Revenue Code; or]~~

2418 ~~[(ii) October 1, 2004.]~~

2419 ~~[(b) Notwithstanding Subsection (8)(a), the Tax Review Commission is not required to~~  
 2420 ~~review the credits provided for in this section if the only modification to a federal tax credit~~  
 2421 ~~under Section 41, Internal Revenue Code, is the extension of the termination date provided for~~  
 2422 ~~in Section 41(h), Internal Revenue Code.]~~

2423 ~~[(c) The Tax Review Commission shall address in a review under this section the:]~~

2424 ~~[(i) cost of the credit;]~~

2425 ~~[(ii) purpose and effectiveness of the credit;]~~

2426 ~~[(iii) whether the credit benefits the state; and]~~

2427 ~~[(iv) whether the credit should be:]~~

2428 ~~[(A) continued;]~~

2429 ~~[(B) modified; or]~~

2430 ~~[(C) repealed.]~~

2431 ~~[(d) If the Tax Review Commission reviews the credits provided for in this section, the~~  
 2432 ~~Tax Review Commission shall report its findings to the Revenue and Taxation Interim~~  
 2433 ~~Committee on or before the November interim meeting of the year in which the Tax Review~~  
 2434 ~~Commission reviews the credits.]~~

2435 Section 36. Section **59-10-1014**, which is renumbered from Section 59-10-134 is  
 2436 renumbered and amended to read:

2437 ~~[59-10-134].~~ **59-10-1014. Renewable energy systems tax credit --**

2438 **Definitions -- Limitations -- State tax credit in addition to allowable federal credits --**

2439 **Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.**

2440 (1) As used in this part:

2441 (a) "Active solar system":

2442 (i) means a system of equipment capable of collecting and converting incident solar  
 2443 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy

2444 by a separate apparatus to storage or to the point of use; and

2445 (ii) includes water heating, space heating or cooling, and electrical or mechanical  
2446 energy generation.

2447 (b) "Biomass system" means any system of apparatus and equipment capable of  
2448 converting organic plant, wood, or waste products into electrical and thermal energy and  
2449 transferring these forms of energy by a separate apparatus to the point of use or storage.

2450 (c) "Business entity" means any [~~sole proprietorship, estate, trust, partnership,~~  
2451 ~~association, corporation, cooperative, or other~~] entity under which business is conducted or  
2452 transacted.

2453 (d) "Commercial energy system" means any active solar, passive solar, wind,  
2454 hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial  
2455 enterprise.

2456 (e) "Commercial enterprise" means a business entity whose purpose is to produce  
2457 electrical, mechanical, or thermal energy for sale from a commercial energy system.

2458 (f) (i) "Commercial unit" means any building or structure which a business entity uses  
2459 to transact its business, except as provided in Subsection (1)(f)(ii); and

2460 (ii) (A) in the case of an active solar system used for agricultural water pumping or a  
2461 wind system, each individual energy generating device shall be a commercial unit; and

2462 (B) if an energy system is the building or structure which a business entity uses to  
2463 transact its business, a commercial unit is the complete energy system itself.

2464 (g) "Hydroenergy system" means a system of apparatus and equipment capable of  
2465 intercepting and converting kinetic water energy into electrical or mechanical energy and  
2466 transferring this form of energy by separate apparatus to the point of use or storage.

2467 [~~(h) "Individual taxpayer" means any person who is a taxpayer as defined in Section~~  
2468 ~~59-10-103 and an individual as defined in Section 59-10-103.~~]

2469 [(†)] (h) "Passive solar system":

2470 (i) means a direct thermal system which utilizes the structure of a building and its  
2471 operable components to provide for collection, storage, and distribution of heating or cooling  
2472 during the appropriate times of the year by utilizing the climate resources available at the site;  
2473 and

2474 (ii) includes those portions and components of a building that are expressly designed



2475 and required for the collection, storage, and distribution of solar energy.

2476 ~~[(j)]~~ (i) "Residential energy system" means any active solar, passive solar, wind, or  
2477 hydroenergy system used to supply energy to or for any residential unit.

2478 ~~[(k)]~~ (j) "Residential unit" means any house, condominium, apartment, or similar  
2479 dwelling unit which serves as a dwelling for a person, group of persons, or a family but does  
2480 not include property subject to a fee under:

2481 (i) Section 59-2-404;

2482 (ii) Section 59-2-405;

2483 (iii) Section 59-2-405.1;

2484 (iv) Section 59-2-405.2; or

2485 (v) Section 59-2-405.3.

2486 ~~[(l)]~~ (k) "Utah Geological Survey" means the Utah Geological Survey established in  
2487 Section 63-73-5.

2488 ~~[(m)]~~ (l) "Wind system" means a system of apparatus and equipment capable of  
2489 intercepting and converting wind energy into mechanical or electrical energy and transferring  
2490 these forms of energy by a separate apparatus to the point of use or storage.

2491 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before  
2492 December 31, 2006, ~~[any individual taxpayer]~~ a claimant, estate, or trust may claim a  
2493 nonrefundable tax credit as provided in this section if:

2494 (a) ~~[the individual taxpayer]~~ a claimant, estate, or trust that is not a business entity  
2495 purchases and completes or participates in the financing of a residential energy system to  
2496 supply all or part of the energy for the ~~[individual taxpayer's]~~ claimant's, estate's, or trust's  
2497 residential unit in the state; or

2498 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to ~~[an~~  
2499 ~~individual taxpayer]~~ another claimant, estate, or trust that is not a business entity prior to  
2500 making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

2501 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit  
2502 to the ~~[individual taxpayer]~~ claimant, estate, or trust that is not a business entity as provided in  
2503 Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

2504 (3) (a) ~~[An individual taxpayer meeting the requirements of]~~ The tax credit described  
2505 in Subsection (2) is ~~[entitled to a tax credit]~~ equal to 25% of the costs of the energy system,

2506 including installation costs, against any income tax liability of the ~~[individual taxpayer]~~  
2507 claimant, estate, or trust under this chapter for the taxable year in which the residential energy  
2508 system is completed and placed in service.

2509 (b) The total amount of the tax credit under this section may not exceed \$2,000 per  
2510 residential unit.

2511 (c) The tax credit under this section is allowed for any residential energy system  
2512 completed and placed in service on or after January 1, 2001, but on or before December 31,  
2513 2006.

2514 (4) (a) The tax credit provided for in this section shall be claimed in the return for the  
2515 taxable year in which the energy system is completed and placed in service.

2516 (b) Additional residential energy systems or parts of residential energy systems may be  
2517 similarly claimed in returns for subsequent taxable years as long as the total amount claimed  
2518 does not exceed \$2,000 per residential unit.

2519 (c) If the amount of the tax credit under this section exceeds the income tax liability of  
2520 the ~~[individual taxpayer]~~ claimant, estate, or trust claiming the tax credit under this section for  
2521 that taxable year, then the amount not used may be carried over for a period which does not  
2522 exceed the next four taxable years.

2523 (5) (a) ~~[Individual taxpayers who lease]~~ A claimant, estate, or trust that is not a  
2524 business entity that leases a residential energy system installed on a residential unit ~~[are]~~ is  
2525 eligible for the residential energy tax credits if ~~[the lessee can confirm]~~ that claimant, estate, or  
2526 trust confirms that the lessor irrevocably elects not to claim the ~~[state]~~ tax credit.

2527 (b) Only the principal recovery portion of the lease payments, which is the cost  
2528 incurred by the ~~[taxpayer]~~ claimant, estate, or trust in acquiring the residential energy system  
2529 excluding interest charges and maintenance expenses, is eligible for the tax credits.

2530 (c) ~~[Individual taxpayers who lease residential energy systems are eligible to]~~ A  
2531 claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period  
2532 ~~[no greater than]~~ that does not exceed seven years from the initiation of the lease.

2533 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes  
2534 or participates in the financing of a residential energy system to supply all or part of the energy  
2535 required for a residential unit owned or used by the claimant, estate, or trust that is a business  
2536 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this

2537 Subsection (6).

2538 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or  
2539 before December 31, 2006, a claimant, estate, or trust that is a business entity is entitled to a  
2540 tax credit equal to 25% of the costs of a residential energy system installed with respect to each  
2541 residential unit it owns or uses, including installation costs, against any tax due under this  
2542 chapter for the taxable year in which the energy system is completed and placed in service.

2543 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000  
2544 per residential unit.

2545 (iii) The tax credit under this Subsection (6) is allowed for any residential energy  
2546 system completed and placed in service on or after January 1, 2001, but on or before December  
2547 31, 2006.

2548 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to [~~an~~  
2549 ~~individual taxpayer~~] a claimant, estate, or trust that is not a business entity prior to making a  
2550 claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business  
2551 entity may:

2552 (i) assign its right to this tax credit to the [~~individual taxpayer~~] claimant, estate, or trust  
2553 that is not a business entity; and

2554 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax  
2555 credit to [~~an individual taxpayer~~] a claimant, estate, or trust that is not a business entity under  
2556 Subsection (6)(c)(i), the [~~individual taxpayer~~] claimant, estate, or trust that is not a business  
2557 entity may claim the tax credit as if [~~the individual taxpayer~~] that claimant, estate, or trust that  
2558 is not a business entity had completed or participated in the costs of the residential energy  
2559 system under this section.

2560 (7) (a) A claimant, estate, or trust that is a business entity that purchases or participates  
2561 in the financing of a commercial energy system is entitled to a nonrefundable tax credit as  
2562 provided in this Subsection (7) if:

2563 (i) the commercial energy system supplies all or part of the energy required by  
2564 commercial units owned or used by the claimant, estate, or trust that is a business entity; or

2565 (ii) the claimant, estate, or trust that is a business entity sells all or part of the energy  
2566 produced by the commercial energy system as a commercial enterprise.

2567 (b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit equal

2568 to 10% of the costs of any commercial energy system installed, including installation costs,  
2569 against any tax due under this chapter for the taxable year in which the commercial energy  
2570 system is completed and placed in service.

2571 (ii) The total amount of the tax credit under this Subsection (7) may not exceed  
2572 \$50,000 per commercial unit.

2573 (iii) The tax credit under this Subsection (7) is allowed for any commercial energy  
2574 system completed and placed in service on or after January 1, 2001, but on or before December  
2575 31, 2006.

2576 (c) A claimant, estate, or trust that is a business entity that leases a commercial energy  
2577 system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if  
2578 the ~~[lessee can confirm]~~ claimant, estate, or trust confirms that the lessor irrevocably elects not  
2579 to claim the tax credit.

2580 (d) Only the principal recovery portion of the lease payments, which is the cost  
2581 incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial  
2582 energy system, excluding interest charges and maintenance expenses, is eligible for the tax  
2583 credit under this Subsection (7).

2584 (e) A claimant, estate, or trust that is a business entity that leases a commercial energy  
2585 system is eligible to use the tax credit under this Subsection (7) for a period ~~[no greater than]~~  
2586 that does not exceed seven years from the initiation of the lease.

2587 (8) (a) A tax credit under this section may be claimed for the taxable year in which the  
2588 energy system is completed and placed in service.

2589 (b) Additional energy systems or parts of energy systems may be claimed for  
2590 subsequent years.

2591 (c) If the amount of a tax credit under this section exceeds ~~[a business entity's]~~ the tax  
2592 liability of the claimant, estate, or trust claiming the tax credit under this [chapter] section for a  
2593 taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a  
2594 period which does not exceed the next four taxable years.

2595 (9) The tax credits provided for under this section are in addition to any tax credits  
2596 provided under the laws or rules and regulations of the United States.

2597 (10) (a) The Utah Geological Survey may set standards for residential and commercial  
2598 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of

2599 the systems to ensure that the systems eligible for the tax credit use the state's renewable and  
2600 nonrenewable energy resources in an appropriate and economic manner.

2601 (b) A tax credit may not be taken under this section until the Utah Geological Survey  
2602 has certified that the energy system has been completely installed and is a viable system for  
2603 saving or production of energy from renewable resources.

2604 (11) The Utah Geological Survey and the commission are authorized to promulgate  
2605 rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which  
2606 are necessary to implement this section.

2607 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund  
2608 for any tax credits taken under this section.

2609 Section 37. Section **59-10-1015**, which is renumbered from Section 59-10-134.2 is  
2610 renumbered and amended to read:

2611 ~~[59-10-134.2]~~. **59-10-1015. Definitions -- Tax credit for live organ donation**  
2612 **expenses -- Rulemaking authority.**

2613 (1) As used in this section:

2614 (a) "human organ" means:

2615 (i) human bone marrow; or

2616 (ii) any part of a human:

2617 (A) intestine;

2618 (B) kidney;

2619 (C) liver;

2620 (D) lung; or

2621 (E) pancreas;

2622 (b) "live organ donation" means that an individual who is living donates one or more of  
2623 that individual's human organs:

2624 (i) to another human; and

2625 (ii) to be transplanted:

2626 (A) using a medical procedure; and

2627 (B) to the body of the other human; and

2628 (c) (i) "live organ donation expenses" means the total amount of expenses:

2629 (A) incurred by a ~~[taxpayer]~~ claimant; and

2630 (B) that:  
2631 (I) are not reimbursed to that [taxpayer] claimant by any person;  
2632 (II) are directly related to a live organ donation by:  
2633 (Aa) the [taxpayer] claimant; or  
2634 (Bb) another individual that the [taxpayer] claimant is allowed to claim as a dependent  
2635 in accordance with Section 151, Internal Revenue Code; and  
2636 (III) are for:  
2637 (Aa) travel;  
2638 (Bb) lodging; or  
2639 (Cc) a lost wage; and  
2640 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2641 commission may by rule define "lost wage."  
2642 (2) For taxable years beginning on or after January 1, 2005, a [taxpayer] claimant may  
2643 claim a nonrefundable tax credit:  
2644 (a) as provided in this section;  
2645 (b) against taxes otherwise due under this chapter;  
2646 (c) for live organ donation expenses incurred during the taxable year for which the live  
2647 organ donation occurs; and  
2648 (d) in an amount equal to the lesser of:  
2649 (i) the actual amount of the live organ donation expenses; or  
2650 (ii) \$10,000.  
2651 (3) If the amount of a tax credit under this section exceeds a [taxpayer's] claimant's tax  
2652 liability under this chapter for a taxable year, the amount of the tax credit that exceeds the  
2653 [taxpayer's] claimant's tax liability may be carried forward for a period that does not exceed the  
2654 next five taxable years.  
2655 Section 38. Section **59-10-1016**, which is renumbered from Section 59-10-135 is  
2656 renumbered and amended to read:  
2657 **[59-10-135]. 59-10-1016. Removal of tax credit from tax return and**  
2658 **prohibition on claiming or carrying forward a tax credit -- Conditions for removal and**  
2659 **prohibition on claiming or carrying forward a tax credit -- Commission reporting**  
2660 **requirements.**

2661 (1) As used in this section[:(a) "~~tax credit~~" means a nonrefundable tax credit listed on  
2662 a tax return. (b) "~~tax~~", "tax return" means [an individual income] a tax return filed in  
2663 accordance with this chapter.

2664 (2) Beginning two taxable years after the requirements of Subsection (3) are met:

2665 (a) the commission shall remove a tax credit from each tax return on which the tax  
2666 credit appears; and

2667 (b) a [person] claimant, estate, or trust filing a tax return may not claim or carry  
2668 forward the tax credit.

2669 (3) The commission shall remove a tax credit from a tax return and a [person]  
2670 claimant, estate, or trust filing a tax return may not claim or carry forward a tax credit as  
2671 provided in Subsection (2) if:

2672 (a) the total amount of the tax credit claimed or carried forward by all [persons]  
2673 claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive  
2674 taxable years beginning on or after January 1, 2002; and

2675 (b) less than ten [persons] claimants, estates, and trusts per year for the three  
2676 consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying  
2677 forward the tax credit.

2678 (4) The commission shall, on or before the November interim meeting of the year after  
2679 the taxable year in which the requirements of Subsection (3) are met:

2680 (a) report to the Revenue and Taxation Interim Committee that in accordance with this  
2681 section:

2682 (i) the commission is required to remove a tax credit from each tax return on which the  
2683 tax credit appears; and

2684 (ii) a [person] claimant, estate, or trust filing a tax return may not claim or carry  
2685 forward the tax credit; and

2686 (b) notify each state agency required by statute to assist in the administration of the tax  
2687 credit that in accordance with this section:

2688 (i) the commission is required to remove a tax credit from each tax return on which the  
2689 tax credit appears; and

2690 (ii) a [person] claimant, estate, or trust filing a tax return may not claim or carry  
2691 forward the tax credit.

2692 Section 39. Section **59-10-1101** is enacted to read:

2693 **Part 11. Refundable Tax Credit Act**

2694 **59-10-1101. Title.**

2695 This part is known as the "Refundable Tax Credit Act."

2696 Section 40. Section **59-10-1102** is enacted to read:

2697 **59-10-1102. Definitions.**

2698 As used in this part:

2699 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a),

2700 "claimant" means a resident or nonresident person.

2701 (b) "Claimant" does not include an estate or trust.

2702 (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident  
2703 estate or a resident estate.

2704 (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
2705 trust may claim:

2706 (a) as provided by statute; and

2707 (b) regardless of whether the claimant, estate, or trust has a tax liability under this  
2708 chapter for a taxable year.

2709 (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident  
2710 trust or a resident trust.

2711 Section 41. Section **59-10-1103**, which is renumbered from Section 59-10-108.2 is  
2712 renumbered and amended to read:

2713 **[59-10-108.2].** **59-10-1103. Tax credit for nonresident shareholders of S**  
2714 **corporations.**

2715 (1) (a) A nonresident shareholder of an S corporation [~~who is an individual~~] may claim  
2716 a refundable tax credit against the tax otherwise due under this chapter[;] if that nonresident  
2717 shareholder is a:

2718 (i) nonresident claimant;

2719 (ii) nonresident estate; or

2720 (iii) nonresident trust.

2721 (b) The tax credit described in Subsection (1)(a) is equal to the amount paid or  
2722 withheld by the S corporation on behalf of the [~~individual~~] nonresident shareholder described



2723 in Subsection (1)(a) in accordance with Section 59-7-703.

2724 (2) A nonresident shareholder [~~of an S corporation who is an individual and who~~

2725 described in Subsection (1)(a) that has no other Utah source income may elect:

2726 (a) not to claim the tax credit provided in Subsection (1); and

2727 (b) not to file a [~~Utah individual income~~] tax return under this chapter for the taxable  
2728 year.

2729 (3) If a nonresident shareholder described in Subsection (1)(a) may claim [~~credits~~] a  
2730 nonrefundable tax credit as defined in Section 59-10-1002 or a refundable tax credit other than

2731 the tax credit described in Subsection (1), the nonresident shareholder described in Subsection

2732 (1)(a) shall file [~~an individual income~~] a tax return under this chapter to claim those

2733 nonrefundable tax credits or refundable tax credits.

2734 Section 42. Section **59-10-1104**, which is renumbered from Section 59-10-133 is  
2735 renumbered and amended to read:

2736 **[59-10-133]. 59-10-1104. Tax credit for adoption of a child who has a**  
2737 **special need.**

2738 (1) As used in this section, a "child who has a special need" means a child who meets  
2739 at least one of the following conditions:

2740 (a) the child is five years of age or older;

2741 (b) the child:

2742 (i) is under the age of 18; and

2743 (ii) has a physical, emotional, or mental disability; or

2744 (c) the child is a member of a sibling group placed together for adoption.

2745 (2) For taxable years beginning on or after January 1, 2005, a [~~taxpayer~~] claimant who  
2746 adopts in this state a child who has a special need may claim on the [~~taxpayer's~~] claimant's  
2747 individual income tax return for the taxable year a refundable tax credit of \$1,000 against taxes  
2748 otherwise due under this chapter for:

2749 (a) adoptions for which a court issues an order granting the adoption on or after  
2750 January 1, 2005;

2751 (b) the taxable year during which a court issues an order granting the adoption; and

2752 (c) each child who has a special need whom the [~~taxpayer~~] claimant adopts.

2753 (3) The credit provided for in this section may not be carried forward or carried back.

2754 (4) Nothing in this section shall affect the ability of any [~~taxpayer~~ claimant] who  
2755 adopts a child who has a special need to receive adoption assistance under Section 62A-4a-907.

2756 Section 43. Section **59-10-1105**, which is renumbered from Section 59-10-134.1 is  
2757 renumbered and amended to read:

2758 ~~[59-10-134.1].~~ **59-10-1105. Tax credit for hand tools used in farming**  
2759 **operations -- Procedures for refund -- Transfers from General Fund to Uniform School**  
2760 **Fund -- Rulemaking authority.**

2761 (1) For taxable years beginning on or after January 1, 2004, a [~~resident or nonresident~~  
2762 individual] claimant, estate, or trust may claim a refundable tax credit:

2763 (a) as provided in this section;

2764 (b) against taxes otherwise due under this chapter; and

2765 (c) in an amount equal to the amount of tax the [~~resident or nonresident individual~~]  
2766 claimant, estate, or trust pays:

2767 (i) on a purchase of a hand tool:

2768 (A) if the purchase is made on or after July 1, 2004;

2769 (B) if the hand tool is used or consumed primarily and directly in a farming operation  
2770 in the state; and

2771 (C) if the unit purchase price of the hand tool is more than \$250; and

2772 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection  
2773 (1)(c)(i).

2774 (2) A [~~resident or nonresident individual~~] claimant, estate, or trust:

2775 (a) shall retain the following to establish the amount of tax the [~~resident or nonresident~~  
2776 individual] claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the  
2777 purchase described in Subsection (1)(c)(i):

2778 (i) a receipt;

2779 (ii) an invoice; or

2780 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

2781 (b) may not carry forward or carry back a tax credit under this section.

2782 (3) (a) In accordance with any rules prescribed by the commission under Subsection  
2783 (3)(b), the commission shall:

2784 (i) make a refund to a [~~resident or nonresident individual who~~] claimant, estate, or trust

2785 that claims a tax credit under this section if the amount of the tax credit exceeds the [~~resident or~~  
2786 ~~nonresident individual's~~] claimant's, estate's, or trust's tax liability under this chapter; and

2787 (ii) transfer at least annually from the General Fund into the Uniform School Fund an  
2788 amount equal to the amount of tax credit claimed under this section.

2789 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2790 commission may make rules providing procedures for making:

2791 (i) a refund to a [~~resident or nonresident individual~~] claimant, estate, or trust as  
2792 required by Subsection (3)(a)(i); or

2793 (ii) transfers from the General Fund into the Uniform School Fund as required by  
2794 Subsection (3)(a)(ii).

2795 Section 44. Section **59-13-202** is amended to read:

2796 **59-13-202. Refund of tax for agricultural uses on income and corporate franchise**  
2797 **tax returns -- Application for permit for refund -- Division of Finance to pay claims --**  
2798 **Rules permitted to enforce part -- Penalties.**

2799 (1) As used in this section:

2800 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or  
2801 nonresident person.

2802 (ii) "Claimant" does not include an estate or trust.

2803 (b) "Estate" means a nonresident estate or a resident estate.

2804 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
2805 trust may claim:

2806 (i) as provided by statute; and

2807 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust  
2808 claims the tax credit, the claimant, estate, or trust has a tax liability under:

2809 (A) Chapter 7, Corporate Franchise and Income Taxes; or

2810 (B) Chapter 10, Individual Income Tax Act.

2811 (d) "Trust" means a nonresident trust or a resident trust.

2812 [(+)] (2) Any [~~person who~~] claimant, estate, or trust that purchases and uses any motor  
2813 fuel within the state for the purpose of operating or propelling stationary farm engines and  
2814 self-propelled farm machinery used for nonhighway agricultural uses, and [~~who~~] that has paid  
2815 the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the

2816 conditions and limitations provided under this part.

2817 ~~[(2)]~~ (3) (a) ~~[Every person]~~ A claimant, estate, or trust desiring a nonhighway  
2818 agricultural use refund under this part shall claim the refund as a refundable tax credit on the  
2819 ~~[state income]~~ tax return ~~[or corporate franchise tax return]~~ the claimant, estate, or trust files  
2820 under:

2821 (i) Chapter 7, Corporate Franchise and Income Taxes; or

2822 (ii) Chapter 10, Individual Income Tax Act.

2823 (b) A ~~[person]~~ claimant, estate, or trust not subject to filing a ~~[Utah income tax return~~  
2824 ~~or corporate franchise]~~ tax return described in Subsection (3)(a) shall obtain a permit and file  
2825 claims on a calendar year basis.

2826 (c) Any ~~[person]~~ claimant, estate, or trust claiming a refundable ~~[motor fuel]~~ tax credit  
2827 under this section is required to furnish any or all of the information outlined in this section  
2828 upon request of the commission. ~~[Credit]~~

2829 (d) A refundable tax credit under this section is allowed only on purchases on which  
2830 tax is paid during the taxable year covered by the tax return.

2831 ~~[(3)]~~ (4) In order to obtain a permit for a refund of motor fuel tax paid, an application  
2832 shall be filed containing:

2833 (a) the name of ~~[applicant]~~ the claimant, estate, or trust;

2834 (b) the ~~[applicant's]~~ claimant's, estate's, or trust's address;

2835 (c) location and number of acres owned and operated, location and number of acres  
2836 rented and operated, the latter of which shall be verified by a signed statement from the legal  
2837 owner;

2838 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

2839 (e) make, size, type of fuel used, and power rating of each piece of equipment using  
2840 fuel. If the ~~[applicant]~~ claimant, estate, or trust is an operator of self-propelled or tractor-pulled  
2841 farm machinery with which the ~~[applicant]~~ claimant, estate, or trust works for hire doing  
2842 custom jobs for other farmers, the application shall include information the commission  
2843 requires and shall all be contained in, and be considered part of, the original application. The  
2844 ~~[applicant]~~ claimant, estate, or trust shall also file with the application a certificate from the  
2845 county assessor showing each piece of equipment using fuel. This original application and all  
2846 information contained in it constitutes a permanent file with the commission in the name of the

2847 [~~applicant~~] claimant, estate, or trust.

2848 [~~(4)~~] (5) Any [~~person~~] claimant, estate, or trust claiming the right to a refund of motor  
2849 fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for  
2850 the previous calendar year. The claim shall state the name and address of the claimant, estate,  
2851 or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and  
2852 the amount paid for the motor fuel. The [~~applicant~~] claimant, estate, or trust shall retain the  
2853 original invoice to support the claim. No more than one claim for a tax refund may be filed  
2854 annually by each user of motor fuel purchased for nonhighway agricultural uses.

2855 [~~(5)~~] (6) Upon commission approval of the claim for a refund, the Division of Finance  
2856 shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for  
2857 refunds shall be paid from motor fuel taxes.

2858 [~~(6)~~] (7) The commission may promulgate rules to enforce this part, and may refuse to  
2859 accept as evidence of purchase or payment any instruments which show alteration or which fail  
2860 to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is  
2861 purchased for purposes other than transportation, and the date of purchase and delivery. If the  
2862 commission is not satisfied with the evidence submitted in connection with the claim, it may  
2863 reject the claim or require additional evidence.

2864 [~~(7)~~] (8) Any [~~person~~] claimant, estate, or trust aggrieved by the decision of the  
2865 commission with respect to a refundable tax credit or refund may file a request for agency  
2866 action, requesting a hearing before the commission.

2867 [~~(8)~~] (9) Any [~~person who~~] claimant, estate, or trust that makes any false claim, report,  
2868 or statement, [~~either~~] as claimant, estate, trust, agent, or creditor, with intent to defraud or  
2869 secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal  
2870 penalties provided under Section 59-1-401, and the commission shall initiate the filing of a  
2871 complaint for alleged violations of this part. In addition to these penalties, the [~~person~~]  
2872 claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a  
2873 creditor of a claimant, estate, or trust for refund for a period of five years.

2874 [~~(9)~~] (10) Refunds to which [~~taxpayers are~~] a claimant, estate, or trust is entitled under  
2875 this part shall be paid from the Transportation Fund.

2876 Section 45. Section **62A-4a-607** is amended to read:

2877 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**

2878 **parents.**

2879 (1) (a) The division and all child placing agencies licensed under this part shall  
2880 promote adoption when that is a possible and appropriate alternative for a child. Specifically,  
2881 in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of  
2882 all children in its custody who have a final plan for termination of parental rights pursuant to  
2883 Section 78-3a-312 or a primary permanency goal of adoption.

2884 (b) Beginning May 1, 2000, the division may not place a child for adoption, either  
2885 temporarily or permanently, with any individual or individuals who do not qualify for adoptive  
2886 placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

2887 (2) The division shall obtain or conduct research of prior adoptive families to  
2888 determine what families may do to be successful with their adoptive children and shall make  
2889 this research available to potential adoptive parents.

2890 (3) (a) A child placing agency licensed under this part shall inform each potential  
2891 adoptive parent with whom it is working that:

2892 (i) children in the custody of the state are available for adoption;

2893 (ii) Medicaid coverage for medical, dental, and mental health services may be available  
2894 for these children;

2895 (iii) tax benefits, including the tax credit provided for in Section [~~59-10-133~~]  
2896 59-10-1104, and financial assistance may be available to defray the costs of adopting these  
2897 children;

2898 (iv) training and ongoing support may be available to the adoptive parents of these  
2899 children; and

2900 (v) information about individual children may be obtained by contacting the division's  
2901 offices or its Internet site as explained by the child placing agency.

2902 (b) A child placing agency shall:

2903 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;  
2904 and

2905 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in  
2906 accordance with Subsection (3)(d).

2907 (c) As a condition of licensure, the child placing agency shall certify to the Office of  
2908 Licensing at the time of license renewal that it has complied with the provisions of this section.

- 2909 (d) Before July 1, 2000, the division shall:
- 2910 (i) prepare a pamphlet that explains the information that is required by Subsection
- 2911 (3)(a); and
- 2912 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child
- 2913 placing agencies.
- 2914 (e) The division shall respond to any inquiry made as a result of the notice provided in
- 2915 Subsection (3)(a).

2916 Section 46. Section **63-38f-402** is amended to read:

2917 **63-38f-402. Definitions.**

2918 As used in this part:

2919 (1) "Business entity" means an entity:

2920 (a) including a claimant, estate, or trust; and

2921 (b) under which business is conducted or transacted.

2922 (2) (a) "Claimant" means a resident or nonresident person that has:

2923 (i) Utah taxable income as defined in Section 59-7-101; or

2924 (ii) state taxable income under Title 59, Chapter 10, Part 1, Determination and

2925 Reporting of Tax Liability or Information.

2926 (b) "Claimant" does not include an estate or trust.

2927 [(+)] (3) "County applicant" means the governing authority of a county that meets the

2928 requirements for designation as an enterprise zone under Section 63-38f-404.

2929 (4) "Estate" means a nonresident estate or a resident estate that has state taxable

2930 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

2931 [(2)] (5) "Municipal applicant" means the governing authority of a city or town that

2932 meets the requirements for designation as an enterprise zone under Section 63-38f-404.

2933 (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,

2934 or trust may:

2935 (a) claim:

2936 (i) as provided by statute; and

2937 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability for a

2938 taxable year under:

2939 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

2940 (B) Title 59, Chapter 10, Individual Income Tax Act; and  
 2941 (b) carry forward or carry back:  
 2942 (i) if allowed by statute; and  
 2943 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or  
 2944 trust's tax liability for a taxable year under:  
 2945 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or  
 2946 (B) Title 59, Chapter 10, Individual Income Tax Act.  
 2947 ~~[(3)]~~ (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits  
 2948 [available under] described in Section 63-38f-413.  
 2949 (8) "Trust" means a nonresident trust or a resident trust that has state taxable income  
 2950 under Title 59, Chapter 10, Part 2, Trust and Estates.  
 2951 Section 47. Section **63-38f-412** is amended to read:  
 2952 **63-38f-412. Businesses qualifying for tax incentives.**  
 2953 The tax incentives described in this part are available only to a business ~~[firm]~~ entity for  
 2954 which at least 51% of the employees employed at facilities of the ~~[firm]~~ business entity located  
 2955 in the enterprise zone are individuals who, at the time of employment, reside in the county in  
 2956 which the enterprise zone is located.  
 2957 Section 48. Section **63-38f-413** is amended to read:  
 2958 **63-38f-413. State tax credits.**  
 2959 (1) Subject to the limitations of Subsections (2) through (4), the following ~~[state]~~  
 2960 nonrefundable tax credits against [individual income taxes or corporate franchise and income  
 2961 taxes] a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59,  
 2962 Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:  
 2963 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time  
 2964 position filled for not less than six months during a given tax year;  
 2965 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%  
 2966 of:  
 2967 (i) the county average monthly nonagricultural payroll wage for the respective industry  
 2968 as determined by the Department of Workforce Services; or  
 2969 (ii) if the county average monthly nonagricultural payroll wage is not available for the  
 2970 respective industry, the total average monthly nonagricultural payroll wage in the respective



2971 county where the enterprise zone is located;

2972 (c) an additional tax credit of \$750 may be claimed if the new position is in a business  
2973 entity that adds value to agricultural commodities through manufacturing or processing;

2974 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each  
2975 new employee who is insured under an employer-sponsored health insurance program if the  
2976 employer pays at least 50% of the premium cost for two consecutive years;

2977 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit  
2978 corporation, except that the credit claimed may not exceed \$100,000:

2979 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal  
2980 Revenue Code;

2981 (ii) whose primary purpose is community and economic development; and

2982 (iii) that has been accredited by the board of directors of the Utah Rural Development  
2983 Council;

2984 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the  
2985 enterprise zone that has been vacant for two years or more; and

2986 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%  
2987 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable  
2988 property.

2989 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax  
2990 credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time  
2991 employee positions or less in each of its taxable years.

2992 (b) A business entity that received a tax credit for its full-time employee positions  
2993 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time  
2994 employee position under Subsections (1)(a) through (d) if:

2995 (i) the business entity creates a new full-time employee position;

2996 (ii) the total number of full-time employee positions at the business entity is greater  
2997 than the number of full-time employee positions previously claimed by the business entity  
2998 under Subsections (1)(a) through (d); and

2999 (iii) the total number of tax credits the business entity has claimed for its current  
3000 taxable year, including the new full-time employee position for which the claimant, estate, or  
3001 trust that is a business entity is claiming a tax credit, is less than or equal to 30.

3002 (c) A business entity existing in an enterprise zone on the date of its designation shall  
3003 calculate the number of full-time positions based on the average number of employees reported  
3004 to the Department of Workforce Services.

3005 (d) Construction jobs are not eligible for the tax [~~credit~~] credits under Subsections  
3006 (1)(a) through (d).

3007 (3) If the amount of a tax credit under this section exceeds a business entity's tax  
3008 liability under this chapter for a taxable year, the amount of the tax credit exceeding the  
3009 liability may be carried forward for a period that does not exceed the next three taxable years.

3010 (4) (a) If a business entity is located in a county that met the requirements of  
3011 Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January  
3012 1, 1998, because the county was located in a metropolitan statistical area in more than one  
3013 state, the business entity:

3014 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,  
3015 but beginning before December 31, 1997;

3016 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning  
3017 on or after January 1, 1997, but beginning before December 31, 1997; and

3018 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,  
3019 1998, if the county is designated as an enterprise zone in accordance with this part.

3020 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business  
3021 entity:

3022 (i) may claim the tax credit by filing for the taxable year beginning on or after January  
3023 1, 1997, but beginning before December 31, 1997:

3024 [~~(A) an individual income tax return;~~]

3025 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

3026 (B) an amended [~~individual income tax~~] return under Title 59, Chapter 7, Corporate  
3027 Franchise and Income Taxes;

3028 (C) a [~~corporate franchise and income tax~~] return under Title 59, Chapter 10,  
3029 Individual Income Tax Act; or

3030 (D) an amended [~~corporate franchise and income tax~~] return under Title 59, Chapter  
3031 10, Individual Income Tax Act; and

3032 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,

3033 1998, in accordance with Subsection (3).

3034 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a  
3035 business entity engaged in retail trade or by a public utilities business.

3036 (6) A business entity may not claim or carry forward a tax credit available under this  
3037 part for a taxable year during which the business entity has claimed the targeted business  
3038 income tax credit available under Section 63-38f-503.

3039 Section 49. Section ~~63-38f-501~~ is amended to read:

3040 **~~63-38f-501. Definitions.~~**

3041 As used in this part:

3042 (1) "Allocated cap amount" means the total amount of the targeted business income tax  
3043 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata  
3044 share of the total amount of \$300,000 for each fiscal year allowed under Subsection  
3045 63-38f-503(2).

3046 (2) "Business applicant" means a business that:

3047 (a) is a:

3048 (i) claimant;

3049 (ii) estate; or

3050 (iii) trust; and

3051 (b) meets the criteria established in Section 63-38f-502.

3052 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or  
3053 nonresident person.

3054 (b) "Claimant" does not include an estate or trust.

3055 ~~[(3)]~~ (4) "Community investment project" means a project that includes one or more of  
3056 the following criteria in addition to the normal operations of the business applicant:

3057 (a) substantial new employment;

3058 (b) new capital development; or

3059 (c) a combination of both Subsections ~~[(3)]~~ (4)(a) and (b).

3060 ~~[(4)]~~ (5) "Community investment project period" means the total number of years that  
3061 the office determines a business applicant is eligible for a targeted business income tax credit  
3062 for each community investment project.

3063 ~~[(5)]~~ (6) "Enterprise zone" means an area within a county or municipality that has been

3064 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

3065 (7) "Estate" means a nonresident estate or a resident estate.

3066 [~~(6)~~] (8) "Local zone administrator" means a person:

3067 (a) designated by the governing authority of the county or municipal applicant as the

3068 local zone administrator in an enterprise zone application; and

3069 (b) approved by the office as the local zone administrator.

3070 (9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
3071 trust may claim:

3072 (i) as provided by statute; and

3073 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust  
3074 claims the tax credit, the claimant, estate, or trust has a tax liability under:

3075 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

3076 (B) Title 59, Chapter 10, Individual Income Tax Act.

3077 [~~(7)~~] (10) "Targeted business income tax credit " means [~~an income~~] a refundable tax  
3078 credit available under Section 63-38f-503.

3079 [~~(8)~~] (11) "Targeted business income tax credit eligibility form" means a document  
3080 provided annually to the business applicant by the office that complies with the requirements of  
3081 Subsection 63-38f-503(8).

3082 (12) "Trust" means a nonresident trust or a resident trust.

3083 Section 50. Section **63-38f-502** is amended to read:

3084 **63-38f-502. Application for targeted business income tax credits.**

3085 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant  
3086 may elect to claim a targeted business income tax credit available under Section 63-38f-503 if  
3087 the business applicant:

3088 (i) is located in:

3089 (A) an enterprise zone; and

3090 (B) a county with:

3091 (I) a population of less than 25,000; and

3092 (II) an unemployment rate that for six months or more of each calendar year is at least  
3093 one percentage point higher than the state average;

3094 (ii) meets the requirements of Section 63-38f-412;

3095 (iii) provides:

3096 (A) a community investment project within the enterprise zone; and

3097 (B) a portion of the community investment project during each taxable year for which

3098 the business applicant claims the targeted business tax incentive; and

3099 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is

3100 not engaged in the following, as defined by the State Tax Commission by rule:

3101 (A) construction;

3102 (B) retail trade; or

3103 (C) public utility activities.

3104 (b) For a taxable year for which a business applicant claims a targeted business income

3105 tax credit available under this part, the business applicant may not claim or carry forward a tax

3106 credit available under Section 63-38f-413, 59-7-610, or [~~59-10-108.7~~] 59-10-1007.

3107 (2) (a) A business applicant seeking to claim a targeted business income tax credit

3108 under this part shall file an application as provided in Subsection (2)(b) with the local zone

3109 administrator by no later than June 1 of the year in which the business applicant is seeking to

3110 claim a targeted business income tax credit.

3111 (b) The application described in Subsection (2)(a) shall include:

3112 (i) any documentation required by the local zone administrator to demonstrate that the

3113 business applicant meets the requirements of Subsection (1);

3114 (ii) a plan developed by the business applicant that outlines:

3115 (A) if the community investment project includes substantial new employment, the

3116 projected number and anticipated wage level of the jobs that the business applicant plans to

3117 create as the basis for qualifying for a targeted business income tax credit;

3118 (B) if the community investment project includes new capital development, a

3119 description of the capital development the business applicant plans to make as the basis for

3120 qualifying for a targeted business income tax credit; and

3121 (C) a description of how the business applicant's plan coordinates with:

3122 (I) the goals of the enterprise zone in which the business applicant is providing a

3123 community investment project; and

3124 (II) the overall economic development goals of the county or municipality in which the

3125 business applicant is providing a community investment project; and

3126 (iii) any additional information required by the local zone administrator.  
3127 (3) (a) The local zone administrator shall:  
3128 (i) evaluate an application filed under Subsection (2); and  
3129 (ii) determine whether the business applicant is eligible for a targeted business income  
3130 tax credit.  
3131 (b) If the local zone administrator determines that the business applicant is eligible for  
3132 a targeted business income tax credit, the local zone administrator shall:  
3133 (i) certify that the business applicant is eligible for the targeted business income tax  
3134 credit;  
3135 (ii) structure the targeted business income tax credit for the business applicant in  
3136 accordance with Section 63-38f-503; and  
3137 (iii) monitor a business applicant to ensure compliance with this section.  
3138 (4) A local zone administrator shall report to the office by no later than June 30 of each  
3139 year:  
3140 (a) (i) any application approved by the local zone administrator during the last fiscal  
3141 year; and  
3142 (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each  
3143 new business applicant; and  
3144 (b) (i) the status of any existing business applicants that the local zone administrator  
3145 monitors; and  
3146 (ii) any information required by the office to determine the status of an existing  
3147 business applicant.  
3148 (5) (a) By July 15 of each year, the department shall notify the local zone administrator  
3149 of the allocated cap amount that each business applicant that the local zone administrator  
3150 monitors is eligible to claim.  
3151 (b) By September 15 of each year, the local zone administrator shall notify, in writing,  
3152 each business applicant that the local zone administrator monitors of the allocated cap amount  
3153 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim  
3154 for a taxable year.  
3155 Section 51. Section **63-38f-503** is amended to read:  
3156 **63-38f-503. Targeted business income tax credit structure -- Duties of the local**

3157 **zone administrator -- Duties of the State Tax Commission.**

3158 (1) For taxable years beginning on or after January 1, 2002, a business applicant that is  
3159 certified under Subsection 63-38f-502(3) and issued a targeted business tax credit eligibility  
3160 form by the office under Subsection (8) may claim a refundable [~~income~~] tax credit:

3161 (a) against the business applicant's tax liability under:

3162 (i) Title 59, [~~Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise  
3163 and Income Taxes; or

3164 (ii) Title 59, [~~Chapter 7, Corporate Franchise and Income Taxes~~] Chapter 10,  
3165 Individual Income Tax Act; and

3166 (b) subject to requirements and limitations provided by this part.

3167 (2) The total amount of the targeted business income tax credits allowed under this part  
3168 for all business applicants may not exceed \$300,000 in any fiscal year.

3169 (3) (a) A targeted business income tax credit allowed under this part for each  
3170 community investment project provided by a business applicant may not:

3171 (i) be claimed by a business applicant for more than seven consecutive taxable years  
3172 from the date the business applicant first qualifies for a targeted business income tax credit on  
3173 the basis of a community investment project;

3174 (ii) be carried forward or carried back;

3175 (iii) exceed \$100,000 in total amount for the community investment project period  
3176 during which the business applicant is eligible to claim a targeted business income tax credit;

3177 or

3178 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser  
3179 of:

3180 (A) 50% of the maximum amount allowed by the local zone administrator; or

3181 (B) the allocated cap amount determined by the office under Subsection 63-38f-502(5).

3182 (b) A business applicant may apply to the local zone administrator to claim a targeted  
3183 business income tax credit allowed under this part for each community investment project  
3184 provided by the business applicant as the basis for its eligibility for a targeted business income  
3185 tax credit.

3186 (4) Subject to other provisions of this section, the local zone administrator shall  
3187 establish for each business applicant that qualifies for a targeted business income tax credit:

3188 (a) criteria for maintaining eligibility for the targeted business income tax credit that  
3189 are reasonably related to the community investment project that is the basis for the business  
3190 applicant's targeted business income tax credit;

3191 (b) the maximum amount of the targeted business income tax credit the business  
3192 applicant is allowed for the community investment project period;

3193 (c) the time period over which the total amount of the targeted business income tax  
3194 credit may be claimed;

3195 (d) the maximum amount of the targeted business income tax credit that the business  
3196 applicant will be allowed to claim each year; and

3197 (e) requirements for a business applicant to report to the local zone administrator  
3198 specifying:

3199 (i) the frequency of the business applicant's reports to the local zone administrator,  
3200 which shall be made at least quarterly; and

3201 (ii) the information needed by the local zone administrator to monitor the business  
3202 applicant's compliance with this Subsection (4) or Section 63-38f-502 that shall be included in  
3203 the report.

3204 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted  
3205 business income tax credit under this part shall report to the local zone administrator.

3206 (6) The amount of a targeted business income tax credit that a business applicant is  
3207 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office  
3208 or the local zone administrator determines that the business applicant has failed to comply with  
3209 a requirement of Subsection (3) or Section 63-38f-502.

3210 (7) The office or local zone administrator may audit a business applicant to ensure:

3211 (a) eligibility for a targeted business income tax credit; or

3212 (b) compliance with Subsection (3) or Section 63-38f-502.

3213 (8) The office shall issue a targeted business income tax credit eligibility form in a  
3214 form jointly developed by the State Tax Commission and the office no later than 30 days after  
3215 the last day of the business applicant's taxable year showing:

3216 (a) the maximum amount of the targeted business income tax credit that the business  
3217 applicant is eligible for that taxable year;

3218 (b) any reductions in the maximum amount of the targeted business income tax credit



3219 because of failure to comply with a requirement of Subsection (3) or Section 63-38f-502;

3220 (c) the allocated cap amount that the business applicant may claim for that taxable  
3221 year; and

3222 (d) the actual amount of the targeted business income tax credit that the business  
3223 applicant may claim for that taxable year.

3224 (9) (a) A business applicant shall retain the targeted business income tax credit  
3225 eligibility form provided by the office under this Subsection (9).

3226 (b) The State Tax Commission may audit a business applicant to ensure:

3227 (i) eligibility for a targeted business income tax credit; or

3228 (ii) compliance with Subsection (3) or Section 63-38f-502.

3229 Section 52. Section **63-38f-1102** is amended to read:

3230 **63-38f-1102. Definitions.**

3231 As used in this part:

3232 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and  
3233 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other  
3234 organisms.

3235 (2) "Postconsumer waste material" means any product generated by a business or  
3236 consumer that has served its intended end use, and that has been separated from solid waste for  
3237 the purposes of collection, recycling, and disposition and that does not include secondary waste  
3238 material.

3239 (3) (a) "Recovered materials" means waste materials and by-products that have been  
3240 recovered or diverted from solid waste.

3241 (b) "Recovered materials" does not include those materials and by-products generated  
3242 from, and commonly reused within, an original manufacturing process.

3243 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and  
3244 the beneficial use of the materials and includes a series of activities by which materials that  
3245 would become or otherwise remain waste are diverted from the waste stream for collection,  
3246 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition  
3247 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of  
3248 the materials as substitutes for goods made from virgin materials.

3249 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

3250 (5) "Recycling market development zone" or "zone" means an area designated by the  
3251 office as meeting the requirements of this part.

3252 (6) (a) "Secondary waste material" means industrial by-products that go to disposal  
3253 facilities and waste generated after completion of a manufacturing process.

3254 (b) "Secondary waste material" does not include internally generated scrap commonly  
3255 returned to industrial or manufacturing processes, such as home scrap and mill broke.

3256 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable  
3257 tax credits available under Sections 59-7-608 and [~~59-10-108.7~~] 59-10-1007.

3258 Section 53. Section **63-38f-1110** is amended to read:

3259 **63-38f-1110. Recycling market development zones credit.**

3260 For a taxpayer within a recycling market development zone, there are allowed the  
3261 nonrefundable credits against tax as provided by Sections 59-7-610 and [~~59-10-108.7~~]  
3262 59-10-1007.

3263 Section 54. Section **63-38f-1203** is amended to read:

3264 **63-38f-1203. Definitions.**

3265 As used in this part:

3266 (1) "Board" means the Utah Capital Investment Board.

3267 (2) "Certificate" means a contract between the board and a designated investor under  
3268 which a contingent tax credit is available and issued to the designated investor.

3269 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or  
3270 nonresident person.

3271 (b) "Claimant" does not include an estate or trust.

3272 [~~(3)~~] (4) "Commitment" means a written commitment by a designated purchaser to  
3273 purchase from the board certificates presented to the board for redemption by a designated  
3274 investor. Each commitment shall state the dollar amount of contingent tax credits that the  
3275 designated purchaser has committed to purchase from the board.

3276 [~~(4)~~] (5) "Contingent tax credit" means a contingent tax credit issued under this part  
3277 that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and  
3278 Income Taxes, [~~and~~] or Chapter 10, Individual Income Tax Act, if there are insufficient funds  
3279 in the redemption reserve and the board has not exercised other options for redemption under  
3280 Subsection 63-38f-1220(3)(b).

3281            [~~5~~] (6) "Corporation" means the Utah Capital Investment Corporation created under  
3282 Section 63-38f-1207.

3283            [~~6~~] (7) "Designated investor" means:

3284            (a) a person who purchases an equity interest in the Utah fund of funds; or

3285            (b) a transferee of a certificate or contingent tax credit.

3286            [~~7~~] (8) "Designated purchaser" means:

3287            (a) a person who enters into a written undertaking with the board to purchase a  
3288 commitment; or

3289            (b) a transferee who assumes the obligations to make the purchase described in the  
3290 commitment.

3291            (9) "Estate" means a nonresident estate or a resident estate.

3292            [~~8~~] (10) "Person" means an individual, partnership, limited liability company,  
3293 corporation, association, organization, business trust, estate, trust, or any other legal or  
3294 commercial entity.

3295            [~~9~~] (11) "Redemption reserve" means the reserve established by the corporation to  
3296 facilitate the cash redemption of certificates.

3297            (12) "Taxpayer" means a taxpayer:

3298            (a) of an investor; and

3299            (b) if that taxpayer is a:

3300            (i) claimant;

3301            (ii) estate; or

3302            (iii) trust.

3303            (13) "Trust" means a nonresident trust or a resident trust.

3304            [~~10~~] (14) "Utah fund of funds" means a limited partnership or limited liability  
3305 company established under Section 63-38f-1213 in which a designated investor purchases an  
3306 equity interest.

3307            Section 55. Section **63-55-209** is amended to read:

3308            **63-55-209. Repeal dates, Title 9.**

3309            (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
3310 repealed July 1, 2014.

3311            (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

3312 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is  
3313 repealed July 1, 2010.

3314 (b) Sections 59-7-610 and [~~59-10-108.7~~] 59-10-1007, regarding tax credits for certain  
3315 persons in recycling market development zones, are repealed for taxable years beginning on or  
3316 after January 1, 2011.

3317 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under  
3318 Section 59-7-610 or [~~59-10-108.7~~] 59-10-1007:

3319 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
3320 [~~59-10-108.7~~] 59-10-1007 if the machinery or equipment is purchased on or after July 1, 2010;  
3321 or

3322 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or [~~59-10-108.7~~]  
3323 59-10-1007(1)(b), if the expenditure is made on or after July 1, 2010.

3324 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit  
3325 in accordance with Section 59-7-610 or [~~59-10-108.7~~] 59-10-1007 if:

3326 (i) the person is entitled to a tax credit under Section 59-7-610 or [~~59-10-108.7~~]  
3327 59-10-1007; and

3328 (ii) (A) for the purchase price of machinery or equipment described in Section  
3329 59-7-610 or [~~59-10-108.7~~] 59-10-1007, the machinery or equipment is purchased on or before  
3330 June 30, 2010; or

3331 (B) for an expenditure described in Subsection 59-7-610(1)(b) or [~~59-10-108.7~~]  
3332 59-10-1007(1)(b), the expenditure is made on or before June 30, 2010.

3333 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July  
3334 1, 2008.

3335 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed  
3336 July 1, 2009.

3337 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

3338 **Section 56. Repealer.**

3339 This bill repeals:

3340 Section **59-10-107, Credit for tax paid by estate or trust to another state.**

3341 Section **59-10-128, Tax credit -- Items using cleaner burning fuels.**

3342 Section **59-10-209, Adjustments to state taxable income of resident estates or trusts**

3343 **and beneficiaries.**

3344           Section 57. **Retrospective operation.**

3345           This bill has retrospective operation for taxable years beginning on or after January 1,

3346 2006.

---

---

**Fiscal Note**  
**Bill Number SB0037S01**

**Income Tax - Taxation of Individuals, Estates, and Trusts**

*28-Feb-06*

*9:04 AM*

---

---

**State Impact**

No fiscal impact.

---

**Individual and Business Impact**

No fiscal impact.

---

**Office of the Legislative Fiscal Analyst**