

**INDIVIDUAL INCOME TAX - SUBTRACTION  
FOR LIVE ORGAN DONATION EXPENSES**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Karen Hale**

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**LONG TITLE**

**General Description:**

This bill modifies the Individual Income Tax Act to provide a subtraction from federal taxable income.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ grants rulemaking authority to the State Tax Commission;
- ▶ provides a subtraction from federal taxable income for live organ donation expenses incurred during the taxable year for which a live organ donation occurs; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill has retrospective operation for taxable years beginning on or after January 1, 2005.

**Utah Code Sections Affected:**

AMENDS:

**59-10-103**, as last amended by Chapter 2, Laws of Utah 2004, Fourth Special Session

**59-10-114**, as last amended by Chapter 2, Laws of Utah 2004, Fourth Special Session

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

29 Section 1. Section **59-10-103** is amended to read:

30 **59-10-103. Definitions.**

31 (1) As used in this chapter:

32 (a) "Adoption expenses" means:

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

35 (ii) any welfare agency fees or costs;

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

37 (iv) any legal fees or costs; or

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

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

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

41 (ii) is eligible for services under Title 62A, Chapter 5, Services to People with  
42 Disabilities; and

43 (iii) is not enrolled in:

44 (A) an education program for students with disabilities that is authorized under Section  
45 53A-15-301; or

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

47 (c) (i) For purposes of Subsection 59-10-114(2)(m), "capital gain transaction" means a  
48 transaction that results in a:

49 (A) short-term capital gain; or

50 (B) long-term capital gain.

51 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
52 the commission may by rule define the term "transaction."

53 (d) "Commercial domicile" means the principal place from which the trade or business  
54 of a Utah small business corporation is directed or managed.

55 (e) "Corporation" includes:

56 (i) associations;

57 (ii) joint stock companies; and

58 (iii) insurance companies.

59 (f) "Dependent child with a disability" means an individual 21 years of age or younger  
60 who:

61 (i) (A) is diagnosed by a school district representative under rules adopted by the State  
62 Board of Education as having a disability classified as:

- 63 (I) autism;
- 64 (II) deafness;
- 65 (III) preschool developmental delay;
- 66 (IV) dual sensory impairment;
- 67 (V) hearing impairment;
- 68 (VI) intellectual disability;
- 69 (VII) multidisability;
- 70 (VIII) orthopedic impairment;
- 71 (IX) other health impairment;
- 72 (X) traumatic brain injury; or
- 73 (XI) visual impairment;

74 (B) is not receiving residential services from:

- 75 (I) the Division of Services for People with Disabilities created under Section  
76 62A-5-102; or
- 77 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
- 78 and

79 (C) is enrolled in:

- 80 (I) an education program for students with disabilities that is authorized under Section  
81 53A-15-301; or
- 82 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
- 83 or

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

- 85 (A) Early Intervention; or
- 86 (B) Infant Development Services.

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

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

89 (i) "Fiduciary" means:

- 90 (i) a guardian;
- 91 (ii) a trustee;
- 92 (iii) an executor;
- 93 (iv) an administrator;
- 94 (v) a receiver;
- 95 (vi) a conservator; or
- 96 (vii) any person acting in any fiduciary capacity for any individual.

97 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the  
98 homesteaded land that was held to have been diminished from the Uintah and Ouray  
99 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

100 (k) "Human organ" means:

101 (i) human bone marrow; or

102 (ii) any part of a human:

103 (A) intestine;

104 (B) kidney;

105 (C) liver;

106 (D) lung; or

107 (E) pancreas.

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

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

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

115 (o) "Live organ donation" means that an individual who is living donates one or more  
116 of that individual's human organs:

117 (i) to another human; and

118 (ii) to be transplanted:

119 (A) using a medical procedure; and

120 (B) to the body of another individual.

121 (p) (i) "Live organ donation expenses" means the total amount of expenses:  
 122 (A) incurred by a resident or nonresident individual; and  
 123 (B) that:  
 124 (I) are not reimbursed to that individual by any person;  
 125 (II) are directly related to a live organ donation by:  
 126 (Aa) the individual; or  
 127 (Bb) another individual that the individual described in Subsection (1)(p)(i)(A) is  
 128 allowed to claim as a dependent in accordance with Section 151, Internal Revenue Code; and  
 129 (III) are for:  
 130 (Aa) travel;  
 131 (Bb) lodging; or  
 132 (Cc) a lost wage.  
 133 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
 134 the commission may by rule define "lost wage."  
 135 ~~[(p)]~~ (q) "Nonresident individual" means an individual who is not a resident of this  
 136 state.  
 137 ~~[(p)]~~ (r) "Nonresident trust" or "nonresident estate" means a trust or estate which is not  
 138 a resident estate or trust.  
 139 ~~[(p)]~~ (s) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other  
 140 unincorporated organization:  
 141 (A) through or by means of which any business, financial operation, or venture is  
 142 carried on; and  
 143 (B) which is not, within the meaning of this chapter:  
 144 (I) a trust;  
 145 (II) an estate; or  
 146 (III) a corporation.  
 147 (ii) "Partnership" does not include any organization not included under the definition of  
 148 "partnership" in Section 761, Internal Revenue Code.  
 149 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
 150 organization described in Subsection (1)~~[(p)]~~(s)(i).  
 151 ~~[(p)]~~ (t) "Qualifying military service" means:

152 (i) in the case of a member of The Army Reserve, The Naval Reserve, The Air Force  
153 Reserve, The Marine Corps Reserve, or The Coast Guard Reserve, active duty in accordance  
154 with an order received under:

- 155 (A) 10 U.S.C. Sec. 12301;
- 156 (B) 10 U.S.C. Sec. 12302;
- 157 (C) 10 U.S.C. Sec. 12303; or
- 158 (D) 10 U.S.C. Sec. 12304; or

159 (ii) in the case of a member of The Army National Guard of the United States or The  
160 Air National Guard of the United States:

161 (A) active duty in accordance with an order received under:

- 162 (I) 10 U.S.C. Sec. 12301;
- 163 (II) 10 U.S.C. Sec. 12302;
- 164 (III) 10 U.S.C. Sec. 12303; or
- 165 (IV) 10 U.S.C. Sec. 12304; or

166 (B) service under a call to active service:

167 (I) authorized by the:

168 (Aa) President of the United States; or

169 (Bb) Secretary of Defense of the United States;

170 (II) for a period of more than 30 consecutive days;

171 (III) in accordance with an order received under 32 U.S.C. Sec. 502(f); and

172 (IV) for purposes of responding to a national emergency:

173 (Aa) declared by the President of the United States; and

174 (Bb) supported by federal funds.

175 ~~(r)~~ (u) "Qualifying stock" means stock that is:

176 (i) (A) common; or

177 (B) preferred;

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

179 (A) a resident or nonresident individual; or

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

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

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

186 (iii) issued:

187 (A) by a Utah small business corporation;

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

189 (C) for:

190 (I) money; or

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

192 ~~[(s)]~~ (v) (i) "Resident individual" means:

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

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

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

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

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

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

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

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

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

208 ~~[(x)]~~ (aa) "Uintah and Ouray Reservation" means the lands recognized as being  
209 included within the Uintah and Ouray Reservation in:

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

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

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

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

214 Code;

215 (B) except as provided in Subsection (1)[~~(y)~~](bb)(ii), meets the requirements of Section  
216 1244(c)(1)(C), Internal Revenue Code; and

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

218 (ii) Notwithstanding Subsection (1)[~~(y)~~](bb)(i)(B), the time period described in Section  
219 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a  
220 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the  
221 resident or nonresident individual makes a subtraction from federal taxable income in  
222 accordance with Subsection 59-10-114(2)(m).

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

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

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

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

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

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

238 Section 2. Section **59-10-114** is amended to read:

239 **59-10-114. Additions to and subtractions from federal taxable income of an**  
240 **individual.**

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

243 (a) the amount of any income tax imposed by this or any predecessor Utah individual  
244 income tax law and the amount of any income tax imposed by the laws of another state, the

245 District of Columbia, or a possession of the United States, to the extent deducted from federal  
246 adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal  
247 taxable income;

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

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

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

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

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

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

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

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

263 (f) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education  
264 Savings Incentive Program, in the year in which the amount is refunded;

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

269 (i) a state other than this state;

270 (ii) the District of Columbia;

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

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

274 (h) any distribution received by a resident beneficiary of a resident trust of income that  
275 was taxed at the trust level for federal tax purposes, but was subtracted from state taxable

276 income of the trust pursuant to Subsection 59-10-202(2)(c); and

277 (i) any distribution received by a resident beneficiary of a nonresident trust of income  
278 that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by  
279 any state.

280 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
281 individual:

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

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

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

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

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

304 (A) paid; or

305 (B) incurred;

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

- 307 (iii) any year in which the resident or nonresident individual may claim the federal  
308 adoption expenses credit under Section 23, Internal Revenue Code;
- 309 (d) amounts received by taxpayers under age 65 as retirement income which, for  
310 purposes of this section, means pensions and annuities, paid from an annuity contract  
311 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),  
312 Internal Revenue Code, or purchased by an employee under a plan which meets the  
313 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or  
314 political subdivision thereof, or the District of Columbia, to the employee involved or the  
315 surviving spouse;
- 316 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500  
317 personal retirement exemption;
- 318 (f) 75% of the amount of the personal exemption, as defined and calculated in the  
319 Internal Revenue Code, for each dependent child with a disability and adult with a disability  
320 who is claimed as a dependent on a taxpayer's return;
- 321 (g) any amount included in federal taxable income that was received pursuant to any  
322 federal law enacted in 1988 to provide reparation payments, as damages for human suffering,  
323 to United States citizens and resident aliens of Japanese ancestry who were interned during  
324 World War II;
- 325 (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the  
326 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:
- 327 (i) for:
- 328 (A) the taxpayer;
- 329 (B) the taxpayer's spouse; and
- 330 (C) the taxpayer's dependents; and
- 331 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or  
332 213, Internal Revenue Code, in determining federal taxable income for the taxable year;
- 333 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a  
334 contribution made during the taxable year on behalf of the taxpayer to a medical care savings  
335 account and interest earned on a contribution to a medical care savings account established  
336 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the  
337 contribution is accepted by the account administrator as provided in the Medical Care Savings

338 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal  
339 individual income tax return pursuant to Section 220, Internal Revenue Code; and

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

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

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

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

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

350 (j) the amount included in federal taxable income that was derived from money paid by  
351 the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings  
352 Incentive Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d), and  
353 investment income earned on participation agreements under Subsection 53B-8a-106(1) that is  
354 included in federal taxable income, but only when the funds are used for qualified higher  
355 education costs of the beneficiary;

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

360 (l) for taxable years beginning on or after January 1, 2000, if the conditions of  
361 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

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

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

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

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

369 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:  
370 (I) to purchase qualifying stock in a Utah small business corporation; and  
371 (II) within a 12-month period after the day on which the capital gain transaction occurs;  
372 and  
373 (C) if, prior to the purchase of the qualifying stock described in Subsection  
374 (2)(m)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the  
375 Utah small business corporation that issued the qualifying stock; and  
376 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
377 commission may make rules:  
378 (A) defining the term "gross proceeds"; and  
379 (B) for purposes of Subsection (2)(m)(i)(C), prescribing the circumstances under which  
380 a resident or nonresident individual has an ownership interest in a Utah small business  
381 corporation; [~~and~~]  
382 (n) (i) except as provided in Subsection (2)(n)(ii), for the taxable year beginning on or  
383 after January 1, 2004, but beginning on or before December 31, 2004, income a resident or  
384 nonresident individual receives:  
385 (A) for qualifying military service; and  
386 (B) to the extent that income is included in adjusted gross income on that resident or  
387 nonresident individual's federal individual income tax return for that taxable year;  
388 (ii) notwithstanding Subsection (2)(n)(i), a subtraction from federal taxable income is  
389 not allowed under Subsection (2)(n)(i) for income included in adjusted gross income on a  
390 resident or nonresident individual's federal individual income tax return for that taxable year if  
391 that income is received from a source that constitutes a:  
392 (A) pension; or  
393 (B) survivor benefit; and  
394 (iii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
395 for purposes of Subsections (1)(n)(i) and (ii), the commission may by rule define what  
396 constitutes income:  
397 (A) a resident or nonresident individual receives for qualifying military service; or  
398 (B) received from a source that constitutes a:  
399 (I) pension; or

- 400 (II) survivor benefit[-]; and
- 401 (o) for taxable years beginning on or after January 1, 2005, the amount of live organ
- 402 donation expenses:
- 403 (i) incurred during the taxable year for which a live organ donation occurs; and
- 404 (ii) in an amount equal to the lesser of:
- 405 (A) the actual amount of the live organ donation expenses; or
- 406 (B) \$10,000.
- 407 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
- 408 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
- 409 \$4,800, except that:
- 410 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income
- 411 earned over \$32,000, the amount of the retirement income exemption that may be subtracted
- 412 shall be reduced by 50 cents;
- 413 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
- 414 earned over \$16,000, the amount of the retirement income exemption that may be subtracted
- 415 shall be reduced by 50 cents; and
- 416 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
- 417 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
- 418 reduced by 50 cents.
- 419 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption
- 420 shall be further reduced according to the following schedule:
- 421 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income
- 422 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50
- 423 cents;
- 424 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
- 425 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
- 426 cents; and
- 427 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
- 428 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.
- 429 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be
- 430 calculated by adding to federal adjusted gross income any interest income not otherwise

431 included in federal adjusted gross income.

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

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

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

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

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

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

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

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

449 (i) may not:

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

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

452 subtraction described in Subsection (2)(l); or

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

454 (ii) shall:

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

456 (B) be in writing;

457 (C) be signed by:

458 (I) the governor; and

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

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

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

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

465 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the  
466 subtraction permitted under Subsection (2)(l) is not allowed for taxable years beginning on or  
467 after the January 1 following the termination of the agreement.

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

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

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

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

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

477 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
478 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
479 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
480 on 2000 Form 8814 is reported on a form other than Form 8814; and

481 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
482 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
483 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
484 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
485 8814.

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

488 (i) the lesser of:

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

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

491 (I) the child's taxable interest;

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

493 (III) the child's capital gain distributions; and  
494 (ii) the amount not taxed that is specified on Form 8814.  
495 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences  
496 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be  
497 added to federal taxable income of a resident or nonresident individual if, as annually  
498 determined by the commission:  
499 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the  
500 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
501 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or  
502 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose  
503 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of  
504 this state:  
505 (i) the entity; or  
506 (ii) (A) the state in which the entity is located; or  
507 (B) the District of Columbia, if the entity is located within the District of Columbia.  
508 Section 3. **Retrospective operation.**  
509 This bill has retrospective operation for taxable years beginning on or after January 1,  
510 2005.

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**Legislative Review Note**  
as of 1-28-05 10:34 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
Bill Number SB0164

**Individual Income Tax - Subtraction for Live Organ  
Donation Expenses**

03-Feb-05  
9:11 AM

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**State Impact**

Passage of this bill could result in a revenue loss of up to \$25,000.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
Uniform School Fund	\$0	\$0	(\$25,000)	(\$25,000)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$25,000)</b>	<b>(\$25,000)</b>

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**Individual and Business Impact**

Individuals could receive a tax benefit of as much as \$700.

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**Office of the Legislative Fiscal Analyst**