

**HEALTH SYSTEM REFORM**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David Clark**

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

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**LONG TITLE**

**General Description:**

This bill amends the Health Code, the Insurance Code, and the Governor's Office of Economic Development to implement a strategic plan for health system reform.

**Highlighted Provisions:**

This bill:

- ▶ directs the Department of Health to work with the Insurance Department, the Department of Workforce Services, the Governor's Office of Economic Development, and the Legislature's Business and Labor Interim Committee to develop and implement a state strategic plan for health system reform that includes the development of one or more new insurance products;
- ▶ requires the Insurance Department to participate in the development and implementation of the state's strategic plan for health system reform;
- ▶ requires the Insurance Department to:
  - work with insurers to develop standards for health insurance applications and standards for compatible systems of electronic submission of applications;
  - facilitate a private sector method of collection of premium payments from multiple sources; and
  - encourage health insurers to develop new health insurance products that meet certain criteria;
- ▶ changes the threshold at which an individual qualifies for the state's Comprehensive



28 Health Insurance Pool;

29       ▶ changes the eligibility for the individual market so that:

30             • if Utah's Premium Partnership for Health Insurance may be used to help

31 purchase an individual policy, an insurer may not deny coverage based on the

32 individual's use of a premium subsidy; and

33             • eligibility for Utah's Premium Partnership for Health Insurance is a qualifying

34 event for coverage under an employer plan;

35       ▶ requires the Department of Workforce Services to participate in the development of

36 the strategic plan for health system reform;

37       ▶ repeals an income tax subtraction for health care insurance;

38       ▶ enacts a non-refundable tax credit for health insurance premiums paid by an

39 individual;

40       ▶ enacts the "Health System Reform Act" which:

41             • requires the Governor's Office of Economic Development to serve as the

42 coordinating entity to work with the executive branch agencies, advisory

43 committees, and the Legislature to develop the strategic plan, report to the

44 Legislature, and assist with the implementation of the strategic plan as approved

45 and enacted by the Legislature;

46             • gives the Legislature's Business and Labor Interim Committee oversight of the

47 executive branch's development and implementation of the health system

48 reform; and

49             • describes the state's strategic plan for health system reform and the time line for

50 implementing the strategic plan; and

51       ▶ makes technical amendments.

52 **Monies Appropriated in this Bill:**

53       This bill appropriates:

54       ▶ as an ongoing appropriation, \$615,000, from the General Fund for fiscal year

55 2008-09 to the Department of Health to be used to fund health care cost and quality

56 data collection, analysis, and distribution; and

57       ▶ \$500,000 from the General Fund for fiscal year 2008-09 only, to the Department of

58 Health to fund the department's implementation of the standards developed for the

59 electronic exchange of clinical health information.

60 **Other Special Clauses:**

61 This bill provides retrospective operation.

62 This bill coordinates with H.B. 62, Recodification of Title 63, State Affairs in General,  
63 providing for technical cross reference changes.

64 This bill coordinates with S.B. 31, Income Tax Amendments, to provide for  
65 apportionment of a tax credit.

66 **Utah Code Sections Affected:**

67 AMENDS:

68 **31A-30-106**, as last amended by Laws of Utah 2004, Chapter 108

69 **31A-30-108**, as last amended by Laws of Utah 2004, Chapters 2 and 329

70 **59-10-103**, as last amended by Laws of Utah 2006, Fourth Special Session, Chapter 2

71 **59-10-114**, as last amended by Laws of Utah 2007, Chapter 100

72 **59-10-1204**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 2

73 ENACTS:

74 **26-18-12**, Utah Code Annotated 1953

75 **31A-2-218**, Utah Code Annotated 1953

76 **31A-22-635**, Utah Code Annotated 1953

77 **35A-1-104.5**, Utah Code Annotated 1953

78 **59-10-1017**, Utah Code Annotated 1953

79 **63-38f-2401**, Utah Code Annotated 1953

80 **63-38f-2402**, Utah Code Annotated 1953

81 **63-38f-2403**, Utah Code Annotated 1953

82 **63-38f-2404**, Utah Code Annotated 1953

83 **63-38f-2405**, Utah Code Annotated 1953



84  
85 *Be it enacted by the Legislature of the state of Utah:*

86 Section 1. Section **26-18-12** is enacted to read:

87 **26-18-12. Implementation of health system reform -- Medicaid program.**

88 The department, including the Division of Health Care Financing within the  
89 department, shall:

90 (1) work with the Governor's Office of Economic Development, the Insurance  
91 Department, the Department of Workforce Services, and the Legislature's Business and Labor  
92 Interim Committee to develop and implement health system reform in accordance with the  
93 strategic plan described in Title 63, Chapter 38f, Part 24, Health System Reform Act;

94 (2) develop and submit amendments and waivers for the state's Medicaid plan as  
95 necessary to carry out the provisions of the Health System Reform Act;

96 (3) seek federal approval of an amendment to Utah's Premium Partnership for Health  
97 Insurance that would allow the state's Medicaid program to subsidize the purchase by an  
98 individual of health insurance that:

99 (a) covers the individual or the individual and the individual's family; and

100 (b) (i) (A) is not paid for with employer contributions; and

101 (B) may include a deductible greater than \$1,000 per person; or

102 (ii) (A) is paid for with employer contributions that total less than 50% of the cost of  
103 the policy; and

104 (B) may include a deductible greater than \$1,000 per person;

105 (4) in coordination with the Department of Workforce Services;

106 (a) establish a Children's Health Insurance Program eligibility policy, consistent with  
107 federal requirements, that prohibits enrollment of a child in the program if the child's parent  
108 qualifies for assistance under Utah's Premium Partnership for Health Insurance; and

109 (b) involve community partners, insurance agents and producers, community based  
110 service organizations, and the education community to increase enrollment of eligible  
111 employees and individuals in Utah's Premium Partnership for Health Insurance and the  
112 Children's Health Insurance Program;

113 (5) as funding permits, and in coordination with the department's adoption of standards  
114 for the electronic exchange of clinical health data, help the private sector form an alliance of  
115 employers, hospitals and other health care providers, patients, and health insurers to develop  
116 and use evidence-based health care quality measures for the purpose of improving health care  
117 decision making by health care providers, consumers, and third party payers; and

118 (6) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
119 make rules, as necessary, to implement the strategic plan for health system reform described in  
120 Section 63-38f-2405.

121 Section 2. Section **31A-2-218** is enacted to read:

122 **31A-2-218. Implementation of strategic plan for health system reform.**

123 The commissioner and the department shall:

124 (1) work with the Governor's Office of Economic Development, the Department of  
125 Health, the Department of Workforce Services, and the Legislature's Business and Labor  
126 Interim Committee to develop and implement health system reform in accordance with the  
127 strategic plan described in Title 63, Chapter 38f, Part 24, Health System Reform Act;

128 (2) work with health insurers in accordance with Section 31A-22-635 to develop  
129 standards for health insurance applications and compatible electronic systems;

130 (3) facilitate a private sector method for the collection of health insurance premium  
131 payments made for a single policy by multiple payers, including the policyholder, one or more  
132 employers of one or more individuals covered by the policy, government programs, and others  
133 by educating employers and insurers about collection services available through private  
134 vendors, including financial institutions;

135 (4) encourage health insurers to develop products that:

136 (a) encourage health care providers to follow best practice protocols; and

137 (b) incorporate other health care quality improvement mechanisms;

138 (5) report to the Legislature's Business and Labor Interim Committee on or before  
139 November 12, 2008 regarding legislation needed to implement the strategic plan described in  
140 Title 63, Chapter 38f, Part 24, Health System Reform Act;

141 (6) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as  
142 necessary, to accomplish the requirements of this section; and

143 (7) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
144 make rules, as necessary, to implement the strategic plan for health system reform described in  
145 Section 63-38f-2405.

146 Section 3. Section **31A-22-635** is enacted to read:

147 **31A-22-635. Development of uniform health insurance applications.**

148 (1) For purposes of this section, "insurer":

149 (a) is defined in Subsection 31A-22-634(1); and

150 (b) includes the state employee's risk pool under Section 49-20-202.

151 (2) Beginning July 1, 2009, all insurers offering health insurance shall use a uniform

152 application form.

153 (3) The uniform application form shall be adopted and approved by the commissioner  
154 in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act. The  
155 commissioner shall consult with the health insurance industry when adopting the uniform  
156 application form.

157 (4) (a) Beginning July 1, 2010, all insurers shall offer compatible systems of electronic  
158 submission of application forms, approved by the commissioner in accordance with Title 63,  
159 Chapter 46a, Utah Administrative Rulemaking Act. The systems approved by the  
160 commissioner may include monitoring and disseminating information concerning eligibility  
161 and coverage of individuals.

162 (b) The commissioner shall regulate any fees charged by insurers to an enrollee for a  
163 uniform application form or electronic submission of the application forms.

164 Section 4. Section **31A-30-106** is amended to read:

165 **31A-30-106. Premiums -- Rating restrictions -- Disclosure.**

166 (1) Premium rates for health benefit plans under this chapter are subject to the  
167 provisions of this Subsection (1).

168 (a) The index rate for a rating period for any class of business may not exceed the  
169 index rate for any other class of business by more than 20%.

170 (b) (i) For a class of business, the premium rates charged during a rating period to  
171 covered insureds with similar case characteristics for the same or similar coverage, or the rates  
172 that could be charged to such employers under the rating system for that class of business, may  
173 not vary from the index rate by more than 30% of the index rate, except as provided in Section  
174 31A-22-625.

175 (ii) A covered carrier that offers individual and small employer health benefit plans  
176 may use the small employer index rates to establish the rate limitations for individual policies,  
177 even if some individual policies are rated below the small employer base rate.

178 (c) The percentage increase in the premium rate charged to a covered insured for a new  
179 rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of  
180 the following:

181 (i) the percentage change in the new business premium rate measured from the first day  
182 of the prior rating period to the first day of the new rating period;

183 (ii) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods  
184 of less than one year, due to the claim experience, health status, or duration of coverage of the  
185 covered individuals as determined from the covered carrier's rate manual for the class of  
186 business, except as provided in Section 31A-22-625; and

187 (iii) any adjustment due to change in coverage or change in the case characteristics of  
188 the covered insured as determined from the covered carrier's rate manual for the class of  
189 business.

190 (d) (i) Adjustments in rates for claims experience, health status, and duration from  
191 issue may not be charged to individual employees or dependents.

192 (ii) Any adjustment described in Subsection (1)(d)(i) shall be applied uniformly to the  
193 rates charged for all employees and dependents of the small employer.

194 (e) A covered carrier may use industry as a case characteristic in establishing premium  
195 rates, provided that the highest rate factor associated with any industry classification does not  
196 exceed the lowest rate factor associated with any industry classification by more than 15%.

197 (f) (i) Covered carriers shall apply rating factors, including case characteristics,  
198 consistently with respect to all covered insureds in a class of business.

199 (ii) Rating factors shall produce premiums for identical groups that:

200 (A) differ only by the amounts attributable to plan design; and

201 (B) do not reflect differences due to the nature of the groups assumed to select  
202 particular health benefit products.

203 (iii) A covered carrier shall treat all health benefit plans issued or renewed in the same  
204 calendar month as having the same rating period.

205 (g) For the purposes of this Subsection (1), a health benefit plan that uses a restricted  
206 network provision may not be considered similar coverage to a health benefit plan that does not  
207 use ~~[such]~~ a restricted network provision, provided that use of the restricted network provision  
208 results in substantial difference in claims costs.

209 (h) The covered carrier may not, without prior approval of the commissioner, use case  
210 characteristics other than:

211 (i) age;

212 (ii) gender;

213 (iii) industry;

214 (iv) geographic area;  
215 (v) family composition; and  
216 (vi) group size.  
217 (i) (i) The commissioner [~~may~~] shall establish rules in accordance with Title 63,  
218 Chapter 46a, Utah Administrative Rulemaking Act, to:  
219 (A) implement this chapter; and  
220 (B) assure that rating practices used by covered carriers are consistent with the  
221 purposes of this chapter.  
222 (ii) The rules described in Subsection (1)(i)(i) may include rules that:  
223 (A) assure that differences in rates charged for health benefit products by covered  
224 carriers are reasonable and reflect objective differences in plan design, not including  
225 differences due to the nature of the groups assumed to select particular health benefit products;  
226 (B) prescribe the manner in which case characteristics may be used by covered carriers;  
227 (C) implement the individual enrollment cap under Section 31A-30-110, including  
228 specifying:  
229 (I) the contents for certification;  
230 (II) auditing standards;  
231 (III) underwriting criteria for uninsurable classification; and  
232 (IV) limitations on high risk enrollees under Section 31A-30-111; and  
233 (D) establish the individual enrollment cap under Subsection 31A-30-110(1).  
234 (j) Before implementing regulations for underwriting criteria for uninsurable  
235 classification, the commissioner shall contract with an independent consulting organization to  
236 develop industry-wide underwriting criteria for uninsurability based on an individual's expected  
237 claims under open enrollment coverage exceeding [~~200%~~] 325% of that expected for a standard  
238 insurable individual with the same case characteristics.  
239 (k) The commissioner shall revise rules issued for Sections 31A-22-602 and  
240 31A-22-605 regarding individual accident and health policy rates to allow rating in accordance  
241 with this section.  
242 (2) For purposes of Subsection (1)(c)(i), if a health benefit product is a health benefit  
243 product into which the covered carrier is no longer enrolling new covered insureds, the covered  
244 carrier shall use the percentage change in the base premium rate, provided that the change does

245 not exceed, on a percentage basis, the change in the new business premium rate for the most  
246 similar health benefit product into which the covered carrier is actively enrolling new covered  
247 insureds.

248 (3) (a) A covered carrier may not transfer a covered insured involuntarily into or out of  
249 a class of business.

250 (b) A covered carrier may not offer to transfer a covered insured into or out of a class  
251 of business unless the offer is made to transfer all covered insureds in the class of business  
252 without regard:

- 253 (i) to case characteristics;
- 254 (ii) claim experience;
- 255 (iii) health status; or
- 256 (iv) duration of coverage since issue.

257 (4) (a) Each covered carrier shall maintain at the covered carrier's principal place of  
258 business a complete and detailed description of its rating practices and renewal underwriting  
259 practices, including information and documentation that demonstrate that the covered carrier's  
260 rating methods and practices are:

- 261 (i) based upon commonly accepted actuarial assumptions; and
- 262 (ii) in accordance with sound actuarial principles.

263 (b) (i) Each covered carrier shall file with the commissioner, on or before April 1 of  
264 each year, in a form, manner, and containing such information as prescribed by the  
265 commissioner, an actuarial certification certifying that:

- 266 (A) the covered carrier is in compliance with this chapter; and
- 267 (B) the rating methods of the covered carrier are actuarially sound.

268 (ii) A copy of the certification required by Subsection (4)(b)(i) shall be retained by the  
269 covered carrier at the covered carrier's principal place of business.

270 (c) A covered carrier shall make the information and documentation described in this  
271 Subsection (4) available to the commissioner upon request.

272 (d) Records submitted to the commissioner under this section shall be maintained by  
273 the commissioner as protected records under Title 63, Chapter 2, Government Records Access  
274 and Management Act.

275 Section 5. Section **31A-30-108** is amended to read:

276 **31A-30-108. Eligibility for small employer and individual market.**

277 (1) (a) Small employer carriers shall accept residents for small group coverage as set  
278 forth in the Health Insurance Portability and Accountability Act, P.L. 104-191, 110 Stat. 1962,  
279 Sec. 2701(f) and 2711(a).

280 (b) Individual carriers shall accept residents for individual coverage pursuant:

281 (i) to P.L. 104-191, 110 Stat. 1979, Sec. 2741(a)-(b); and

282 (ii) Subsection (3).

283 (2) (a) Small employer carriers shall offer to accept all eligible employees and their  
284 dependents at the same level of benefits under any health benefit plan provided to a small  
285 employer.

286 (b) Small employer carriers may:

287 (i) request a small employer to submit a copy of the small employer's quarterly income  
288 tax withholdings to determine whether the employees for whom coverage is provided or  
289 requested are bona fide employees of the small employer; and

290 (ii) deny or terminate coverage if the small employer refuses to provide documentation  
291 requested under Subsection (2)(b)(i).

292 (3) Except as provided in Subsections (5) and (6) and Section 31A-30-110, individual  
293 carriers shall accept for coverage individuals to whom all of the following conditions apply:

294 (a) the individual is not covered or eligible for coverage:

295 (i) (A) as an employee of an employer;

296 (B) as a member of an association; or

297 (C) as a member of any other group; and

298 (ii) under:

299 (A) a health benefit plan; or

300 (B) a self-insured arrangement that provides coverage similar to that provided by a  
301 health benefit plan as defined in Section 31A-1-301;

302 (b) the individual is not covered and is not eligible for coverage under any public  
303 health benefits arrangement including:

304 (i) the Medicare program established under Title XVIII of the Social Security Act;

305 (ii) the Medicaid program established under Title XIX of the Social Security Act;

306 (iii) any act of Congress or law of this or any other state that provides benefits

307 comparable to the benefits provided under this chapter; or  
308 (iv) coverage under the Comprehensive Health Insurance Pool Act created in Chapter  
309 29, Comprehensive Health Insurance Pool Act;

310 (c) unless the maximum benefit has been reached the individual is not covered or  
311 eligible for coverage under any:

312 (i) Medicare supplement policy;  
313 (ii) conversion option;  
314 (iii) continuation or extension under COBRA; or  
315 (iv) state extension;

316 (d) the individual has not terminated or declined coverage described in Subsection  
317 (3)(a), (b), or (c) within 93 days of application for coverage, unless:

318 (i) an individual or employee is eligible for premium assistance under Utah's Premium  
319 Partnership for Health Insurance within the state Medicaid plan, in which case the requirement  
320 of this Subsection (3)(d) does not apply; or

321 (ii) the individual is eligible for individual coverage under P.L. 104-191, 110 Stat.  
322 1979, Sec. 2741(b), in which case, the requirement of this Subsection (3)(d) does not apply;  
323 and

324 (e) the individual is certified as ineligible for the Health Insurance Pool if:

325 (i) the individual applies for coverage with the Comprehensive Health Insurance Pool  
326 within 30 days after being rejected or refused coverage by the covered carrier and reapplies for  
327 coverage with that covered carrier within 30 days after the date of issuance of a certificate  
328 under Subsection 31A-29-111 (5)(c); or

329 (ii) the individual applies for coverage with any individual carrier within 45 days after:  
330 (A) notice of cancellation of coverage under Subsection 31A-29-115(1); or  
331 (B) the date of issuance of a certificate under Subsection 31A-29-111 (5)(c) if the  
332 individual applied first for coverage with the Comprehensive Health Insurance Pool.

333 (4) (a) If coverage is obtained under Subsection (3)(e)(i) and the required premium is  
334 paid, the effective date of coverage shall be the first day of the month following the individual's  
335 submission of a completed insurance application to that covered carrier.

336 (b) If coverage is obtained under Subsection (3)(e)(ii) and the required premium is  
337 paid, the effective date of coverage shall be the day following the:

- 338 (i) cancellation of coverage under Subsection 31A-29-115(1); or
- 339 (ii) submission of a completed insurance application to the Comprehensive Health
- 340 Insurance Pool.
- 341 (5) (a) An individual carrier is not required to accept individuals for coverage under
- 342 Subsection (3) if the carrier issues no new individual policies in the state after July 1, 1997.
- 343 (b) A carrier described in Subsection (5)(a) may not issue new individual policies in
- 344 the state for five years from July 1, 1997.
- 345 (c) Notwithstanding Subsection (5)(b), a carrier may request permission to issue new
- 346 policies after July 1, 1999, which may only be granted if:
- 347 (i) the carrier accepts uninsurables as is required of a carrier entering the market under
- 348 Subsection 31A-30-110; and
- 349 (ii) the commissioner finds that the carrier's issuance of new individual policies:
- 350 (A) is in the best interests of the state; and
- 351 (B) does not provide an unfair advantage to the carrier.
- 352 (6) (a) If the Comprehensive Health Insurance Pool as set forth under Title 31A,
- 353 Chapter 29, is dissolved or discontinued, or if enrollment is capped or suspended, an individual
- 354 carrier may decline to accept individuals applying for individual enrollment, other than
- 355 individuals applying for coverage as set forth in P.L. 104-191, 110 Stat. 1979, Sec. 2741
- 356 (a)-(b).
- 357 (b) Within two calendar days of taking action under Subsection (6)(a), an individual
- 358 carrier will provide written notice to the Utah Insurance Department.
- 359 (7) (a) If a small employer carrier offers health benefit plans to small employers
- 360 through a network plan, the small employer carrier may:
- 361 (i) limit the employers that may apply for the coverage to those employers with eligible
- 362 employees who live, reside, or work in the service area for the network plan; and
- 363 (ii) within the service area of the network plan, deny coverage to an employer if the
- 364 small employer carrier has demonstrated to the commissioner that the small employer carrier:
- 365 (A) will not have the capacity to deliver services adequately to enrollees of any
- 366 additional groups because of the small employer carrier's obligations to existing group contract
- 367 holders and enrollees; and
- 368 (B) applies this section uniformly to all employers without regard to:

369 (I) the claims experience of an employer, an employer's employee, or a dependent of an  
370 employee; or

371 (II) any health status-related factor relating to an employee or dependent of an  
372 employee.

373 (b) (i) A small employer carrier that denies a health benefit product to an employer in  
374 any service area in accordance with this section may not offer coverage in the small employer  
375 market within the service area to any employer for a period of 180 days after the date the  
376 coverage is denied.

377 (ii) This Subsection (7)(b) does not:

378 (A) limit the small employer carrier's ability to renew coverage that is in force; or

379 (B) relieve the small employer carrier of the responsibility to renew coverage that is in  
380 force.

381 (c) Coverage offered within a service area after the 180-day period specified in  
382 Subsection (7)(b) is subject to the requirements of this section.

383 (8) Notwithstanding the provisions of Subsection (3)(b)(ii), an individual may not be  
384 denied coverage under this chapter because the individual receives assistance under Utah's  
385 Premium Partnership for Health Insurance.

386 Section 6. Section **35A-1-104.5** is enacted to read:

387 **35A-1-104.5. Implementation of health system reform act.**

388 The department shall work with the Department of Health, the Insurance Department,  
389 the Governor's Office of Economic Development, and the Legislature's Business and Labor  
390 Interim Committee to develop and implement the health system reform in accordance with  
391 Title 63, Chapter 38f, Part 24, Health System Reform Act.

392 Section 7. Section **59-10-103** is amended to read:

393 **59-10-103. Definitions.**

394 (1) As used in this chapter:

395 (a) "Adjusted gross income":

396 (i) for a resident or nonresident individual, is as defined in Section 62, Internal  
397 Revenue Code; or

398 (ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e),  
399 Internal Revenue Code.

- 400 (b) "Adoption expenses" means:
- 401 (i) any actual medical and hospital expenses of the mother of the adopted child which
- 402 are incident to the child's birth;
- 403 (ii) any welfare agency fees or costs;
- 404 (iii) any child placement service fees or costs;
- 405 (iv) any legal fees or costs; or
- 406 (v) any other fees or costs relating to an adoption.
- 407 (c) "Adult with a disability" means an individual who:
- 408 (i) is 18 years of age or older;
- 409 (ii) is eligible for services under Title 62A, Chapter 5, Services for People with
- 410 Disabilities; and
- 411 (iii) is not enrolled in:
- 412 (A) an education program for students with disabilities that is authorized under Section
- 413 53A-15-301; or
- 414 (B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.
- 415 (d) (i) For purposes of Subsection 59-10-114(2)[(†)] (k), "capital gain transaction"
- 416 means a transaction that results in a:
- 417 (A) short-term capital gain; or
- 418 (B) long-term capital gain.
- 419 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 420 the commission may by rule define the term "transaction."
- 421 (e) "Commercial domicile" means the principal place from which the trade or business
- 422 of a Utah small business corporation is directed or managed.
- 423 (f) "Corporation" includes:
- 424 (i) associations;
- 425 (ii) joint stock companies; and
- 426 (iii) insurance companies.
- 427 (g) "Dependent child with a disability" means an individual 21 years of age or younger
- 428 who:
- 429 (i) (A) is diagnosed by a school district representative under rules adopted by the State
- 430 Board of Education as having a disability classified as:

- 431 (I) autism;
- 432 (II) deafness;
- 433 (III) preschool developmental delay;
- 434 (IV) dual sensory impairment;
- 435 (V) hearing impairment;
- 436 (VI) intellectual disability;
- 437 (VII) multidisability;
- 438 (VIII) orthopedic impairment;
- 439 (IX) other health impairment;
- 440 (X) traumatic brain injury; or
- 441 (XI) visual impairment;
- 442 (B) is not receiving residential services from:
  - 443 (I) the Division of Services for People with Disabilities created under Section
  - 444 62A-5-102; or
  - 445 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
  - 446 and
  - 447 (C) is enrolled in:
    - 448 (I) an education program for students with disabilities that is authorized under Section
    - 449 53A-15-301; or
    - 450 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
    - 451 or
    - 452 (ii) is identified under guidelines of the Department of Health as qualified for:
      - 453 (A) Early Intervention; or
      - 454 (B) Infant Development Services.
    - 455 (h) "Distributable net income" is as defined in Section 643, Internal Revenue Code.
    - 456 (i) "Employee" is as defined in Section 59-10-401.
    - 457 (j) "Employer" is as defined in Section 59-10-401.
    - 458 (k) "Federal taxable income":
      - 459 (i) for a resident or nonresident individual, means taxable income as defined by Section
      - 460 63, Internal Revenue Code; or
      - 461 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and

462 (b), Internal Revenue Code.

463 (l) "Fiduciary" means:

464 (i) a guardian;

465 (ii) a trustee;

466 (iii) an executor;

467 (iv) an administrator;

468 (v) a receiver;

469 (vi) a conservator; or

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

471 (m) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the

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

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

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

475 (o) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate

476 all or part of the trust without the consent of a person who has a substantial beneficial interest

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

478 revoke or terminate all or part of the trust.

479 (p) For purposes of Subsection 59-10-114(2)[(†)] (k), "long-term capital gain" is as

480 defined in Section 1222, Internal Revenue Code.

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

482 (r) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a

483 resident estate or trust.

484 (s) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other

485 unincorporated organization:

486 (A) through or by means of which any business, financial operation, or venture is

487 carried on; and

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

489 (I) a trust;

490 (II) an estate; or

491 (III) a corporation.

492 (ii) "Partnership" does not include any organization not included under the definition of

- 493 "partnership" in Section 761, Internal Revenue Code.
- 494 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
495 organization described in Subsection (1)(s)(i).
- 496 (t) "Qualifying military servicemember" means a member of:
- 497 (i) The Utah Army National Guard;
- 498 (ii) The Utah Air National Guard; or
- 499 (iii) the following if the member is assigned to a unit that is located in the state:
- 500 (A) The Army Reserve;
- 501 (B) The Naval Reserve;
- 502 (C) The Air Force Reserve;
- 503 (D) The Marine Corps Reserve; or
- 504 (E) The Coast Guard Reserve.
- 505 (u) "Qualifying stock" means stock that is:
- 506 (i) (A) common; or
- 507 (B) preferred;
- 508 (ii) as defined by the commission by rule, originally issued to:
- 509 (A) a resident or nonresident individual; or
- 510 (B) a partnership if the resident or nonresident individual making a subtraction from  
511 federal taxable income in accordance with Subsection 59-10-114(2)[(†)] (k):
- 512 (I) was a partner when the stock was issued; and
- 513 (II) remains a partner until the last day of the taxable year for which the resident or  
514 nonresident individual makes the subtraction from federal taxable income in accordance with  
515 Subsection 59-10-114(2)[(†)] (k); and
- 516 (iii) issued:
- 517 (A) by a Utah small business corporation;
- 518 (B) on or after January 1, 2003; and
- 519 (C) for:
- 520 (I) money; or
- 521 (II) other property, except for stock or securities.
- 522 (v) (i) "Resident individual" means:
- 523 (A) an individual who is domiciled in this state for any period of time during the

524 taxable year, but only for the duration of the period during which the individual is domiciled in  
525 this state; or

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

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

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

529 (ii) For purposes of Subsection (1)(v)(i)(B), a fraction of a calendar day shall be  
530 counted as a whole day.

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

532 (x) For purposes of Subsection 59-10-114(2)[(†)] (k), "short-term capital gain" is as  
533 defined in Section 1222, Internal Revenue Code.

534 (y) "Taxable income" or "state taxable income":

535 (i) subject to Subsection 59-10-302(2), for a resident individual other than a resident  
536 individual described in Subsection (1)(y)(iii), means the resident individual's federal taxable  
537 income after making the:

538 (A) additions and subtractions required by Section 59-10-114; and

539 (B) adjustments required by Section 59-10-115;

540 (ii) for a nonresident individual other than a nonresident individual described in  
541 Subsection (1)(y)(iii), is as defined in Section 59-10-116;

542 (iii) for a resident or nonresident individual that collects and pays a tax described in  
543 Part 12, Single Rate Individual Income Tax Act, is as defined in Section 59-10-1202;

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

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

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

548 (aa) "Uintah and Ouray Reservation" means the lands recognized as being included  
549 within the Uintah and Ouray Reservation in:

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

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

552 (bb) (i) "Utah small business corporation" means a corporation that:

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

555 (B) except as provided in Subsection (1)(bb)(ii), meets the requirements of Section  
556 1244(c)(1)(C), Internal Revenue Code; and

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

558 (ii) Notwithstanding Subsection (1)(bb)(i)(B), the time period described in Section  
559 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a  
560 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the  
561 resident or nonresident individual makes a subtraction from federal taxable income in  
562 accordance with Subsection 59-10-114(2)[(†)] (k).

563 (cc) "Ute tribal member" means a person who is enrolled as a member of the Ute  
564 Indian Tribe of the Uintah and Ouray Reservation.

565 (dd) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

566 (ee) "Wages" is as defined in Section 59-10-401.

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

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

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

577 Section 8. Section **59-10-114** is amended to read:

578 **59-10-114. Additions to and subtractions from federal taxable income of an**  
579 **individual.**

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

582 (a) the amount of any income tax imposed by this or any predecessor Utah individual  
583 income tax law and the amount of any income tax imposed by the laws of another state, the  
584 District of Columbia, or a possession of the United States, to the extent deducted from adjusted  
585 gross income in determining federal taxable income;

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

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

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

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

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

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

598 (i) the resident or nonresident individual did not deduct or include the amounts on the  
599 resident or nonresident individual's federal individual income tax return pursuant to Section  
600 220, Internal Revenue Code;

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

602 (iii) the withdrawal is deducted by the resident or nonresident individual under  
603 Subsection (2)~~(h)~~ (g);

604 (f) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings  
605 Incentive Program, from the account of a resident or nonresident individual who is an account  
606 owner as defined in Section 53B-8a-102, for the taxable year for which the amount is  
607 withdrawn, if that amount withdrawn from the account of the resident or nonresident individual  
608 who is the account owner:

609 (i) is not expended for higher education costs as defined in Section 53B-8a-102; and

610 (ii) is:

611 (A) subtracted by the resident or nonresident individual:

612 (I) who is the account owner; and

613 (II) in accordance with Subsection (2)~~(f)~~ (h); or

614 (B) used as the basis for the resident or nonresident individual who is the account  
615 owner to claim a tax credit under Section 59-10-1206.1;

616 (g) except as provided in Subsection (6), for taxable years beginning on or after

617 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after  
618 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by  
619 one or more of the following entities:

620 (i) a state other than this state;

621 (ii) the District of Columbia;

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

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

625 (h) subject to Subsection (2)[~~(n)~~] (m), any distribution received by a resident  
626 beneficiary of a resident trust of income that was taxed at the trust level for federal tax  
627 purposes, but was subtracted from state taxable income of the trust pursuant to Subsection  
628 59-10-202(2)(c);

629 (i) any distribution received by a resident beneficiary of a nonresident trust of  
630 undistributed distributable net income realized by the trust on or after January 1, 2004, if that  
631 undistributed distributable net income was taxed at the trust level for federal tax purposes, but  
632 was not taxed at the trust level by any state, with undistributed distributable net income  
633 considered to be distributed from the most recently accumulated undistributed distributable net  
634 income; and

635 (j) any adoption expense:

636 (i) for which a resident or nonresident individual receives reimbursement from another  
637 person; and

638 (ii) to the extent to which the resident or nonresident individual deducts that adoption  
639 expense:

640 (A) under Subsection (2)(c); or

641 (B) from federal taxable income on a federal individual income tax return.

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

644 (a) the interest or a dividend on obligations or securities of the United States and its  
645 possessions or of any authority, commission, or instrumentality of the United States, to the  
646 extent that interest or dividend is included in gross income for federal income tax purposes for  
647 the taxable year but exempt from state income taxes under the laws of the United States, but

648 the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on  
649 indebtedness incurred or continued to purchase or carry the obligations or securities described  
650 in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend  
651 income described in this Subsection (2)(a) to the extent that such expenses, including  
652 amortizable bond premiums, are deductible in determining federal taxable income;

653 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all  
654 allowable credits, as reported on the United States individual income tax return of the taxpayer  
655 for the same taxable year;

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

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

660 (A) paid; or

661 (B) incurred;

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

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

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

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

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

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

679           ~~[(i) for:]~~  
680           ~~[(A) the taxpayer;]~~  
681           ~~[(B) the taxpayer's spouse; and]~~  
682           ~~[(C) the taxpayer's dependents; and]~~  
683           ~~[(ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or~~  
684 ~~213, Internal Revenue Code, in determining federal taxable income for the taxable year;]~~  
685           ~~[(h)]~~ (g) (i) except as provided in this Subsection (2)~~[(h)]~~(g), the amount of a  
686 contribution made during the taxable year on behalf of the taxpayer to a medical care savings  
687 account and interest earned on a contribution to a medical care savings account established  
688 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the  
689 contribution is accepted by the account administrator as provided in the Medical Care Savings  
690 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal  
691 individual income tax return pursuant to Section 220, Internal Revenue Code; and  
692           (ii) a contribution deductible under this Subsection (2)~~[(h)]~~(g) may not exceed either of  
693 the following:  
694           (A) the maximum contribution allowed under the Medical Care Savings Account Act  
695 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is  
696 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that  
697 covers the other spouse, and each spouse has a medical care savings account; or  
698           (B) the maximum contribution allowed under the Medical Care Savings Account Act  
699 for the tax year for taxpayers:  
700           (I) who do not file a joint return; or  
701           (II) who file a joint return, but do not qualify under Subsection (2)~~[(h)]~~(g)(ii)(A);  
702           ~~[(i)]~~ (h) subject to Subsection (1)(f), the amount of a qualified investment as defined in  
703 Section 53B-8a-102 that:  
704           (i) a resident or nonresident individual who is an account owner as defined in Section  
705 53B-8a-102 makes during the taxable year;  
706           (ii) the resident or nonresident individual described in Subsection (2)~~[(i)]~~ (h)(i) does  
707 not deduct on a federal individual income tax return; and  
708           (iii) does not exceed the maximum amount of the qualified investment that may be  
709 subtracted from federal taxable income for a taxable year in accordance with Subsections

710 53B-8a-106(1)(e) and (f);

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

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

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

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

720 [~~(l)~~] (k) (i) for taxable years beginning on or after January 1, 2003, the total amount of  
721 a resident or nonresident individual's short-term capital gain or long-term capital gain on a  
722 capital gain transaction:

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

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

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

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

727 and

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

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

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

734 (B) for purposes of Subsection (2)[~~(l)~~](k)(i)(C), prescribing the circumstances under  
735 which a resident or nonresident individual has an ownership interest in a Utah small business  
736 corporation;

737 [~~(m)~~] (l) for the taxable year beginning on or after January 1, 2005, but beginning on or  
738 before December 31, 2005, the first \$2,200 of income a qualifying military servicemember  
739 receives:

740 (i) for service:

741 (A) as a qualifying military servicemember; or  
742 (B) under an order into active service in accordance with Section 39-1-5; and  
743 (ii) to the extent that income is included in adjusted gross income on that resident or  
744 nonresident individual's federal individual income tax return for that taxable year;  
745 ~~[(m)]~~ (m) an amount received by a resident or nonresident individual or distribution  
746 received by a resident or nonresident beneficiary of a resident trust:  
747 (i) if that amount or distribution constitutes a refund of taxes imposed by:  
748 (A) a state; or  
749 (B) the District of Columbia; and  
750 (ii) to the extent that amount or distribution is included in adjusted gross income for  
751 that taxable year on the federal individual income tax return of the resident or nonresident  
752 individual or resident or nonresident beneficiary of a resident trust;  
753 ~~[(n)]~~ (n) the amount of a railroad retirement benefit:  
754 (i) paid:  
755 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
756 seq.;  
757 (B) to a resident or nonresident individual; and  
758 (C) for the taxable year; and  
759 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
760 that resident or nonresident individual's federal individual income tax return for that taxable  
761 year; and  
762 ~~[(o)]~~ (o) an amount:  
763 (i) received by an enrolled member of an American Indian tribe; and  
764 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
765 part on that amount in accordance with:  
766 (A) federal law;  
767 (B) a treaty; or  
768 (C) a final decision issued by a court of competent jurisdiction.  
769 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted  
770 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or  
771 \$4,800, except that:

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

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

778 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
779 \$25,000, the amount of the retirement income exemption that may be subtracted shall be  
780 reduced by 50 cents.

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

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

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

789 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
790 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

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

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

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

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

803 and]

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

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

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

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

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

812 (i) may not:

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

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

815 subtraction described in Subsection (2)~~(k)~~(j); or

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

817 (ii) shall:

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

819 ~~(2)(k)~~(j);

820 (B) be in writing;

821 (C) be signed by:

822 (I) the governor; and

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

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

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

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

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

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

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

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

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

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

841 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
842 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
843 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
844 on 2000 Form 8814 is reported on a form other than Form 8814; and

845 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
846 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
847 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
848 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
849 8814.

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

852 (i) the lesser of:

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

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

855 (I) the child's taxable interest;

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

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

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

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

863 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the  
864 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on

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

869 (i) the entity; or

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

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

872 Section 9. Section **59-10-1017** is enacted to read:

873 **59-10-1017. Nonrefundable tax credit for health care insurance.**

874 (1) As used in this section, "health care insurance" is as defined in Section 31A-1-301.

875 (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2008, a  
876 claimant may claim a nonrefundable tax credit equal to the product of:

877 (a) the difference between:

878 (i) the total amount the claimant pays during the taxable year for health care insurance

879 for:

880 (A) the claimant;

881 (B) if the claimant files a single return jointly with the claimant's spouse, the claimant's  
882 spouse; and

883 (C) if the claimant claims one or more dependents under Section 151, Internal Revenue  
884 Code, as allowed on the claimant's federal individual income tax return for the taxable year, the  
885 one or more dependents; and

886 (ii) any amounts the claimant deducts for health care insurance under Section 125, 162,  
887 or 213, Internal Revenue Code, as allowed on the claimant's federal individual income tax  
888 return for the taxable year, for:

889 (A) the claimant;

890 (B) if the claimant files a single return jointly with the claimant's spouse, the claimant's  
891 spouse; and

892 (C) if the claimant claims one or more dependents under Section 151, Internal Revenue  
893 Code, as allowed on the claimant's federal individual income tax return for the taxable year, the  
894 one or more dependents; and

895 (b) 5%.

896 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may  
897 claim for a taxable year is \$750 for a return, regardless of the claimant's filing status.

898 (4) A claimant may not carry forward or carry back a tax credit under this section.

899 Section 10. Section **59-10-1204** is amended to read:

900 **59-10-1204. Additions to and subtractions from adjusted gross income of a**  
901 **resident or nonresident individual.**

902 (1) In calculating state taxable income for purposes of this part, the following amounts  
903 shall be added to the adjusted gross income of a resident or nonresident individual:

904 (a) the amount described in Subsection 59-10-114(1)(a), if that amount is deducted by  
905 a resident or nonresident estate or trust in determining federal taxable income;

906 (b) the lump sum distribution described in Subsection 59-10-114(1)(b);

907 (c) subject to Subsection 59-10-114(5), the amount described in Subsection  
908 59-10-114(1)(c);

909 (d) a withdrawal described in Subsection 59-10-114(1)(e);

910 (e) the amount described in Subsection 59-10-114(1)(f);

911 (f) subject to Subsection 59-10-114(6), the interest described in Subsection  
912 59-10-114(1)(g);

913 (g) a distribution described in Subsection 59-10-114(1)(h);

914 (h) a distribution described in Subsection 59-10-114(1)(i); or

915 (i) an expense described in Subsection 59-10-114(1)(j).

916 (2) In calculating state taxable income for purposes of this part, the following amounts  
917 shall be subtracted from the adjusted gross income of a resident or nonresident individual:

918 (a) the interest or dividends described in Subsection 59-10-114(2)(a);

919 (b) subject to Subsection 59-10-114(4), the amount described in Subsection  
920 59-10-114(2)~~(k)~~(j);

921 (c) an amount described in Subsection 59-10-114(2)~~(n)~~(m);

922 (d) the amount described in Subsection 59-10-114(2)~~(o)~~(n); and

923 (e) an amount described in Subsection 59-10-114(2)~~(p)~~(o).

924 Section 11. Section **63-38f-2401** is enacted to read:

925 **Part 24. Health System Reform Act**

926 **63-38f-2401. Title.**

927 This part is known as the "Health System Reform Act."

928 Section 12. Section **63-38f-2402** is enacted to read:

929 **63-38f-2402. Definitions.**

930 As used in this part, "office" means the Office of Consumer Health Services created in

931 Section 63-38f-2404.

932 Section 13. Section **63-38f-2403** is enacted to read:

933 **63-38f-2403. Duties related to health system reform.**

934 (1) The Governor's Office of Economic Development shall coordinate the efforts of the

935 Office of Consumer Health Services, the Department of Health, the Insurance Department, the

936 Department of Workforce Services, and the advisory committee created in Subsection (2), to

937 develop and implement health system reform in accordance with:

938 (a) the strategic plan described in Section 63-38f-2405;

939 (b) direction from the Legislature's Business and Labor Interim Committee; and

940 (c) advice from the advisory committee created in Subsection (2).

941 (2) The speaker of the House of Representatives and the president of the Senate shall

942 appoint an advisory committee to advise the Governor's Office of Economic Development on

943 the development and implementation of the strategic plan described in Section 63-38f-2405.

944 (3) The Governor's Office of Economic Development shall, beginning June 1, 2008,

945 submit a monthly report to the Legislature's Business and Labor Interim Committee that

946 includes:

947 (a) the actions of the executive branch to develop and implement the strategic plan for

948 health system reform, including a comprehensive summary of administrative rules either

949 adopted or under consideration; and

950 (b) recommendations, if any:

951 (i) from the advisory committee appointed under Subsection (2); and

952 (ii) for legislation needed to implement the strategic plan.

953 Section 14. Section **63-38f-2404** is enacted to read:

954 **63-38f-2404. Creation of Office of Consumer Health Services -- Duties.**

955 (1) There is created within the Governor's Office of Economic Development the Office

956 of Consumer Health Services.

957 (2) The office shall:

958 (a) assist the Governor's Office of Economic Development, the Department of Health,  
959 the Insurance Department, the Department of Workforce Services, and the Legislature with the  
960 development and implementation of the strategic plan for health system reform described in  
961 Section 63-38f-2405;

962 (b) in cooperation with the Insurance Department, the Department of Health, and the  
963 Department of Workforce Services, and in accordance with the electronic standards developed  
964 under Section 31A-22-635, create an Internet portal that is capable of providing access to  
965 private and government health insurance websites and their electronic application forms and  
966 submission procedures;

967 (c) facilitate a private sector method for the collection of health insurance premium  
968 payments made for a single policy by multiple payers, including the policyholder, one or more  
969 employers of one or more individuals covered by the policy, government programs, and others  
970 by educating employers and insurers about collection services available through private  
971 vendors, including financial institutions; and

972 (d) assist employers with a free or low cost method for establishing mechanisms for the  
973 purchase of health insurance by employees using pre-tax dollars.

974 (3) The office may not:

975 (a) regulate health insurers, health insurance plans, or health insurance producers;

976 (b) adopt administrative rules; or

977 (c) act as an appeals entity for resolving disputes between a health insurer and an  
978 insured.

979 Section 15. Section **63-38f-2405** is enacted to read:

980 **63-38f-2405. Strategic plan for health system reform.**

981 The strategic plan for health system reform developed and implemented by the office,  
982 the Governor's Office of Economic Development, the Department of Health, the Insurance  
983 Department, and the Department of Workforce Services shall:

984 (1) recommend legislation and administrative rules necessary to allow health insurers  
985 to offer one or more health insurance products that:

986 (a) allow an individual to purchase a policy for individual or family coverage, with or  
987 without employer contributions, and keep the policy even if the individual changes  
988 employment;

- 989           (b) incorporate rating practices and issue practices that will sustain a viable insurance  
990 market and provide affordable health insurance products for the most purchasers;
- 991           (c) are based on minimum required coverages that result in a lower premium than most  
992 current products;
- 993           (d) include coverage for immunizations, screenings, and other preventive health  
994 services;
- 995           (e) encourage cost-effective use of health care systems;
- 996           (f) minimize risk-skimming insurance benefit designs;
- 997           (g) maximize the use of federal and state income tax policies to allow for payment of  
998 the products with tax-exempt funds;
- 999           (h) may include other innovative provisions that may lower the costs of the products;
- 1000           (i) may incorporate innovative consumer-driven provisions, including:
- 1001           (i) an exemption from selected state health insurance laws and regulations;
- 1002           (ii) a range of benefit and cost sharing provisions tailored to the health status, financial  
1003 capacity, and preferences of individual consumers; and
- 1004           (iii) varying the amount of cost sharing for a service based on where the service falls  
1005 along a continuum of care ranging from preventive care to purely elective care; and
- 1006           (j) encourage employers to allow their employees greater control of the employee's  
1007 health care benefits by providing tax-exempt defined contributions for the purchase of health  
1008 insurance by either the employer or the employee;
- 1009           (2) study current rating and issue practices by health insurers and recommend changes  
1010 that may be necessary to achieve the goals of Subsection (1)(b);
- 1011           (3) provide public employees an option that provides them greater control of their  
1012 health care benefits through a system of defined contributions for insurance policies;
- 1013           (4) give public employees access to an option that provides individually selected and  
1014 owned policies by July 1, 2010;
- 1015           (5) encourage the use of health care quality measures and the adoption of best practice  
1016 protocols by health care providers for the benefit of consumers, health care providers, and third  
1017 party payers;
- 1018           (6) address the possibility of providing some protection from liability for health care  
1019 providers who follow best practice protocols;

1020 (7) (a) promote personal responsibility for obtaining health insurance and making  
1021 healthy choices, including studying the costs and benefits associated with:  
1022 (i) different forms of mandates for individual responsibility effective January 1, 2010;  
1023 and  
1024 (ii) potential enforcement mechanisms for the options considered for mandated  
1025 individual responsibility;  
1026 (b) increase the number of affordable health insurance policies available to a person  
1027 responsible for obtaining health insurance under Subsection (7)(a) by creating a system of  
1028 subsidies and Medicaid waivers that brings more people into the private insurance market; and  
1029 (c) provide a recommendation to the Legislature's Business and Labor Interim  
1030 Committee for funding subsidies to support bringing more people into the private insurance  
1031 market, which may include:  
1032 (i) imposing assessments on:  
1033 (A) health care facilities;  
1034 (B) health care providers;  
1035 (C) health care services; and  
1036 (D) health insurance products or health insurers; or  
1037 (ii) relying on other funding sources;  
1038 (8) maximize the use of pre-tax dollars for health insurance premium payments;  
1039 (9) no later than January 1, 2010, require employers in the state to adopt mechanisms  
1040 that allow an employee to use tax-exempt earnings, other than pre-tax contributions by the  
1041 employer, to purchase a health insurance product; and  
1042 (10) require insurers to accept premium payments from multiple sources, including  
1043 state-funded subsidies.  
1044 **Section 16. Appropriation.**  
1045 There is appropriated:  
1046 (1) as an ongoing appropriation, \$615,000, from the General Fund for fiscal year  
1047 2008-09 to the Department of Health to be used to fund health care cost and quality data  
1048 collection, analysis, and distribution; and  
1049 (2) \$500,000 from the General Fund for fiscal year 2008-09 only, to the Department of  
1050 Health to fund the Department of Health's implementation of the standards developed for the

1051 electronic exchange of clinical health information.

1052 Section 17. **Retrospective operation.**

1053 Sections 59-10-114, 59-10-117, and 59-10-1204 of this bill have retrospective  
1054 operation for taxable years beginning on or after January 1, 2008.

1055 Section 18. **Coordinating H.B. 133 with S.B. 31 -- Modifying substantive language.**

1056 If this H.B. 133 and S.B. 31, Income Tax Amendments, both pass, it is the intent of the  
1057 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah  
1058 Code database for publication, modify Section 59-10-1002.2, which is renumbered and  
1059 amended in S.B. 31, so that a citation to the statutory section enacted in Section 9 in this H.B.  
1060 133 is included in the list of sections in:

1061 (1) Subsection 59-10-1002.2(1); and

1062 (2) Subsection 59-10-1002.2(2).

1063 Section 19. **Coordinating H.B. 133 with H.B. 63 -- Changing technical cross**  
1064 **references.**

1065 If this H.B. 133 and H.B. 63, Recodification of Title 63, State Affairs in General, both  
1066 pass, it is the intent of the Legislature that the Office of Legislative Research and General  
1067 Counsel, in preparing the Utah Code database for publication:

1068 (1) replace references to "Title 63, Chapter 38f, Part 24, Health System Reform Act"  
1069 with "Title 63M, Chapter 1, Part 24, Health System Reform Act";

1070 (2) renumber Sections 63-38f-2401 through 63-38f-2405 to 63M-1-2401 through  
1071 63M-1-2405; and

1072 (3) replace internal references in the bill to Sections 63-38f-2401 through 63-38f-2405  
1073 with the appropriate corresponding renumbered Sections 63M-1-2401 through 63M-1-2405.

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**Legislative Review Note**

as of 1-17-08 9:13 AM

**Office of Legislative Research and General Counsel**