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₡ 01-27-05 1:35 PM ₡

H.B. 101

AMENDMENTS TO THE INDIVIDUAL INCOME TAX

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the Fiduciaries and Trusts title, the Medical Care Savings Account Act, the Higher Education Savings Incentive Program chapter, the Individual Income Tax Act, and the Travel Reduction chapter relating to the calculation of state individual income taxes.

Highlighted Provisions:

This bill:

- addresses the calculation of individual income taxes on:
  - a resident or nonresident individual; and
  - a resident or nonresident estate or trust;
- repeals definitions and provides definitions;
- repeals the individual income tax brackets and provides a single individual income tax rate;
- provides that state individual income taxes on a resident and nonresident individual are calculated on the basis of the resident or nonresident individual's federal adjusted gross income rather than federal taxable income;
- modifies the additions to and subtractions from income for:
  - a resident or nonresident individual; and
  - a resident or nonresident estate or trust; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect for taxable years beginning on or after January 1, 2006.

Utah Code Sections Affected:

AMENDS:

22-3-505, as enacted by Chapter 285, Laws of Utah 2004

53B-8a-106, as last amended by Chapter 144, Laws of Utah 2000

53B-8a-112, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session

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

59-10-104, as last amended by Chapters 323 and 324, Laws of Utah 2001

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

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

59-10-115, as renumbered and amended by Chapter 2, Laws of Utah 1987

59-10-116, as last amended by Chapter 79, Laws of Utah 2004

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

59-10-201, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session

59-10-202, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session

59-10-205, as last amended by Chapter 345, Laws of Utah 1995

59-10-210, as last amended by Chapter 345, Laws of Utah 1995

72-12-107, as renumbered and amended by Chapter 270, Laws of Utah 1998

REPEALS:

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

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

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

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

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

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

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

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

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

59-10-201.1, as enacted by Chapter 345, Laws of Utah 1995

59-10-204, as last amended by Chapter 345, Laws of Utah 1995

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

Section 1. Section **22-3-505** is amended to read:

22-3-505. Income taxes.

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

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

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

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

(b) from principal to the extent that:

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

(ii) the trust's share of the entity's <u>state</u> taxable income exceeds the total receipts described in Subsections (3)(a) and (3)(b)(i).

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

Section 2. Section **53B-8a-106** is amended to read:

53B-8a-106. Participation agreements for trust.

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

(1) (a) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the board.

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

(c) A participant may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the board.

[~~(d) The maximum amount of investments that may be subtracted from federal taxable income of a resident or nonresident individual under Subsection 59-10-114(2)(j) shall be $1,200 for each individual beneficiary for the 1996 calendar year and an amount adjusted annually thereafter to reflect increases in the Consumer Price Index.~~]

(2) The participation agreement may include a minimum rate of return for the investment made by the participant.

[~~(3) (a) Beneficiaries designated in participation agreements must be designated from date of birth through age 18 for the participant to subtract allowable investments from federal taxable income under Subsection 59-10-114(2)(j).~~]

[~~(b) Participants may designate beneficiaries after age 18, but investments for those beneficiaries are not eligible for subtraction from federal taxable income.~~]

[~~(4)~~] (3) Payment of benefits provided under participation agreements must begin not later than the first full fall academic quarter or semester at an institution of higher education following the 22nd birthday or high school graduation of the beneficiary, whichever is later, unless the participant notifies the program administrator to the contrary.

[~~(5)~~] (4) The execution of a participation agreement by the trust may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:

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

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

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

(d) graduate from the institution of higher education.

[~~(6)~~] (5) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education so long as the substitute beneficiary is eligible for participation.

[~~(7)~~] (6) Participation agreements may be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

[~~(8)~~] (7) Each participation agreement shall provide that the participation agreement may be canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations.

Section 3. Section **53B-8a-112** is amended to read:

53B-8a-112. Tax considerations.

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

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

Section 4. Section **59-10-103** is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

[~~(a) "Adoption expenses" means:~~]

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

[~~(ii) any welfare agency fees or costs;~~]

[~~(iii) any child placement service fees or costs;~~]

[~~(iv) any legal fees or costs; or~~]

[~~(v) any other fees or costs relating to an adoption.~~]

[~~(b) "Adult with a disability" means an individual who:~~]

[~~(i) is 18 years of age or older;~~]

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

[~~(iii) is not enrolled in:~~]

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

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

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

[~~(A) short-term capital gain; or~~]

[~~(B) long-term capital gain.~~]

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

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

[~~(e)~~] (a) "Corporation" includes:

(i) associations;

(ii) joint stock companies; and

(iii) insurance companies.

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

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

[~~(I) autism;~~]

[~~(II) deafness;~~]

[~~(III) preschool developmental delay;~~]

[~~(IV) dual sensory impairment;~~]

[~~(V) hearing impairment;~~]

[~~(VI) intellectual disability;~~]

[~~(VII) multidisability;~~]

[~~(VIII) orthopedic impairment;~~]

[~~(IX) other health impairment;~~]

[~~(X) traumatic brain injury; or~~]

[~~(XI) visual impairment;~~]

[~~(B) is not receiving residential services from:~~]

[~~(I) the Division of Services for People with Disabilities created under Section 62A-5-102; or~~]

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

[~~(C) is enrolled in:~~]

[~~(I) an education program for students with disabilities that is authorized under Section 53A-15-301; or~~]

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

[~~(ii) is identified under guidelines of the Department of Health as qualified for:~~]

[~~(A) Early Intervention; or~~]

[~~(B) Infant Development Services.~~]

[~~(g)~~] (b) "Employee" is as defined in Section 59-10-401.

[~~(h)~~] (c) "Employer" is as defined in Section 59-10-401.

(d) "Federal adjusted gross income" means "adjusted gross income" as defined in Section 62, Internal Revenue Code.

(e) "Federal taxable income" means "taxable income" as defined in Section 63, Internal Revenue Code.

[~~(i)~~] (f) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

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

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

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

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

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

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

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

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

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

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

(I) a trust;

(II) an estate; or

(III) a corporation.

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

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

[~~(q) "Qualifying military service" means:~~]

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

[~~(A) 10 U.S.C. Sec. 12301;~~]

[~~(B) 10 U.S.C. Sec. 12302;~~]

[~~(C) 10 U.S.C. Sec. 12303; or~~]

[~~(D) 10 U.S.C. Sec. 12304; or~~]

[~~(ii) in the case of a member of The Army National Guard of the United States or The Air National Guard of the United States:~~]

[~~(A) active duty in accordance with an order received under:~~]

[~~(I) 10 U.S.C. Sec. 12301;~~]

[~~(II) 10 U.S.C. Sec. 12302;~~]

[~~(III) 10 U.S.C. Sec. 12303; or~~]

[~~(IV) 10 U.S.C. Sec. 12304; or~~]

[~~(B) service under a call to active service:~~]

[~~(I) authorized by the:~~]

[~~(Aa) President of the United States; or~~]

[~~(Bb) Secretary of Defense of the United States;~~]

[~~(II) for a period of more than 30 consecutive days;~~]

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

[~~(IV) for purposes of responding to a national emergency:~~]

[~~(Aa) declared by the President of the United States; and~~]

[~~(Bb) supported by federal funds.~~]

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

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

[~~(B) preferred;~~]

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

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

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

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

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

[~~(iii) issued:~~]

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

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

[~~(C) for:~~]

[~~(I) money; or~~]

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

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

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

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

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

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

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

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

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

(o) "State taxable income" means:

(i) for a resident individual, the difference between:

(A) the resident individual's federal adjusted gross income for a taxable year; and

(B) the subtractions required by Section 59-10-114;

(ii) for a resident estate or resident trust, the difference between:

(A) the sum of:

(I) the resident estate's or resident trust's taxable income as determined under Section 641, Internal Revenue Code, for a taxable year; and

(II) the additions required by:

(Aa) Section 59-10-202; and

(Bb) Section 59-10-209; and

(B) the subtractions required by:

(I) Section 59-10-202; and

(II) Section 59-10-209; or

(iii) for a nonresident estate or nonresident trust, the portion of taxable income as determined under Section 641, Internal Revenue Code:

(A) for a taxable year;

(B) that the nonresident estate or nonresident trust would have had if the nonresident estate or nonresident trust were a resident estate or resident trust;

(C) that is derived from Utah sources determined in accordance with the principles established in Section 59-10-117; and

(D) after making the adjustments required by Section 59-10-207.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Rate -- Exemption.

(1) Except as provided in Subsection [~~(4)~~] (2), for taxable years beginning on or after January 1, [~~2001~~] 2006, a tax is imposed on the state taxable income[~~, as defined in Section 59-10-112,~~] of every resident individual as provided in this section at a rate of 5.74% of state taxable income.

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

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

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

[~~If the state taxable income is:~~	~~The tax is:~~]
[~~Less than or equal to $1,726~~	~~2.3% of the state taxable income~~]
[~~Greater than $1,726 but less than or equal~~] [~~to $3,450~~]	~~$40, plus 3.3% of state taxable~~] ~~income greater than $1,726~~]
[~~Greater than $3,450 but less than or equal~~] [~~to $5,176~~]	~~$97, plus 4.2% of state taxable~~] ~~income greater than $3,450~~]
[~~Greater than $5,176 but less than or equal~~	~~$169, plus 5.2% of state taxable~~]

[~~to $6,900~~ ~~income greater than $5,176~~]
[~~Greater than $6,900 but less than or equal~~ ~~$259, plus 6% of state taxable~~]
[~~to $8,626~~ ~~income greater than $6,900~~]
[~~Greater than $8,626~~ ~~$362, plus 7% of state taxable~~]
[~~income greater than $8,626~~]

[~~(4)~~] (2) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 6. Section **59-10-105** is amended to read:

59-10-105. Optional tax -- Calculation -- Commission authority to prescribe tax tables -- Exemption.

(1) (a) Except as provided in Subsection (4), for taxable years beginning on or after January 1, 2002, if the commission prescribes state individual income tax tables in accordance with Subsection (2), a tax is imposed as provided in this section on the state taxable income of an individual who elects to compute the individual's income tax in accordance with the state individual income tax tables prescribed by the commission.

(b) An individual who pays a tax imposed by this section is not subject to the tax imposed by Section 59-10-104.

(2) The commission may prescribe state individual income tax tables:

(a) for a taxable year;

(b) for purposes of computing the tax authorized by this section; and

(c) if the state individual income tax tables are substantially in accordance with Section 3, Internal Revenue Code, except that the commission shall use:

(i) the tax [~~rates and tax brackets~~] rate provided for in Section 59-10-104;

(ii) state taxable income [~~as defined in Section 59-10-112~~]; and

(iii) any other provision of this chapter necessary to prescribe state individual income tax tables under this section.

(3) An individual electing to compute the individual's income tax in accordance with this section shall use the:

(a) standard deduction as provided in Section 63(c), Internal Revenue Code; and

(b) number and amount of exemptions allowed by Section 151, Internal Revenue Code.

(4) This section does not apply to an individual exempt from taxation under Section

59-10-104.1.

Section 7. Section **59-10-114** is amended to read:

59-10-114. Subtractions from federal adjusted gross income of an individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(2)~~] (1) There shall be subtracted from federal [~~taxable~~] adjusted gross income of a resident or nonresident individual:

(a) the interest or dividends on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection [~~(2)~~] (1)(a) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection [~~(2)~~] (1)(a), and by any expenses incurred in the production of interest or dividend income described in this Subsection [~~(2)~~] (1)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

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

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

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

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

[~~(A) paid; or~~]

[~~(B) incurred;~~]

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

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

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

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

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

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

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

[~~(i) for:~~]

[~~(A) the taxpayer;~~]

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

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

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

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

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

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

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

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

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

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

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

[~~(l)~~] (c) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection [~~(4)~~] (2)(a) are met, the amount of income derived by a Ute tribal member:

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

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

(d) the amount a resident or nonresident individual subtracts for a taxable year under Section 170, Internal Revenue Code, on the resident or nonresident individual's federal individual income tax return for that taxable year;

(e) the amount a resident or nonresident individual subtracts for a taxable year under Section 163(h)(3), Internal Revenue Code, as qualified residence interest, on the resident or nonresident individual's federal individual income tax return for that taxable year; and

(f) 50% of the total amount of personal exemptions a resident or nonresident individual subtracts for the taxable year under Section 151, Internal Revenue Code.

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

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

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

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

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

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

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

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

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

[~~(n) (i) except as provided in Subsection (2)(n)(ii), for the taxable year beginning on or after January 1, 2004, but beginning on or before December 31, 2004, income a resident or nonresident individual receives:~~]

[~~(A) for qualifying military service; and~~]

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

[~~(ii) notwithstanding Subsection (2)(n)(i), a subtraction from federal taxable income is not allowed under Subsection (2)(n)(i) for income included in adjusted gross income on a resident or nonresident individual's federal individual income tax return for that taxable year if that income is received from a source that constitutes a:~~]

[~~(A) pension; or~~]

[~~(B) survivor benefit; and~~]

[~~(iii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of Subsections (1)(n)(i) and (ii), the commission may by rule define what constitutes income:~~]

[~~(A) a resident or nonresident individual receives for qualifying military service; or~~]

[~~(B) received from a source that constitutes a:~~]

[~~(I) pension; or~~]

[~~(II) survivor benefit.~~]

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

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

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

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

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

[~~(i) for married taxpayers filing joint returns, for each $1 of adjusted gross income~~

~~earned over $32,000, the amount of the personal retirement exemption shall be reduced by 50 cents;~~]

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

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

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

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

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

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

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

[~~(4)~~] (2) (a) A subtraction for an amount described in Subsection [~~(2)(l)~~] (1)(c) is allowed only if:

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

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection [~~(4)~~] (2).

(b) The agreement described in Subsection [~~(4)~~] (2)(a):

(i) may not:

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

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection [~~(2)(l)~~] (1)(c); or

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

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection [~~(2)(l)~~] (1)(c);

(B) be in writing;

(C) be signed by:

(I) the governor; and

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

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

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection [~~(4)~~] (2) is in effect.

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

(d) For purposes of Subsection [~~(2)(l)~~] (1)(c) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

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

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

[~~(B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter~~

~~46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.~~]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 8. Section **59-10-115** is amended to read:

59-10-115. Equitable adjustments.

(1) If any provision of the Internal Revenue Code requires the inclusion of an item of gross income or the allowance of an item of deduction from gross income in the computation of federal [~~taxable~~] adjusted gross income of the taxpayer for any taxable year beginning on or

after the effective date of this chapter, and if such item has been taken into account in computing the state taxable income of the taxpayer for state income tax purposes for any prior taxable year, the commission shall make or allow such adjustments to the taxpayer's state taxable income as are necessary to prevent the inclusion for a second time or the deduction for a second time of such item for state income tax purposes.

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

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

(4) The commission shall by rule prescribe for adjustments to state taxable income of the taxpayer in circumstances other than those specified by Subsections (1), (2), and (3) of this section where, solely by reason of the enactment of this chapter, the taxpayer would otherwise receive or have received a double tax benefit or suffer or have suffered a double tax detriment. Anything in this section or this chapter to the contrary notwithstanding, the commission may not make any adjustment pursuant to this section which will result in an increase or decrease of

tax liability the amount of which is less than $25.

Section 9. Section **59-10-116** is amended to read:

59-10-116. Definitions -- Tax on nonresident individual -- Calculation -- Exemption.

(1) For purposes of this section:

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

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

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

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

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

(d) "unapportioned state tax" means the product of the:

(i) difference between:

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

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

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

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

(a) unapportioned state tax; and

(b) state income tax percentage.

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

(4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for

purposes of Subsection (1), the commission may by rule define what constitutes compensation.

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

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

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

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

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

Section 11. Section **59-10-201** is amended to read:

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

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

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

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

Section 12. Section **59-10-202** is amended to read:

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

nonresident estate or trust.

(1) There shall be added to federal taxable income of a resident or nonresident estate or trust[~~:~~] 50% of the total amount of a personal exemption that the resident or nonresident estate or trust subtracts in accordance with Section 642(b), Internal Revenue Code.

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

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

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

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

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

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

(c) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income [~~derived from Utah sources~~

~~under Section 59-10-204~~] if received by a nonresident trust;

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

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

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

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

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

Section 13. Section **59-10-205** is amended to read:

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

(1) A tax is imposed on the state taxable income[~~, as defined in Section 59-10-204,~~] of every nonresident estate or nonresident trust in accordance with the [~~rates~~] rate prescribed in Section 59-10-104 [~~for individuals filing separately~~].

(2) The tax imposed by Subsection (1) shall only be applied to income derived from Utah sources as adjusted by Section 59-10-207, including such items from another estate or trust of which the first estate or trust is a beneficiary.

Section 14. Section **59-10-210** is amended to read:

59-10-210. Fiduciary adjustments -- Allocation -- Rulemaking authority.

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

(2) The respective shares of an estate or trust and its beneficiaries, [~~(~~]including solely for the purpose of this allocation, nonresident beneficiaries[~~)~~], in the state fiduciary adjustments shall be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the

share of each beneficiary in the fiduciary adjustments shall be in proportion to [~~his~~] the beneficiary's share of the estate or trust income for such year, which is, under state law or the governing instrument, required to be distributed currently plus any other amounts of such income distributed in such year. Any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(3) The commission may by rule and upon such terms and conditions as it may prescribe, authorize the use of such other appropriate and equitable method or methods for determining attribution and allocation of the fiduciary adjustments. The fiduciary may elect to use any other methods prescribed in this subsection only when the allocation of such respective fiduciary adjustments under this section would result in an inequity in the allocation which is substantial both in amount and in relation to the total amount of the modifications referred to in Subsection (1).

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

Section 15. Section **72-12-107** is amended to read:

72-12-107. Benefits of ride-sharing driver not taxable income.

Money and other benefits, other than salary, received by a driver in a ride-sharing arrangement does not constitute income for the purpose of computing [~~gross~~] state taxable income under Title 59, Chapter 10, Individual Income Tax Act.

Section 16. **Repealer.**

This bill repeals:

Section **31A-32a-101, Title and scope.**

Section **31A-32a-102, Definitions.**

Section **31A-32a-103, Establishing medical care savings accounts.**

Section **31A-32a-104, Administration of medical care savings account.**

Section **31A-32a-105, Withdrawals -- Termination -- Transfers.**

Section **31A-32a-106, Regulation of account administrators -- Administration of tax deductions.**

Section **31A-32a-107, Penalties for noncompliance with tax requirements.**

Section **59-10-111, Federal taxable income defined.**

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

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

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

Section 17. **Effective date.**

This bill takes effect for taxable years beginning on or after January 1, 2006.

Legislative Review Note
as of 1-26-05 4:44 PM

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

Office of Legislative Research and General Counsel

Fiscal Note

Bill Number HB0101

Amendments to the Individual Income Tax

01-Feb-05

1:43 PM

State Impact

Passage of this bill would be approximately revenue neutral for the State.

Individual and Business Impact

There is a potential shift is tax burden among taxpayers.

Office of the Legislative Fiscal Analyst