

Representative Gregory H. Hughes proposes the following substitute bill:

**INDIVIDUAL INCOME TAX SUBTRACTION
FOR CERTAIN MILITARY INCOME**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill amends the Individual Income Tax Act relating to a subtraction for certain military income.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ amends a subtraction for certain military income; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for ~~the~~ the ~~taxable~~ [years] year beginning on or after January 1, 2005 ~~, but beginning on or before December 31, 2005~~ .

Utah Code Sections Affected:

AMENDS:

- 59-10-103**, as last amended by Chapter 2, Laws of Utah 2004, Fourth Special Session
- 59-10-114**, as last amended by Chapter 2, Laws of Utah 2004, Fourth Special Session



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

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

28 **59-10-103. Definitions.**

29 (1) As used in this chapter:

30 (a) "Adoption expenses" means:

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

33 (ii) any welfare agency fees or costs;

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

35 (iv) any legal fees or costs; or

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

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

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

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

41 (iii) is not enrolled in:

42 (A) an education program for students with disabilities that is authorized under Section
43 53A-15-301; or

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

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

47 (A) short-term capital gain; or

48 (B) long-term capital gain.

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

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

53 (e) "Corporation" includes:

54 (i) associations;

55 (ii) joint stock companies; and

56 (iii) insurance companies.

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

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

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

72 (B) is not receiving residential services from:

73 (I) the Division of Services for People with Disabilities created under Section
74 62A-5-102; or

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

77 (C) is enrolled in:

78 (I) an education program for students with disabilities that is authorized under Section
79 53A-15-301; or

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

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

- 83 (A) Early Intervention; or
- 84 (B) Infant Development Services.

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

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

87 (i) "Fiduciary" means:

- 88 (i) a guardian;
- 89 (ii) a trustee;
- 90 (iii) an executor;
- 91 (iv) an administrator;
- 92 (v) a receiver;
- 93 (vi) a conservator; or
- 94 (vii) any person acting in any fiduciary capacity for any individual.
- 95 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 96 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 97 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
- 98 (k) "Individual" means a natural person and includes aliens and minors.
- 99 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
- 100 or part of the trust without the consent of a person who has a substantial beneficial interest in
- 101 the trust and the interest would be adversely affected by the exercise of the settlor's power to
- 102 revoke or terminate all or part of the trust.
- 103 (m) For purposes of Subsection 59-10-114(2)(m), "long-term capital gain" is as defined
- 104 in Section 1222, Internal Revenue Code.
- 105 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 106 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
- 107 resident estate or trust.
- 108 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
- 109 unincorporated organization:
- 110 (A) through or by means of which any business, financial operation, or venture is
- 111 carried on; and
- 112 (B) which is not, within the meaning of this chapter:
- 113 (I) a trust;
- 114 (II) an estate; or
- 115 (III) a corporation.
- 116 (ii) "Partnership" does not include any organization not included under the definition of
- 117 "partnership" in Section 761, Internal Revenue Code.
- 118 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or

119 organization described in Subsection (1)(p)(i).

120 (q) "Qualifying military service member" means~~[-(i) in the case of]~~ a member of:

121 (i) The Utah Army National Guard;

122 (ii) The Utah Air National Guard; or

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

124 (A) The Army Reserve[;];

125 (B) The Naval Reserve[;];

126 (C) The Air Force Reserve[;];

127 (D) The Marine Corps Reserve[;]; or

128 (E) The Coast Guard Reserve[; active duty in accordance with an order received
129 under:];

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

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

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

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

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

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

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

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

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

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

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

142 ~~[(F) authorized by the:]~~

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

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

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

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

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

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

149 ~~[(Bb) supported by federal funds:]~~

- 150 (r) "Qualifying stock" means stock that is:
- 151 (i) (A) common; or
- 152 (B) preferred;
- 153 (ii) as defined by the commission by rule, originally issued to:
- 154 (A) a resident or nonresident individual; or
- 155 (B) a partnership if the resident or nonresident individual making a subtraction from
- 156 federal taxable income in accordance with Subsection 59-10-114(2)(m):
- 157 (I) was a partner when the stock was issued; and
- 158 (II) remains a partner until the last day of the taxable year for which the resident or
- 159 nonresident individual makes the subtraction from federal taxable income in accordance with
- 160 Subsection 59-10-114(2)(m); and
- 161 (iii) issued:
- 162 (A) by a Utah small business corporation;
- 163 (B) on or after January 1, 2003; and
- 164 (C) for:
- 165 (I) money; or
- 166 (II) other property, except for stock or securities.
- 167 (s) (i) "Resident individual" means:
- 168 (A) an individual who is domiciled in this state for any period of time during the
- 169 taxable year, but only for the duration of the period during which the individual is domiciled in
- 170 this state; or
- 171 (B) an individual who is not domiciled in this state but:
- 172 (I) maintains a permanent place of abode in this state; and
- 173 (II) spends in the aggregate 183 or more days of the taxable year in this state.
- 174 (ii) For purposes of Subsection (1)(s)(i)(B), a fraction of a calendar day shall be
- 175 counted as a whole day.
- 176 (t) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
- 177 (u) For purposes of Subsection 59-10-114(2)(m), "short-term capital gain" is as defined
- 178 in Section 1222, Internal Revenue Code.
- 179 (v) "Taxable income" and "state taxable income" are defined as provided in Sections
- 180 59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.

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

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

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

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

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

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

190 (B) except as provided in Subsection (1)(y)(ii), meets the requirements of Section
191 1244(c)(1)(C), Internal Revenue Code; and

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

193 (ii) Notwithstanding Subsection (1)(y)(i)(B), the time period described in Section
194 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a
195 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the
196 resident or nonresident individual makes a subtraction from federal taxable income in
197 accordance with Subsection 59-10-114(2)(m).

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

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

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

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

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

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

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

213 **59-10-114. Additions to and subtractions from federal taxable income of an**
214 **individual.**

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

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

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

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

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

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

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

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

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

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

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

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

243 (i) a state other than this state;
244 (ii) the District of Columbia;
245 (iii) a political subdivision of a state other than this state; or
246 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
247 (iii);

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

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

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

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

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

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

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

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

278 (A) paid; or

279 (B) incurred;

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

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

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

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

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

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

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

301 (i) for:

302 (A) the taxpayer;

303 (B) the taxpayer's spouse; and

304 (C) the taxpayer's dependents; and

305 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or
306 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

346 and

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

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

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

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

356 (n) ~~[(i) except as provided in Subsection (2)(n)(ii),]~~ for ~~Ĥ→~~ [f] the [j] ~~←Ĥ~~ taxable
 356a ~~Ĥ→~~ [f] year [j] [years] ~~←Ĥ~~

357 beginning on or after January 1, [2004] ~~Ĥ→~~ 2005 [f] , but beginning on or before
 357a December 31, [j] ←Ĥ [2004,] 2005.

358 the first \$2,200 of income a [resident or nonresident individual] qualifying military service
 359 member receives:

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

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

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

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

365 ~~[(ii) notwithstanding Subsection (2)(n)(i), a subtraction from federal taxable income is~~
 366 ~~not allowed under Subsection (2)(n)(i) for income included in adjusted gross income on a~~

367 resident or nonresident individual's federal individual income tax return for that taxable year if
368 that income is received from a source that constitutes a:]

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

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

371 [~~(iii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;~~
372 ~~for purposes of Subsections (1) (2)(n)(i) and (ii), the commission may by rule define what~~
373 ~~constitutes income:]~~

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

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

376 [~~(F) pension; or]~~

377 [~~(H) survivor benefit:]~~

378 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
379 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
380 \$4,800, except that:

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

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

387 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
388 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
389 reduced by 50 cents.

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

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

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

398 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
399 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

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

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

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

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

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

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

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

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

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

420 (i) may not:

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

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

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

425 (ii) shall:

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

427 (B) be in writing;

428 (C) be signed by:

- 429 (I) the governor; and
- 430 (II) the chair of the Business Committee of the Ute tribe;
- 431 (D) be conditioned on obtaining any approval required by federal law; and
- 432 (E) state the effective date of the agreement.
- 433 (c) (i) The governor shall report to the commission by no later than February 1 of each
- 434 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
- 435 in effect.
- 436 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
- 437 subtraction permitted under Subsection (2)(l) is not allowed for taxable years beginning on or
- 438 after the January 1 following the termination of the agreement.
- 439 (d) For purposes of Subsection (2)(l) and in accordance with Title 63, Chapter 46a,
- 440 Utah Administrative Rulemaking Act, the commission may make rules:
- 441 (i) for determining whether income is derived from a source within the Uintah and
- 442 Ouray Reservation; and
- 443 (ii) that are substantially similar to how federal adjusted gross income derived from
- 444 Utah sources is determined under Section 59-10-117.
- 445 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
- 446 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
- 447 Interest and Dividends; or
- 448 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by
- 449 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to
- 450 2000 Form 8814 if for purposes of federal individual income taxes the information contained
- 451 on 2000 Form 8814 is reported on a form other than Form 8814; and
- 452 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter
- 453 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form
- 454 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income
- 455 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
- 456 8814.
- 457 (b) The amount of a child's income added to adjusted gross income under Subsection
- 458 (1)(c) is equal to the difference between:
- 459 (i) the lesser of:

- 460 (A) the base amount specified on Form 8814; and
- 461 (B) the sum of the following reported on Form 8814:
- 462 (I) the child's taxable interest;
- 463 (II) the child's ordinary dividends; and
- 464 (III) the child's capital gain distributions; and
- 465 (ii) the amount not taxed that is specified on Form 8814.

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

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

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

- 476 (i) the entity; or
- 477 (ii) (A) the state in which the entity is located; or
- 478 (B) the District of Columbia, if the entity is located within the District of Columbia.

479 Section 3. **Retrospective operation.**

480 This bill has retrospective operation for ~~the~~ taxable [years] year
 480a beginning on or after January 1,
 481 2005 , but beginning on or before December 31, 2005 .