

1 **INDIVIDUAL INCOME TAXATION OF**
2 **CERTAIN TRUST DISTRIBUTIONS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lyle W. Hillyard**

6 House Sponsor: Wayne A. Harper

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Individual Income Tax Act relating to the individual income
11 taxation of certain trust distributions.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines "distributable net income";
15 ▶ modifies an addition to income for certain distributions received by a resident
16 beneficiary of a nonresident trust that was taxed at the trust level for federal tax
17 purposes, but was not taxed at the trust level by any state; and
18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill has retrospective operation for taxable years beginning on or after January 1,
23 2004.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-10-103**, as last amended by Chapter 241, Laws of Utah 2005

27 **59-10-114**, as last amended by Chapters 109 and 241, Laws of Utah 2005



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

Section 1. 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] for 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) "Corporation" includes:

(i) associations;

(ii) joint stock companies; and

59 (iii) insurance companies.
60 (f) "Dependent child with a disability" means an individual 21 years of age or younger
61 who:
62 (i) (A) is diagnosed by a school district representative under rules adopted by the State
63 Board of Education as having a disability classified as:
64 (I) autism;
65 (II) deafness;
66 (III) preschool developmental delay;
67 (IV) dual sensory impairment;
68 (V) hearing impairment;
69 (VI) intellectual disability;
70 (VII) multidisability;
71 (VIII) orthopedic impairment;
72 (IX) other health impairment;
73 (X) traumatic brain injury; or
74 (XI) visual impairment;
75 (B) is not receiving residential services from:
76 (I) the Division of Services for People with Disabilities created under Section
77 62A-5-102; or
78 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
79 and
80 (C) is enrolled in:
81 (I) an education program for students with disabilities that is authorized under Section
82 53A-15-301; or
83 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
84 or
85 (ii) is identified under guidelines of the Department of Health as qualified for:
86 (A) Early Intervention; or
87 (B) Infant Development Services.
88 (g) "Distributable net income" is as defined in Section 643, Internal Revenue Code.
89 [~~g~~] (h) "Employee" is as defined in Section 59-10-401.

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

91 ~~[(i)]~~ (j) "Fiduciary" means:

92 (i) a guardian;

93 (ii) a trustee;

94 (iii) an executor;

95 (iv) an administrator;

96 (v) a receiver;

97 (vi) a conservator; or

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

99 ~~[(j)]~~ (k) "Homesteaded land diminished from the Uintah and Ouray Reservation"

100 means the homesteaded land that was held to have been diminished from the Uintah and Ouray
101 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

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

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

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

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

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

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

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

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

118 (I) a trust;

119 (II) an estate; or

120 (III) a corporation.

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

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

125 ~~(q)~~ (r) "Qualifying military service member" means a member of:

126 (i) The Utah Army National Guard;

127 (ii) The Utah Air National Guard; or

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

129 (A) The Army Reserve;

130 (B) The Naval Reserve;

131 (C) The Air Force Reserve;

132 (D) The Marine Corps Reserve; or

133 (E) The Coast Guard Reserve.

134 ~~(r)~~ (s) "Qualifying stock" means stock that is:

135 (i) (A) common; or

136 (B) preferred;

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

138 (A) a resident or nonresident individual; or

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

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

142 (II) remains a partner until the last day of the taxable year for which the resident or

143 nonresident individual makes the subtraction from federal taxable income in accordance with
144 Subsection 59-10-114(2)(m); and

145 (iii) issued:

146 (A) by a Utah small business corporation;

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

148 (C) for:

149 (I) money; or

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

151 ~~(s)~~ (t) (i) "Resident individual" means:

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

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

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

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

158 (ii) For purposes of Subsection (1)~~(s)~~(t)(i)(B), a fraction of a calendar day shall be
159 counted as a whole day.

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

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

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

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

167 ~~(x)~~ (y) "Uintah and Ouray Reservation" means the lands recognized as being included
168 within the Uintah and Ouray Reservation in:

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

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

171 ~~(y)~~ (z) (i) "Utah small business corporation" means a corporation that:

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

174 (B) except as provided in Subsection (1)~~(y)~~(z)(ii), meets the requirements of Section
175 1244(c)(1)(C), Internal Revenue Code; and

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

177 (ii) Notwithstanding Subsection (1)~~(y)~~(z)(i)(B), the time period described in Section
178 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a
179 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the
180 resident or nonresident individual makes a subtraction from federal taxable income in
181 accordance with Subsection 59-10-114(2)(m).

182 ~~(z)~~ (aa) "Ute tribal member" means a person who is enrolled as a member of the Ute

183 Indian Tribe of the Uintah and Ouray Reservation.

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

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

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

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

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

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

198 **59-10-114. Additions to and subtractions from federal taxable income of an**
199 **individual.**

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

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

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

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

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

213 (ii) the parent does not include in adjusted gross income on the parent's federal

- 214 individual income tax return for the taxable year;
- 215 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue
216 Code;
- 217 (e) a withdrawal from a medical care savings account and any penalty imposed in the
218 taxable year if:
- 219 (i) the taxpayer did not deduct or include the amounts on the taxpayer's federal
220 individual income tax return pursuant to Section 220, Internal Revenue Code; and
- 221 (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);
- 222 (f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher
223 Education Savings Incentive Program, in the year in which the amount is disbursed;
- 224 (g) except as provided in Subsection (6), for taxable years beginning on or after
225 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
226 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
227 one or more of the following entities:
- 228 (i) a state other than this state;
- 229 (ii) the District of Columbia;
- 230 (iii) a political subdivision of a state other than this state; or
- 231 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
232 (iii);
- 233 (h) any distribution received by a resident beneficiary of a resident trust of income that
234 was taxed at the trust level for federal tax purposes, but was subtracted from state taxable
235 income of the trust pursuant to Subsection 59-10-202(2)(c); and
- 236 (i) any distribution received by a resident beneficiary of a nonresident trust of
237 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
238 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
239 was not taxed at the trust level by any state, with undistributed distributable net income
240 considered to be distributed from the most recently accumulated undistributed distributable net
241 income.
- 242 (2) There shall be subtracted from federal taxable income of a resident or nonresident
243 individual:
- 244 (a) the interest or dividends on obligations or securities of the United States and its

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

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

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

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

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

266 (A) paid; or

267 (B) incurred;

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

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

271 (d) amounts received by taxpayers under age 65 as retirement income which, for
272 purposes of this section, means pensions and annuities, paid from an annuity contract
273 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),
274 Internal Revenue Code, or purchased by an employee under a plan which meets the
275 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or

276 political subdivision thereof, or the District of Columbia, to the employee involved or the
277 surviving spouse;

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

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

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

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

289 (i) for:

290 (A) the taxpayer;

291 (B) the taxpayer's spouse; and

292 (C) the taxpayer's dependents; and

293 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or
294 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

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

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

304 (A) the maximum contribution allowed under the Medical Care Savings Account Act
305 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is
306 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that

307 covers the other spouse, and each spouse has a medical care savings account; or

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

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

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

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

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

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

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

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

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

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

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

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

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

334 and

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

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

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

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

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

347 (i) for service:

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

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

350 (ii) to the extent that income is included in adjusted gross income on that resident or
351 nonresident individual's federal individual income tax return for that taxable year.

352 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
353 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
354 \$4,800, except that:

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

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

361 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
362 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
363 reduced by 50 cents.

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

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

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

372 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
373 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

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

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

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

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

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

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

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

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

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

394 (i) may not:

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

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

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

399 (ii) shall:

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

401 (B) be in writing;

402 (C) be signed by:

403 (I) the governor; and

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

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

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

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

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

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

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

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

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

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

422 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by
423 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to
424 2000 Form 8814 if for purposes of federal individual income taxes the information contained
425 on 2000 Form 8814 is reported on a form other than Form 8814; and

426 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter
427 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form
428 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income
429 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
430 8814.

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

433 (i) the lesser of:

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

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

436 (I) the child's taxable interest;

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

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

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

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

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

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

450 (i) the entity; or

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

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

453 **Section 3. Retrospective operation.**

454 This bill has retrospective operation for taxable years beginning on or after January 1,
455 2004.

Legislative Review Note
as of 11-30-05 10:53 AM

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

Office of Legislative Research and General Counsel

Mixed Membership Committee Note
as of 12-21-05 3:47 PM

The Tax Review Commission recommended this bill.

Membership:	4 legislators	10 non-legislators		
Legislative Vote:	3 voting for	0 voting against	1 absent	