

1                   **INDIVIDUAL INCOME TAX SUBTRACTIONS**  
2                   **FOR INSURANCE RELATING TO MEDICAL**  
3                   **CARE**

4                   2007 GENERAL SESSION

5                   STATE OF UTAH

6                   **Chief Sponsor: James A. Dunnigan**

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

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9                   **LONG TITLE**

10                  **General Description:**

11                  This bill amends the Individual Income Tax Act relating to subtractions from federal  
12                  taxable income for amounts paid for certain insurance relating to medical care.

13                  **Highlighted Provisions:**

14                  This bill:

- 15                  ▶ modifies an individual income tax subtraction for amounts paid for certain  
16                  insurance relating to medical care, including:
- 17                      • modifying the type of insurance eligible for the subtraction; and
  - 18                      • repealing language providing that the subtraction is not allowed for amounts  
19                      that are reimbursed or funded by certain entities or if a taxpayer is eligible to  
20                      participate in a health plan maintained and funded in whole or in part by certain  
21                      employers;
- 22                  ▶ addresses the subtraction for long-term care insurance; and
- 23                  ▶ makes technical changes.

24                  **Monies Appropriated in this Bill:**

25                  None

26                  **Other Special Clauses:**

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



28 2007.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-10-114 (Effective 01/01/07)**, as last amended by Chapter 2, Laws of Utah 2006,  
32 Fourth Special Session



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

35 Section 1. Section **59-10-114 (Effective 01/01/07)** is amended to read:

36 **59-10-114 (Effective 01/01/07). Additions to and subtractions from federal**  
37 **taxable income of an individual.**

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

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

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

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

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

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

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

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

56 (i) the resident or nonresident individual did not deduct or include the amounts on the  
57 resident or nonresident individual's federal individual income tax return pursuant to Section  
58 220, Internal Revenue Code;

- 59 (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
- 60 (iii) the withdrawal is deducted by the resident or nonresident individual under
- 61 Subsection (2)(h);
- 62 (f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher
- 63 Education Savings Incentive Program, for the taxable year for which the amount is disbursed, if
- 64 that amount disbursed to the account owner:
- 65 (i) is not expended for higher education costs as defined in Section 53B-8a-102; and
- 66 (ii) is deducted by the account owner under Subsection (2)(i);
- 67 (g) except as provided in Subsection (6), for taxable years beginning on or after
- 68 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
- 69 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
- 70 one or more of the following entities:
- 71 (i) a state other than this state;
- 72 (ii) the District of Columbia;
- 73 (iii) a political subdivision of a state other than this state; or
- 74 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
- 75 (iii);
- 76 (h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a
- 77 resident trust of income that was taxed at the trust level for federal tax purposes, but was
- 78 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c);
- 79 (i) any distribution received by a resident beneficiary of a nonresident trust of
- 80 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
- 81 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
- 82 was not taxed at the trust level by any state, with undistributed distributable net income
- 83 considered to be distributed from the most recently accumulated undistributed distributable net
- 84 income; and
- 85 (j) any adoption expense:
- 86 (i) for which a resident or nonresident individual receives reimbursement from another
- 87 person; and
- 88 (ii) to the extent to which the resident or nonresident individual deducts that adoption
- 89 expense:

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

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

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

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

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

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

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

110 (A) paid; or

111 (B) incurred;

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

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

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

121 surviving spouse;

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

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

127 (g) ~~[subject to the limitations of Subsection (3)(e), amounts a taxpayer]~~ for taxable  
128 years beginning on or after January 1, 2007, amounts a resident or nonresident individual pays  
129 during the taxable year for ~~[health care]~~ insurance, as ~~[defined in Title 31A, Chapter 1, General~~  
130 ~~Provisions]~~ described in Section 213(d)(1)(D), Internal Revenue Code:

131 (i) for:

132 (A) ~~[the taxpayer]~~ the resident or nonresident individual;

133 (B) ~~[the taxpayer's]~~ a spouse of the resident or nonresident individual; and

134 (C) ~~[the taxpayer's]~~ any dependents of the resident or nonresident individual; and

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

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

145 (ii) a contribution deductible under this Subsection (2)(h) may not exceed either of the  
146 following:

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

151 (B) the maximum contribution allowed under the Medical Care Savings Account Act

152 for the tax year for taxpayers:

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

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

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

161 (j) for taxable years beginning on or after January 1, 2000, any amounts paid for  
162 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the  
163 amounts paid for long-term care insurance were not;

164 (i) deducted under Section 213, Internal Revenue Code, in determining federal taxable  
165 income; or

166 (ii) subtracted under Subsection (2)(g);

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

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

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

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

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

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

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

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

179 and

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

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

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

186 (B) for purposes of Subsection (2)(1)(i)(C), prescribing the circumstances under which  
187 a resident or nonresident individual has an ownership interest in a Utah small business  
188 corporation;

189 (m) for the taxable year beginning on or after January 1, 2005, but beginning on or  
190 before December 31, 2005, the first \$2,200 of income a qualifying military servicemember  
191 receives:

192 (i) for service:

193 (A) as a qualifying military servicemember; or

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

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

197 (n) an amount received by a resident or nonresident individual or distribution received  
198 by a resident or nonresident beneficiary of a resident trust:

199 (i) if that amount or distribution constitutes a refund of taxes imposed by:

200 (A) a state; or

201 (B) the District of Columbia; and

202 (ii) to the extent that amount or distribution is included in adjusted gross income for  
203 that taxable year on the federal individual income tax return of the resident or nonresident  
204 individual or resident or nonresident beneficiary of a resident trust;

205 (o) the amount of a railroad retirement benefit:

206 (i) paid:

207 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
208 seq.;

209 (B) to a resident or nonresident individual; and

210 (C) for the taxable year; and

211 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
212 that resident or nonresident individual's federal individual income tax return for that taxable  
213 year; and

214 (p) an amount:  
215 (i) received by an enrolled member of an American Indian tribe; and  
216 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
217 part on that amount in accordance with:

- 218 (A) federal law;
- 219 (B) a treaty; or
- 220 (C) a final decision issued by a court of competent jurisdiction.

221 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted  
222 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or  
223 \$4,800, except that:

- 224 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
225 earned over \$32,000, the amount of the retirement income exemption that may be subtracted  
226 shall be reduced by 50 cents;
- 227 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
228 earned over \$16,000, the amount of the retirement income exemption that may be subtracted  
229 shall be reduced by 50 cents; and
- 230 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
231 \$25,000, the amount of the retirement income exemption that may be subtracted shall be  
232 reduced by 50 cents.

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

- 235 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
236 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50  
237 cents;
- 238 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
239 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50  
240 cents; and
- 241 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
242 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

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



245 adjusted gross income.

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

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

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

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

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

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

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

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

263 (i) may not:

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

265 (B) provide a subtraction under this section greater than or different from the  
266 subtraction described in Subsection (2)(k); or

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

268 (ii) shall:

269 (A) provide for the implementation of the subtraction described in Subsection (2)(k);

270 (B) be in writing;

271 (C) be signed by:

272 (I) the governor; and

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

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

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

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

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

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

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

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

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

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

291 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
292 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
293 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
294 on 2000 Form 8814 is reported on a form other than Form 8814; and

295 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
296 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
297 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
298 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
299 8814.

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

302 (i) the lesser of:

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

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

305 (I) the child's taxable interest;

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

307 (III) the child's capital gain distributions; and  
 308 (ii) the amount not taxed that is specified on Form 8814.  
 309 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences  
 310 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be  
 311 added to federal taxable income of a resident or nonresident individual if, as annually  
 312 determined by the commission:  
 313 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the  
 314 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
 315 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or  
 316 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose  
 317 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of  
 318 this state:  
 319 (i) the entity; or  
 320 (ii) (A) the state in which the entity is located; or  
 321 (B) the District of Columbia, if the entity is located within the District of Columbia.  
 322 Section 2. **Retrospective operation.**  
 323 This bill has retrospective operation for taxable years beginning on or after January 1,  
 324 2007.

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**Legislative Review Note**  
 as of 11-15-06 3:08 PM

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
 as of 12-29-06 12:16 PM

The Revenue and Taxation Interim Committee recommended this bill.

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**Revised  
Fiscal Note**

**H.B. 43 - Individual Income Tax Subtractions for Insurance Relating to  
Medical Care**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill could reduce the Education Fund by \$43,000,000 in FY 2008 and by \$45,150,000 in FY 2009.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
Education Fund	\$0	\$0	\$0	\$0	(\$43,000,000)	(\$45,150,000)
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$43,000,000)</b>	<b>(\$45,150,000)</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Individuals would receive a tax benefit for health insurance costs.