

Representative James A. Dunnigan proposes the following substitute bill:

**INDIVIDUAL INCOME TAX SUBTRACTIONS
FOR INSURANCE RELATING TO MEDICAL
CARE**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill has retrospective operation for taxable years beginning on or after January 1,
29 2007.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-10-114**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session

33

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

35 Section 1. Section **59-10-114** is amended to read:

36 **59-10-114. Additions to and subtractions from federal taxable income of an**
37 **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)(l)(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]~~ A subtraction [for an amount paid for health
252 care insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:] under
253 Subsection (2)(g) may not exceed \$1,500 in total for any taxable year as reported on a return
254 filed under this part for a taxable year beginning on or after January 1, 2007.

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

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

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

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

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

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

265 (i) may not:

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

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

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

270 (ii) shall:

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

272 (B) be in writing;

273 (C) be signed by:

274 (I) the governor; and
275 (II) the chair of the Business Committee of the Ute tribe;
276 (D) be conditioned on obtaining any approval required by federal law; and
277 (E) state the effective date of the agreement.
278 (c) (i) The governor shall report to the commission by no later than February 1 of each
279 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
280 in effect.
281 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
282 subtraction permitted under Subsection (2)(k) is not allowed for taxable years beginning on or
283 after the January 1 following the termination of the agreement.
284 (d) For purposes of Subsection (2)(k) and in accordance with Title 63, Chapter 46a,
285 Utah Administrative Rulemaking Act, the commission may make rules:
286 (i) for determining whether income is derived from a source within the Uintah and
287 Ouray Reservation; and
288 (ii) that are substantially similar to how adjusted gross income derived from Utah
289 sources is determined under Section 59-10-117.
290 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
291 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
292 Interest and Dividends; or
293 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by
294 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to
295 2000 Form 8814 if for purposes of federal individual income taxes the information contained
296 on 2000 Form 8814 is reported on a form other than Form 8814; and
297 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter
298 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form
299 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income
300 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
301 8814.
302 (b) The amount of a child's income added to adjusted gross income under Subsection
303 (1)(c) is equal to the difference between:
304 (i) the lesser of:

305 (A) the base amount specified on Form 8814; and
306 (B) the sum of the following reported on Form 8814:
307 (I) the child's taxable interest;
308 (II) the child's ordinary dividends; and
309 (III) the child's capital gain distributions; and
310 (ii) the amount not taxed that is specified on Form 8814.
311 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences
312 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be
313 added to federal taxable income of a resident or nonresident individual if, as annually
314 determined by the commission:
315 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the
316 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
317 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
318 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose
319 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
320 this state:
321 (i) the entity; or
322 (ii) (A) the state in which the entity is located; or
323 (B) the District of Columbia, if the entity is located within the District of Columbia.
324 Section 2. **Retrospective operation.**
325 This bill has retrospective operation for taxable years beginning on or after January 1,
326 2007.

Fiscal Note**H.B. 43 2nd Sub. (Gray) - Individual Income Tax Subtractions for Insurance
Relating to Medical Care**

2007 General Session

State of Utah

State Impact

Enactment of this bill could reduce the Education Fund by \$7,300,000 in FY 2008 and by \$7,665,000 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	(\$7,300,000)	(\$7,665,000)
Total	\$0	\$0	\$0	\$0	(\$7,300,000)	(\$7,665,000)

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.