

## HB0355S02 compared with HB0355S01

~~text~~ shows text that was in HB0355S01 but was deleted in HB0355S02.

Inserted text shows text that was not in HB0355S01 but was inserted into HB0355S02.

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Representative ~~Daniel McCay~~Steve Eliason proposes the following substitute bill:

### AMENDMENTS TO TAX LAW

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

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

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#### LONG TITLE

#### General Description:

This bill amends the state's income tax provisions.

#### Highlighted Provisions:

This bill:

- ▶ addresses the apportionment of business income for income tax purposes by:
  - phasing in a requirement that certain taxpayers use only the sales factor to calculate the fraction for apportioning business income to the state;
  - allowing an optional apportionment taxpayer to choose between a single sales factor and an equally weighted method to calculate the fraction for apportioning business income to the state; and
  - requiring an optional apportionment taxpayer that chooses to apportion business income using the single sales factor method to continue using the single sales

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factor method of apportionment in subsequent taxable years;

- ▶ provides a method for a taxpayer to determine if the taxpayer is an optional apportionment taxpayer;
- ▶ reduces the state's corporate and individual income tax rates;
- ▶ defines terms; ~~{ and }~~
- ▶ modifies the calculation of the taxpayer tax credit ~~{,}~~; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides retrospective operation.

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**59-7-104**, as repealed and reenacted by Laws of Utah 1993, Chapter 169

**59-7-110**, as last amended by Laws of Utah 2016, Chapters 311 and 323

**59-7-201**, as last amended by Laws of Utah 1993, Chapter 169

**59-7-302**, as last amended by Laws of Utah 2017, Chapters 181 and 268

**59-7-311**, as last amended by Laws of Utah 2016, Chapters 311 and 323

**59-7-312**, as last amended by Laws of Utah 2008, Chapter 283

**59-7-315**, as last amended by Laws of Utah 2008, Chapter 283

**59-10-104**, as last amended by Laws of Utah 2008, Chapter 389

**59-10-1018**, as last amended by Laws of Utah 2012, Chapter 295

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

Section 1. Section **59-7-104** is amended to read:

**59-7-104. Tax -- Minimum tax.**

(1) Each domestic and foreign corporation, except [~~those exempted~~] a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on [~~its~~] the corporation's Utah taxable income for the taxable year for the privilege of exercising [~~its~~] the corporation's corporate franchise or for the privilege of doing business in the state.

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- (2) The tax shall be [5%] ~~4.925%~~ 95% of a corporation's Utah taxable income.
- (3) The minimum tax a corporation shall pay under this chapter is \$100.

### Section 2. Section 59-7-110 is amended to read:

**59-7-110. Utah net ~~{losses}~~ loss -- ~~{Carryforwards}~~ Carryforward and ~~{carrybacks}~~ carryback -- Deduction.**

(1) ~~[The amount of Utah net loss that shall be carried]~~ A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry back or forward to offset income of another taxable year ~~[is determined]~~ as provided in this section.

~~[(2)(a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss.]~~

~~[(b)(i)]~~ (2) (a) Subject to the other provisions of this section, a taxpayer may:

(i) carry back a Utah net loss from a taxable year ~~[beginning on or after January 1, 1994, may be carried back]~~ for three taxable years preceding the taxable year of the loss; and ~~[carried]~~

(ii) carry forward a Utah net loss from a taxable year for 15 taxable years following the taxable year of the loss.

~~[(ii)]~~ (b) If ~~[an election is made to]~~ a taxpayer elects to forego the federal net operating loss carryback, the taxpayer may not carry back a Utah net loss ~~[is not eligible to be carried back]~~ unless the taxpayer makes an election ~~[is made]~~ for state purposes.

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss ~~[shall be carried]~~ to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that ~~[were applied or required to be applied]~~ a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(b), the amount of Utah net loss that ~~[shall be carried]~~ a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that ~~[were]~~ a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that ~~[were carried or]~~

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required to be carried ~~]~~ a taxpayer carried or was required to carry to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss ~~[carried]~~ that a taxpayer carries back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A taxpayer may carry forward a Utah net loss in excess of \$1,000,000 ~~[may be carried forward]~~.

(iii) A taxpayer may carry a remaining Utah net loss ~~[shall be available to be carried]~~ to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by ~~[+]~~

~~—~~ ~~(+)~~ ~~(+)~~ ~~(+)~~ dividing the total sales of the acquired corporation in this state during the

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taxable year by the total sales of the unitary group everywhere during the taxable year; ~~and~~ or

~~(H) if the unitary group elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2)(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by two; or~~

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311 ~~(3)~~ (2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state ~~;~~

~~(i) for that taxable year; and~~

~~(ii) in accordance with Section 59-7-311;~~

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section ~~(2)~~ 3. Section **59-7-201** is amended to read:

### **59-7-201. Tax -- Minimum tax.**

(1) There is imposed upon each corporation, except ~~those~~ a corporation that is exempt under Section 59-7-102 ~~[for each taxable year]~~, a tax upon ~~its~~ the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period ~~which~~ that the corporation is required to include in ~~its~~ the

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corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be [5%] ~~4.925%~~ 95% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 4. Section 59-7-302 is amended to read:

### **59-7-302. Definitions -- Determination of taxpayer status.**

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(i) NAICS Code 211120, Crude Petroleum Extraction;

(ii) NAICS Industry Group 2121, Coal Mining;

(iii) NAICS Industry Group 2212, Natural Gas Distribution;

(iv) NAICS Subsector 311, Food Manufacturing;

(v) NAICS Industry Group 3121, Beverage Manufacturing;

(vi) NAICS Code 327310, Cement Manufacturing;

(vii) NAICS Subsector 482, Rail Transportation; or

(viii) NAICS Code 522110, Commercial Banking.

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~~[(g)]~~ [(h)] (i) Except as provided in Subsection (1) ~~[(g)]~~ [(h)](ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(27) owned by an air charter service or an air contract service.

~~[(h)]~~ [(i)] "Nonbusiness income" means all income other than business income.

~~[(i)]~~ Subject to Subsection (2), "optional sales factor weighted taxpayer" means: [(i)]

~~[(i)]~~ for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or [(i)]

~~[(ii)]~~ for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget. ~~{~~

~~[(j)]~~ [(j)]

[(j)] "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

[(k)] "Phased-in sales factor weighted taxpayer" means a taxpayer that:

[(i)] is not a sales factor weighted taxpayer;

[(ii)] does not meet the definition of an optional apportionment taxpayer; or

[(iii)] for a taxable year beginning on or after January 1, 2020:

(A) meets the definition of an optional apportionment taxpayer; and

(B) apportioned business income using the method described in Subsection

59-7-311(4) during the previous taxable year.

~~[(l)]~~ [(l)] "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

~~[(k)]~~ [(m)] "Sales" means all gross receipts of the taxpayer not allocated under Sections

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59-7-306 through 59-7-310.

~~[(t)]~~ [(n)] ~~Subject to Subsection (2), "sales~~ "Sales factor weighted taxpayer" means ~~[(a)]~~ a taxpayer described in Subsection (2).

~~[(i)]~~ for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

~~[(A)]~~ a NAICS code within NAICS Sector 21, Mining;

~~[(B)]~~ a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

~~[(C)]~~ a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS Code 336111, Automobile Manufacturing;

~~[(D)]~~ a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

~~[(E)]~~ a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector 519, Other Information Services; or

~~[(F)]~~ a NAICS code within NAICS Sector 52, Finance and Insurance; or

~~[(ii)]~~ for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F);

~~[(m)]~~ [(o)] "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

~~[(n)]~~ [(p)] "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

~~[(o)]~~ [(q)] "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

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- (i) during the airline's tax period; and
- (ii) from flight stages that originate or terminate in this state.

~~[(2) The following apply to Subsections (1)(i) and (1):]~~

~~[(a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.†~~

~~— [(ii)†]~~

(2) (a) A taxpayer is a sales factor weighted taxpayer if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except NAICS Code 336111, Automobile Manufacturing;

(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

~~[(ii) (b) A taxpayer shall [make the determination required by Subsection (2)(a)(i)] determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.~~

~~[(iii) (c) For purposes of making the determination required by Subsection (2)(a)[(†)], total sales everywhere include only the total sales everywhere:~~

~~[(A) (i) as determined in accordance with this part; and~~

~~[(B) (ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)†(†).~~

~~— [(†)].~~

(3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.

(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

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(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (3)(b)(i); and

(iii) divide the sum calculated in Subsection (3)(b)(ii):

(A) except as provided in Subsection (3)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

~~[(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an optional sales factor weighted taxpayer.]~~

~~[(B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the apportionment options described in Subsection 59-7-311(4).]~~

~~[(ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make the determination before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.]~~

~~[(iii) For purposes of making the determination described in Subsection (2)(b)(i), total sales everywhere include only the total sales everywhere:]~~

~~[(A) as determined in accordance with this part; and]~~

~~[(B) made during the taxable year for which a taxpayer makes a determination described in Subsection (2)(b)(i).]~~

~~[(c)] (4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.~~

~~[(d)] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.~~

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### Section 5. Section 59-7-311 is amended to read:

#### **59-7-311. Method of apportionment of business income.**

(1) For a taxable year, a taxpayer shall apportion all business income ~~[shall be apportioned]~~ to this state by multiplying the business income by a fraction calculated as provided in this section.

~~[(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor weighted taxpayer and an optional sales factor weighted taxpayer, shall calculate the fraction for apportioning business income to this state using one of the following fractions:]~~

~~[(a) a fraction where:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the sales factor as calculated under Section 59-7-317; and]~~

~~[(ii) the denominator of the fraction is three; or]~~

~~[(b) a fraction where:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and]~~

~~[(ii) the denominator of the fraction is four.]~~

~~[(3)]~~ (2) Subject to the other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:

(a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and

(b) the denominator of the fraction is one.

[(4)] (3) Subject to the other provisions of this part, an optional [sales factor weighted] apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using [a method described in Subsection (2)(a), (2)(b), or (3)]. one of the following fractions:

(a) the fraction described in Subsection (4); or

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(b) the fraction where:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317; and

(ii) the denominator of the fraction is three.

(4) (a) Subject to ~~the~~ other provisions of this part, ~~an optional~~ a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state ~~using a method described~~ as provided in ~~Subsection~~ Subsections ~~(2)(a), (2)4(b), or (3)~~:

~~3~~ through (d).

(b) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Subsection (4)(e)(i); and

(ii) the denominator of the fraction is six.

(c) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Subsection (4)(e)(ii); and

(ii) the denominator of the fraction is 10.

(d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor weighted taxpayer shall calculate the fraction as described in Subsection (2).

(e) (i) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019, the sales factor shall be:

(A) calculated as described in Section 59-7-317; and

(B) multiplied by four.

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(ii) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020, the sales factor shall be:

(A) calculated as described in Section 59-7-317; and

(B) multiplied by eight.

(5) (a) The taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(b) The method described in Subsection (5)(a) is in effect for the taxable year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by ~~Subsections (2) and (4)~~ Subsection (3).

Section 6. Section 59-7-312 is amended to read:

**59-7-312. Property factor for apportionment of business income -- Mobile flight equipment of an airline.**

(1) Except as provided in ~~Subsection (2)~~ Subsections (2) and (3), the property factor is a fraction~~;~~:

(a) the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period~~;~~ and

(b) the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~determining the product of~~ multiplying:

(a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and

(b) a fraction~~;~~:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type~~;~~ and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection (3)(b), the property factor is a fraction:

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(i) the numerator of which is the value of the property in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the value of all property in this state.

(b) A taxpayer shall exclude property from the calculation of the property factor fraction described in Subsection (3)(a) if the property may be attributed to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

Section 7. Section 59-7-315 is amended to read:

**59-7-315. Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.**

(1) Except as provided in ~~Subsection (2)~~ Subsections (2) and (3), the payroll factor is a fraction~~[-];~~:

(a) the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation[-]; and

(b) the denominator of which is the total compensation paid everywhere during the tax period.

(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~determining the product of~~ multiplying:

(a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and

(b) a fraction~~[-];~~:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection (3)(b), the payroll factor is a fraction:

(i) the numerator of which is the amount of the payroll in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the total amount of the payroll in this state.

(b) A taxpayer engaged in economic activities that are classified in an excluded NAICS code shall exclude an individual's payroll from the calculation of the payroll factor fraction

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described in Subsection (3)(a) if the individual's payroll may be attributed:

(i) to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes; or

(ii) to providing management, information technology, finance, accounting, legal, or human resource services.

Section ~~{3}~~8. Section **59-10-104** is amended to read:

### **59-10-104. Tax basis -- Tax rate -- Exemption.**

(1) [~~For taxable years beginning on or after January 1, 2008, a~~] A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~5%~~] 4. ~~{925%}~~95%.

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

Section ~~{4}~~9. Section **59-10-1018** is amended to read:

### **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

(1) As used in this section:

~~[(a) "Dependent adult with a disability" means an individual who:]~~

~~[(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;]~~

~~[(ii) is not the claimant or the claimant's spouse; and]~~

~~[(iii) is:]~~

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

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

~~[(C) not enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301.]~~

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

~~[(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the~~

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claimant's federal individual income tax return for the taxable year;]

~~[(ii) is not the claimant or the claimant's spouse; and]~~

~~[(iii) is:]~~

~~[(A) an eligible student with a disability; or]~~

~~[(B) identified under guidelines of the Department of Health as qualified for Early Intervention or Infant Development Services.]~~

~~[(c) "Eligible student with a disability" means an individual who is:]~~

~~[(i) diagnosed by a school district representative under rules the State Board of Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as having a disability classified as autism, deafness, preschool developmental delay, dual sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment;]~~

~~[(ii) not receiving residential services from the Division of Services for People with Disabilities created under Section 62A-5-102 or a school established under Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind; and]~~

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

~~[(B) a recipient of a scholarship awarded under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.]~~

~~[(d)] (a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.~~

~~[(e)] (b) "Joint filing status" means:~~

~~(i) [a husband and wife] spouses who file a single return jointly under this chapter for a taxable year; or~~

~~(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.~~

~~[(f)] (c) "Single filing status" means:~~

~~(i) a single individual who files a single federal individual income tax return for the taxable year; or~~

~~(ii) a married individual who:~~

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(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(d) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) \$10,000.

(e) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to ~~[the sum of]:~~

(a) ~~[(i)]~~ for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

~~[(ii)]~~ (b) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, ~~[the product of:]~~ 6% of the amount of the claimant's Utah itemized deduction.

~~[(A) the difference between:]~~

~~[(i) the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and]~~

~~[(ii) any amount of state or local income taxes the claimant deducts as allowed as an~~

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~~itemized deduction on the claimant's federal individual income tax return for that taxable year; and]~~

~~[(B) 6%; and]~~

~~[(b) the product of:]~~

~~[(i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year, plus an additional 75% of the amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year with respect to each dependent adult with a disability or dependent child with a disability; and]~~

~~[(ii) 6%.]~~

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For ~~[taxable years]~~ a taxable year beginning on or after January 1, 2009, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer

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price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section ~~{5}~~10. **Retrospective operation and effective date.**

~~{This}~~(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

(2) The amendments to Sections 59-7-110, 59-7-302, 59-7-311, 59-7-312, and 59-7-315 take effect for a taxable year beginning on or after January 1, 2019.