

Senator Curtis S. Bramble proposes the following substitute bill:

PROPERTY TAX AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of incremental value to include project areas created under Title 11, Chapter 58, Utah Inland Port Authority Act; Title 63H, Chapter 1, Military Installation Development Authority Act; and Title 63N, Chapter 2, Part 5, New Convention Facility Development Incentives;
- ▶ defines related terms;
- ▶ modifies the definitions of charitable purposes, educational purposes, and exclusive use for purposes of claiming a property tax exemption;
- ▶ provides activities that exclude a person from claiming an exemption for charitable purposes, educational purposes, or religious purposes; and
- ▶ changes the effective date of Section [59-2-1101](#) in S.B. 263, Property Tax Definition Amendment, Chapter 496, 2019 General Session.

Money Appropriated in this Bill:

None

Other Special Clauses:



This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-924, as last amended by Laws of Utah 2018, Chapters 101, 368, and 415

59-2-1101 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 453 and 496

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

Uncodified Section 2, Laws of Utah 2019, Chapter 496

This uncodified section affects Section **59-2-1101** (Effective 07/01/20).

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

Section 1. Section **59-2-924** is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section [17C-1-102](#).

~~(b)~~ (c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

(iv) for a host local government, the same as that term is defined in Section 63N-2-502.

~~[(e)]~~ (e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

~~[(f)]~~ (f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal

property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

~~[(e)]~~ (g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

~~[(f)]~~ (h) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(i) "Host local government" means the same as that term is defined in Section [63N-2-502](#).

(j) "Hotel property" means the same as that term is defined in Section [63N-2-502](#).

(k) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(l) "Incremental property tax revenue" means the same as that term is defined in Section [63N-2-502](#).

~~[(g)]~~ (m) "Incremental value" means ~~[the same as that term is defined in Section [17C-1-102](#)];~~

(i) for an authority created under Section [11-58-201](#), the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for an agency created under Section [17C-1-201.5](#), the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property

located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iii) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

(iv) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

~~[(h)]~~ (n) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

~~[(i)]~~ (o) "Project area" means ~~[the same as that term is defined in Section 17C-1-102.];~~

(i) for an authority created under Section [11-58-201](#), the same as that term is defined in Section [11-58-102](#);

(ii) for an agency created under Section [17C-1-201.5](#), the same as that term is defined in Section [17C-1-102](#); or

(iii) for an authority created under Section [63H-1-201](#), the same as that term is defined in Section [63H-1-102](#).

~~[(j)]~~ (p) "Project area new growth" means ~~[an amount equal to the incremental value that is no longer provided to an agency as tax increment.]:~~

(i) for an authority created under Section [11-58-201](#), an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for an agency created under Section [17C-1-201.5](#), an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

(iii) for an authority created under Section [63H-1-201](#), an amount equal to the incremental value that is no longer provided to an authority as property tax allocation.

(q) "Property tax allocation" means the same as that term is defined in Section [63H-1-102](#).

(r) "Property tax differential" means the same as that term is defined in Section [11-58-102](#).

(s) "Tax increment" means the same as that term is defined in Section [17C-1-102](#).

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

181 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be
182 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the
183 prior year by the amount calculated under Subsection (4)(b).

184 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall
185 calculate an amount as follows:

186 (i) calculate for the taxing entity the difference between:

187 (A) the aggregate taxable value of all property taxed; and

188 (B) any adjustments for current year incremental value;

189 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount
190 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the
191 average of the percentage net change in the value of taxable property for the equalization
192 period for the three calendar years immediately preceding the current calendar year;

193 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product
194 of:

195 (A) the amount calculated under Subsection (4)(b)(ii); and

196 (B) the percentage of property taxes collected for the five calendar years immediately
197 preceding the current calendar year; and

198 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount
199 determined by:

200 (A) multiplying the percentage of property taxes collected for the five calendar years
201 immediately preceding the current calendar year by eligible new growth; and

202 (B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount
203 calculated under Subsection (4)(b)(iii).

204 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be
205 calculated as follows:

206 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax
207 rate is zero;

208 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

209 (i) in a county of the first, second, or third class, the levy imposed for municipal-type
210 services under Sections 17-34-1 and 17-36-9; and

211 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county

purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that

exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 2. Section 59-2-1101 (Effective 07/01/20) is amended to read:

59-2-1101 (Effective 07/01/20). Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

~~[(a) (i) "Educational purposes" means the same as that term is used in Section 501(c)(3), Internal Revenue Code, and interpreted according to federal law.]~~

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection ~~[(1)(a)(i)]~~ (1)(b)(ii).

~~[(b)]~~ (c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for ~~[religious, charitable, or educational purposes:]~~ one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(d) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

~~[(e)]~~ (e) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

~~[(d)]~~ (f) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose;

(C) that does not receive income from any source, including gifts, donations, or payments from recipients of products or services, that produces a profit to the entity in the sense that the income exceeds operating and long-term maintenance expenses; and

(D) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity ~~[if the]~~:

(i) if the entity is:

(A) treated as a disregarded entity for federal income tax purposes; and

~~[(ii) entity is]~~ (B) wholly owned by, and controlled under the direction of, a nonprofit entity; and

~~[(iii)]~~ (ii) for which none of the net earnings and profits of the entity [irrevocably] inure to the benefit of any person other than a nonprofit entity.

~~[(e)]~~ (g) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional

tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in

Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed

Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity

used exclusively for one or more of the following purposes:

(A) religious[;] purposes;

(B) charitable[;] purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section

11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

~~[(6)]~~ (8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

~~[(7)]~~ (9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection ~~[(6)]~~ (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 3. **Uncodified Section 2, Laws of Utah 2019, Chapter 496** is amended to read:

Section 2. **Effective date.**

This bill takes effect on ~~[July 1, 2020]~~ January 1, 2021.

Section 4. **Retrospective operation.**

Section 59-2-924 has retrospective operation to January 1, 2020.

Section 5. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The changes in this bill to Section 59-2-1101 (Effective 07/01/20) take effect on January 1, 2021.

TANGIBLE PERSONAL PROPERTY TAX REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

LONG TITLE**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 12 voting for 0 voting against 7 absent

General Description:

This bill amends provisions related to tax exemptions for tangible personal property.

Highlighted Provisions:

This bill:

14a **§→** ► modifies the requirements for qualifying for a property tax exemption for tangible
14b personal property owned by a business; and **←§**

15 ► modifies the calculation of the inflation adjustment that applies to the property tax
16 exemption for tangible personal property that has an aggregate taxable value of
17 \$15,000 or less.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1115, as last amended by Laws of Utah 2019, Chapter 463

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

Section 1. Section **59-2-1115** is amended to read:

59-2-1115. Exemption of certain tangible personal property.

(1) For purposes of this section:

(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal property into service; and

(ii) includes:

(A) the purchase price for a new or used item;

(B) the cost of freight and shipping;

(C) the cost of installation, engineering, erection, or assembly; and

(D) sales and use taxes.

(b) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(c) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used:

(I) on a public highway;

(II) on a public waterway;

(III) on public land; or

(IV) in the air;

(B) a mobile home as defined in Section [41-1a-102](#); or

(C) a manufactured home as defined in Section [41-1a-102](#).

(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of \$15,000 or less.

(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible personal property, except for an item of noncapitalized personal property as defined in Section [59-2-108](#), is exempt from taxation if the item of taxable tangible personal property:

(i) has an acquisition cost of \$1,000 or less;

(ii) has reached a percent good of 15% or less according to a personal property schedule published by the commission pursuant to Section 59-2-107; and

(iii) is in a personal property schedule with a residual value of 15% or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(a) or (b), the item is exempt from taxation if:

(i) ~~the item is owned by a business and is not critical to the actual business operation of~~ ~~the business;~~ ~~and~~ ~~or~~

(B) beginning January 1, 2021, the item is owned by a business; and ~~the~~

(ii) the acquisition cost of the item is ~~\$1,000 or less;~~

~~or~~ **(A)** ~~less than \$150~~ ~~or~~

(B) beginning January 1, 2021, less than \$500. ~~the~~

(3) (a) For calendar years beginning on or after January 1, [2015] 2021, the commission shall increase the dollar amount described in Subsection (2)(a):

(i) 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 [2013] 2019; and

(ii) up to the nearest \$100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(a) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(a).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(a) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a

signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(b) or (c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 2. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. **Retrospective operation.**

Ŝ→ [~~This bill has~~] **The actions affecting Subsection 59-2-1115(3) have** ←Ŝ retrospective operation Ŝ→ [~~for a taxable year beginning on or after~~] to ←Ŝ January 1, 2020.

PROPERTY TAX NOTICE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to certain tax notices.

Highlighted Provisions:

This bill:

- ▶ allows a person entitled to receive information or notice related to a property tax or privilege tax to designate an additional **§→ or alternative ←§** person to receive the information or notice;

- ▶ provides procedures to designate a person and to revoke a designation; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-4-101, as last amended by Laws of Utah 2016, Chapter 366

ENACTS:

59-2-110, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-2-110** is enacted to read:

59-2-110. Designation of person to receive notice.

(1) ~~§~~→ (a) ~~←~~§ ~~§~~→ [H] Except as provided in Subsection (1)(b), if ~~←~~§ a governmental entity is required under this chapter to send information or notice to a person, the governmental entity shall send the information or notice to:

~~§~~→ [a] (i) ~~←~~§ the person required under the applicable provision of this chapter; and
~~§~~→ [b] (ii) ~~←~~§ each person designated in accordance with Subsection (2) by the person described
in Subsection (1)(a) ~~§~~→ (i) ~~←~~§ .

~~§~~→ (b) If a governmental entity is required under Section 59-2-919, 59-2-919.1, or 59-2-1317 to send information or notice to a person, the governmental entity shall send the information or notice to:

(i) the person required under the applicable section; or
(ii) one person designated in accordance with Subsection (2) by the person described in Subsection (1)(b)(i). ~~←~~§

(2) (a) A person to whom a governmental entity is required under this chapter to send information or notice may designate a person to receive the information or notice ~~§~~→ in accordance with Subsection (1) ~~←~~§ .

(b) To make a designation described in Subsection (2)(a), the person shall submit a written request to the governmental entity on a form prescribed by the commission.

(3) A person who makes a designation described in Subsection (2) may revoke the designation by submitting a written request to the governmental entity on a form prescribed by the commission.

Section 2. Section **59-4-101** is amended to read:

59-4-101. Tax basis -- Exceptions -- Assessment and collection -- Designation of person to receive notice.

(1) (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property that is exempt for any reason from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from

53 taxation under Section 59-2-1114.

54 (2) (a) The tax imposed under this chapter is the same amount that the ad valorem
55 property tax would be if the possessor or user were the owner of the property.

56 (b) The amount of any payments that are made in lieu of taxes is credited against the
57 tax imposed on the beneficial use of property owned by the federal government.

58 (3) A tax is not imposed under this chapter on the following:

59 (a) the use of property that is a concession in, or relative to, the use of a public airport,
60 park, fairground, or similar property that is available as a matter of right to the use of the
61 general public;

62 (b) the use or possession of property by a religious, educational, or charitable
63 organization;

64 (c) the use or possession of property if the revenue generated by the possessor or user
65 of the property through its possession or use of the property inures only to the benefit of a
66 religious, educational, or charitable organization and not to the benefit of any other person;

67 (d) the possession or other beneficial use of public land occupied under the terms of an
68 agricultural lease or permit issued by the United States or this state;

69 (e) the use or possession of any lease, permit, or easement unless the lease, permit, or
70 easement entitles the lessee or permittee to exclusive possession of the premises to which the
71 lease, permit, or easement relates;

72 (f) the use or possession of property by a public agency, as defined in Section
73 11-13-103, to the extent that the ownership interest of the public agency in that property is
74 subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

75 (g) the possession or beneficial use of public property as a tollway by a private entity
76 through a tollway development agreement as defined in Section 72-6-202.

77 (4) For purposes of Subsection (3)(e):

78 (a) every lessee, permittee, or other holder of a right to remove or extract the mineral
79 covered by the holder's lease, right permit, or easement, except from brines of the Great Salt
80 Lake, is considered to be in possession of the premises, regardless of whether another party has
81 a similar right to remove or extract another mineral from the same property; and

82 (b) a lessee, permittee, or holder of an easement still has exclusive possession of the
83 premises if the owner has the right to enter the premises, approve leasehold improvements, or
84 inspect the premises.

85 (5) A tax imposed under this chapter is assessed to the possessors or users of the
86 property on the same forms, and collected and distributed at the same time and in the same
87 manner, as taxes assessed owners, possessors, or other claimants of property that is subject to
88 ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt
89 property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

90 ~~(6) (a)~~ ~~§~~ ~~→~~ ~~(i)~~ ~~←~~ ~~§~~ ~~→~~ ~~[H]~~ Except as provided in Subsection (6)(a)(ii), if ~~←~~ ~~§~~ a
90a governmental entity is required under this chapter to send information or
91 notice to a person, the governmental entity shall send the information or notice to:
92 ~~§~~ ~~→~~ ~~[(i)]~~ (A) ~~←~~ ~~§~~ the person required under the applicable provision of this chapter; and
93 ~~§~~ ~~→~~ ~~[(ii)]~~ (B) ~~←~~ ~~§~~ each person designated in accordance with Subsection (6)(b) by the person
94 described in Subsection (6)(a)(i) ~~§~~ ~~→~~ (A) ~~←~~ ~~§~~ .
94a ~~§~~ ~~→~~ (ii) If a governmental entity is required under Section 59-2-919.1 or 59-2-1317 to send
94b information or notice to a person, the governmental entity shall send the information or notice
94c to:
94d (A) the person required under the applicable section; or
94e (B) one person designated in accordance with Subsection (6)(b) by the person described
94f in Subsection (6)(a)(ii)(A). ~~←~~ ~~§~~
95 (b) (i) A person to whom a governmental entity is required under this chapter to send
96 information or notice may designate a person to receive the information or notice ~~§~~ ~~→~~ in
96a accordance with Subsection (6)(a) ~~←~~ ~~§~~ .
97 (ii) To make a designation described in Subsection (6)(b)(i), the person shall submit a
98 written request to the governmental entity on a form prescribed by the commission.
99 (c) A person who makes a designation described in Subsection (6)(b) may revoke the
100 designation by submitting a written request to the governmental entity on a form prescribed by
101 the commission.
102 ~~[(6)]~~ (7) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax
103 under this chapter.

Representative Carl R. Albrecht proposes the following substitute bill:

TRANSIENT ROOM TAX PROVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the transient room tax.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies expenditure requirements for certain counties that impose a transient room tax;
- ▶ requires a county that imposes a transient room tax to include certain expenditure information in the county's annual report;
- ▶ allows a county auditor to coordinate with the State Tax Commission in determining whether to require an audit of any person that is required to remit a transient room tax;
- ▶ removes certain time limitations applicable to a municipality's authority to impose a transient room tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- ▶ to the State Tax Commission -- Tax Administration -- as an ongoing appropriation:



- from the General Fund Restricted - Sales and Use Tax Admin. Fees, \$264,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-31-2, as last amended by Laws of Utah 2019, Chapters 136 and 304

17-31-5.5, as last amended by Laws of Utah 2019, Chapter 304

59-12-118, as last amended by Laws of Utah 1994, Chapter 259

59-12-302, as last amended by Laws of Utah 2018, Chapters 258 and 312

59-12-353, as last amended by Laws of Utah 2015, Chapter 258

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

Section 1. Section **17-31-2** is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

(b) "Airport" means the same as that term is defined in Section [72-10-102](#).

(c) "Airport authority" means the same as that term is defined in Section [72-10-102](#).

(d) "Airport operator" means the same as that term is defined in Section [72-10-102](#).

(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.

(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a) during fiscal year 2018-19.

~~(a)~~ (g) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section [59-12-401](#).

(h) "Emergency medical services provider" means an eligible town, a local district, or a

57 special service district.

58 ~~[(b)]~~ (i) "Town" means a municipality that is classified as a town in accordance with
59 Section 10-2-301.

60 ~~[(c)]~~ (i) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by
61 Section 59-12-301.

62 (2) ~~[Any]~~ Subject to the requirements of this section, a county legislative body may
63 impose the transient room tax for the purposes of:

64 (a) establishing and promoting recreation, tourism, film production, and conventions;

65 (b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

66 (i) convention meeting rooms;

67 (ii) exhibit halls;

68 (iii) visitor information centers;

69 (iv) museums;

70 (v) sports and recreation facilities including practice fields, stadiums, and arenas; ~~[and]~~

71 (vi) related facilities;

72 (vii) if a national park is located within or partially within the county, the following on
73 any route designated by the county legislative body:

74 (A) transit service, including shuttle service; and

75 (B) parking infrastructure; and

76 (viii) an airport, if:

77 (A) the county is a county of the fourth, fifth, or sixth class; and

78 (B) the county is the airport operator of the airport;

79 (c) acquiring land, leasing land, or making payments for construction or infrastructure
80 improvements required for or related to the purposes listed in Subsection (2)(b); ~~[and]~~

81 (d) as required to mitigate the impacts of recreation, tourism, or conventions in
82 counties of the fourth, fifth, and sixth class, paying for:

83 (i) solid waste disposal operations;

84 (ii) emergency medical services;

85 (iii) search and rescue activities;

86 (iv) law enforcement activities; and

87 (v) road repair and upgrade of:

88 (A) class B roads, as defined in Section 72-3-103;
89 (B) class C roads, as defined in Section 72-3-104; or
90 (C) class D roads, as defined in Section 72-3-105[:]; and
91 (e) making the annual payment of principal, interest, premiums, and necessary reserves
92 for any of the aggregate of bonds authorized under Subsection (5).

93 (3) (a) The county legislative body of a county that imposes a transient room tax at a
94 rate of 3% or less may expend the revenue generated as provided in Subsection (4), after
95 making any reduction required by Subsection (6).

96 (b) The county legislative body of a county that imposes a transient room tax at a rate
97 that exceeds 3% or increases the rate of transient room tax above 3% may expend:

98 (i) the revenue generated from the transient room tax at a rate of 3% as provided in
99 Subsection (4), after making any reduction required by Subsection (6); and

100 (ii) the revenue generated from the portion of the rate that exceeds 3%:

101 (A) for any combination of the purposes described in Subsections (2) and (5); and

102 (B) regardless of the limitation on expenditures for the purposes described in
103 Subsection (4).

104 (4) Subject to Subsection (6), a county may not expend more than 1/3 of the revenue
105 generated by a rate of transient room tax that does not exceed 3%, for any combination of the
106 ~~[following purposes:]~~ purposes described in Subsections (2)(b) through (2)(e).

107 ~~[(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:]~~

108 ~~[(A) convention meeting rooms;]~~

109 ~~[(B) exhibit halls;]~~

110 ~~[(C) visitor information centers;]~~

111 ~~[(D) museums;]~~

112 ~~[(E) sports and recreation facilities including practice fields, stadiums, and arenas; and]~~

113 ~~[(F) related facilities; and]~~

114 ~~[(ii) acquiring land, leasing land, or making payments for construction or infrastructure~~
115 ~~improvements required for or related to the purposes described in Subsection (4)(a)(i);]~~

116 ~~[(b) as required to mitigate the impacts of recreation, tourism, or conventions in~~
117 ~~counties of the fourth, fifth, and sixth class, to pay for:]~~

118 ~~[(i) solid waste disposal operations;]~~

119 ~~[(ii) emergency medical services;]~~
120 ~~[(iii) search and rescue activities;]~~
121 ~~[(iv) law enforcement activities; and]~~
122 ~~[(v) road repair and upgrade of.]~~
123 ~~[(A) class B roads, as defined in Section 72-3-103;]~~
124 ~~[(B) class C roads, as defined in Section 72-3-104; or]~~
125 ~~[(C) class D roads, as defined in Section 72-3-105; or]~~
126 ~~[(c) making the annual payment of principal, interest, premiums, and necessary~~
127 ~~reserves for any or the aggregate of bonds authorized under Subsection (5).]~~

128 (5) (a) The county legislative body may issue bonds or cause bonds to be issued, as
129 permitted by law, to pay all or part of any costs incurred for the purposes set forth in
130 ~~[Subsection (4)(a) or (b)]~~ Subsections (2)(b) through (2)(d) that are permitted to be paid from
131 bond proceeds.

132 (b) If a county legislative body does not need the revenue generated by the transient
133 room tax for payment of principal, interest, premiums, and reserves on bonds issued as
134 provided in Subsection ~~[(4)(c)]~~ (2)(e), the county legislative body shall expend that revenue for
135 the purposes described in Subsection (2), subject to the limitation of Subsection (4).

136 (6) (a) In addition to the purposes described in Subsection (2), a county legislative
137 body may expend up to 4% of the total revenue generated by a transient room tax to pay a
138 provider for emergency medical services in one or more eligible towns.

139 ~~[(b) An emergency medical services provider means an eligible town, a local district,~~
140 ~~or a special service district.]~~

141 ~~[(c)]~~ (b) A county legislative body shall reduce the amount that the county is
142 authorized to expend for the purposes described in Subsection (4) by subtracting the amount of
143 transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of
144 revenue described in Subsection (4).

145 (7) (a) A county legislative body in a county of the fourth, fifth, or sixth class shall
146 expend the revenue generated by a transient room tax as follows:

147 (i) an amount equal to the county's base year promotion expenditure for the purpose
148 described in Subsection (2)(a);

149 (ii) an amount equal to the difference between the county's base year revenue and the

county's base year promotion expenditure in accordance with Subsections (3) through (6); and

(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a); and

(B) subject to Subsection (7)(b), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(b) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.

(b) A county legislative body in a county of the fourth, fifth, or sixth class may not:

(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or

(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

(c) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

(d) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

(i) Subsections (7)(a) through (c) do not apply; and

(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).

Section 2. Section **17-31-5.5** is amended to read:

17-31-5.5. Report to county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section [59-12-301](#) or a tourism, recreation, cultural, convention, and airport facilities tax under Section [59-12-603](#) shall prepare annually a report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

181 (C) film production; and
182 (D) conventions;
183 (ii) acquiring, leasing, constructing, furnishing, or operating:
184 (A) convention meeting rooms;
185 (B) exhibit halls;
186 (C) visitor information centers;
187 (D) museums; and
188 (E) related facilities;
189 (iii) acquiring or leasing land required for or related to the purposes listed in
190 Subsection (2)(a)(ii);
191 (iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and
192 (v) making the annual payment of principal, interest, premiums, and necessary reserves
193 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
194 17-31-2[(4)(c)] (2)(e) and (5)(a); and
195 (b) for the tourism, recreation, cultural, convention, and airport facilities tax,
196 identification of expenditures for:
197 (i) financing tourism promotion, which means an activity to develop, encourage,
198 solicit, or market tourism that attracts transient guests to the county, including planning,
199 product development, and advertising;
200 (ii) the development, operation, and maintenance of the following facilities as defined
201 in Section 59-12-602:
202 (A) an airport facility;
203 (B) a convention facility;
204 (C) a cultural facility;
205 (D) a recreation facility; and
206 (E) a tourist facility; and
207 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).
208 (3) For the transient room tax, the report described in Subsection (1) shall include a
209 breakdown of each expenditure described in Subsection (2)(a)(i), including:
210 (a) whether the expenditure was used for in-state and out-of-state promotion efforts;
211 (b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

~~[(3)]~~ (4) A county legislative body shall provide a copy of the report described in Subsection (1) to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Development;

(b) its tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 3. Section **59-12-118** is amended to read:

59-12-118. Commission's authority to administer sales and use tax.

Except as provided in ~~[Section]~~ Sections 59-12-209 and 59-12-302, the commission shall have exclusive authority to administer, operate, and enforce the provisions of this chapter including:

(1) determining, assessing, and collecting any sales and use tax imposed pursuant to this chapter;

(2) representing each county, city, and town's interest in any administrative proceeding involving the state or local option sales and use tax;

(3) adjudicating any administrative proceedings involving the state or local option sales and use tax;

(4) waiving, reducing, or compromising any penalty and interest imposed in connection with any determination of state or local option sales or use tax; and

(5) prescribing forms and rules to conform with this chapter for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

Section 4. Section **59-12-302** is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in ~~[Subsection (2) or (3)]~~ Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(4) A county auditor may coordinate with the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

~~[(4)]~~ (5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 5. Section 59-12-353 is amended to read:

59-12-353. Additional municipal transient room tax.

~~[(1) Subject to the limitations of Subsection (2), the]~~ The governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:

~~[(a)]~~ (1) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

~~[(b)]~~ (2) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)~~[(a)]~~ to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

~~[(2) The governing body of a municipality may impose the tax under this section until the sooner of:]~~

~~[(a) the day on which the following have been paid in full:]~~

~~[(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and]~~

~~[(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); or]~~

~~[(b) 25 years from the day on which the municipality levied the tax under this section.]~~

274 Section 6. **Appropriation.**

275 The following sums of money are appropriated for the fiscal year beginning July 1,
276 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
277 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
278 Act, the Legislature appropriates the following sums of money from the funds or accounts
279 indicated for the use and support of the government of the state of Utah.

280 ITEM 1281 To State Tax Commission -- Tax Administration

282 From General Fund Restricted - Sales and Use Tax Admin. Fees \$264,000

283 Schedule of Programs:

284 Auditing Division \$140,000

285 Tax Payer Services \$124,000

286 The Legislature intends that the State Tax Commission use the appropriation under this
287 item to employ staff or purchase resources to ensure that persons in counties of the fourth, fifth,
288 and sixth class comply with the collection and remittance requirements of a transient room tax
289 authorized in Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus, and Section
290 [59-12-301](#).

ADMINISTRATIVE SECURITY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends security provisions for the tax commission.

Highlighted Provisions:

This bill:

- requires that a motor vehicle enforcement administrator provide security for the State Tax Commission in an area that restricts certain persons from transporting any firearm, ammunition, dangerous weapon, or explosive; and

- adds the State Tax Commission to the list of entities that may establish secure areas.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-3-105, as last amended by Laws of Utah 2018, Chapter 387

76-8-311.1, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

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

Section 1. Section **41-3-105** is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators



to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

(i) this chapter;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) any law concerning motor vehicle fraud; or

(iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can

59 be determined; and

60 (C) any other places of business operated and maintained by the applicant in
61 conjunction with the principal place of business;

62 (v) if the application is for a new motor vehicle dealer's license, the name of each
63 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of
64 the manufacturer or distributor who has enfranchised the applicant, and the name and address
65 of each individual who will act as a salesperson under authority of the license;

66 (vi) at least five years of business history;

67 (vii) the federal tax identification number issued to the dealer;

68 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
69 12, Sales and Use Tax Act; and

70 (ix) if the application is for a direct-sale manufacturer's license:

71 (A) the name of each line-make the applicant will sell, display for sale, or offer for sale
72 or exchange;

73 (B) the name and address of each individual who will act as a direct-sale manufacturer
74 salesperson under authority of the license;

75 (C) a complete description of the direct-sale manufacturer's authorized service center,
76 including the address and any other place of business the applicant operates and maintains in
77 conjunction with the authorized service center;

78 (D) a sworn statement that the applicant complies with each qualification for a
79 direct-sale manufacturer under this chapter;

80 (E) a sworn statement that if at any time the applicant fails to comply with a
81 qualification for a direct-sale manufacturer under this chapter, the applicant will inform the
82 division in writing within 10 business days after the day on which the noncompliance occurs;
83 and

84 (F) an acknowledgment that if the applicant fails to comply with a qualification for a
85 direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the
86 applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

87 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
88 Administrator, State of Utah," to authenticate the acts of the administrator's office.

89 (6) (a) The administrator may require that a licensee erect or post signs or devices on

the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

(9) The administrator shall provide security for an area within the commission designated as a secure area under Section 76-8-311.1.

~~[(9)]~~ (10) The administrator may contract with a public prosecutor to provide additional prosecution of this chapter.

Section 2. Section **76-8-311.1** is amended to read:

76-8-311.1. Secure areas -- Items prohibited -- Penalty.

(1) In addition to the definitions in Section 76-10-501, as used in this section:

(a) "Correctional facility" has the same meaning as defined in Section 76-8-311.3.

(b) "Explosive" has the same meaning as defined for "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(c) "Law enforcement facility" means a facility which is owned, leased, or operated by a law enforcement agency.

(d) "Mental health facility" has the same meaning as defined in Section 62A-15-602.

(e) (i) "Secure area" means any area into which certain persons are restricted from transporting any firearm, ammunition, dangerous weapon, or explosive.

(ii) A "secure area" may not include any area normally accessible to the public.

(2) (a) A person in charge of the State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

(b) Subsections (2)(a), (3), (4), (5), and (6) apply to higher education secure area hearing rooms referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) At least one notice shall be prominently displayed at each entrance to an area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) Provisions shall be made to provide a secure weapons storage area so that persons entering the secure area may store their weapons prior to entering the secure area.

(b) The entity operating the facility shall be responsible for weapons while they are stored in the storage area.

(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.

(6) (a) Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony.

(b) Any person violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a secure area of a facility.

INCOME TAX REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Individual Income Tax Act.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies when a pass-through entity may receive an income tax extension without penalty;
- creates a new subtraction from adjusted gross income for certain distributions from a qualified retirement plan; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-103, as last amended by Laws of Utah 2019, Chapter 323

59-10-114, as last amended by Laws of Utah 2019, Chapter 412

59-10-516, as last amended by Laws of Utah 2010, Chapter 271

59-10-1403, as last amended by Laws of Utah 2017, Chapter 270



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) "Adjusted gross income":

(i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "Distributable net income" is as defined in Section 643, Internal Revenue Code.

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

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

(f) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(g) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

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

(h) "Guaranteed annuity interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

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

(j) "Individual" means a natural person and includes aliens and minors.

(k) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(l) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

(m) "Nonresident individual" means an individual who is not a resident of this state.

(n) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(o) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

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

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

(I) a trust;

(II) an estate; or

(III) a corporation.

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

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(o)(i).

(p) "Pass-through entity" means the same as that term is defined in Section [59-10-1402](#).

(q) "Pass-through entity taxpayer" means the same as that term is defined in Section [59-10-1402](#).

~~(r)~~ (r) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measured by:

(A) a fixed term of years; or
(B) the life of a person living on the day on which the trust is created;
(iii) under which:
(A) a portion of the value of the trust assets is distributed during the trust term:
(I) to an organization described in Section 170(c), Internal Revenue Code; and
(II) as a:
(Aa) guaranteed annuity interest; or
(Bb) unitrust interest; and
(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:
(I) designated in the trust; and
(II) that is not an organization described in Section 170(c), Internal Revenue Code;
(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and
(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

~~[(q)]~~ (s) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.

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

~~[(s)]~~ (u) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

~~[(t)]~~ (v) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:

(i) Section 59-10-202;
(ii) Section 59-10-207;
(iii) Section 59-10-209.1; or
(iv) Section 59-10-210.

~~[(u)]~~ (w) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided

by the difference between:

(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection ~~[(1)(u)(i)]~~ (1)(w)(i) is a servicemember, the compensation the servicemember receives for military service if the servicemember is serving in compliance with military orders.

~~[(v)]~~ (x) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

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

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection ~~[(1)(v)(i)(B)(i)]~~ (1)(x)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a servicemember, any compensation the servicemember receives for military service during the portion of the taxable year that the

servicemember is a nonresident if the servicemember is serving in compliance with military orders.

~~[(w)]~~ (y) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection ~~[(1)(w)(ii)(A)]~~ (1)(y)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

~~[(x)]~~ (z) "Taxpayer" means any ~~[individual, estate, trust, or beneficiary of an estate or trust,]~~ of the following that has income subject in whole or part to the tax imposed by this chapter[-]:

(i) an individual;

(ii) an estate, a trust, or a beneficiary of an estate or trust, that is not a pass-through entity or a pass-through entity taxpayer;

(iii) a pass-through entity; or

(iv) pass-through entity taxpayer.

~~[(y)]~~ (aa) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection ~~[(1)(y)(i)]~~ (1)(aa)(i) terminates.

~~[(z)]~~ (bb) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

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

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

~~[(aa)]~~ (cc) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

~~[(bb)]~~ (dd) "Unitrust interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

~~[(cc)]~~ (ee) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

~~[(dd)]~~ (ff) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

~~[(ee)]~~ (gg) "Wages" is as defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a

different meaning is clearly required.

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

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

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

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

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

(b) the amount of a child's income calculated under Subsection (4) that:

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

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

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections [31A-32a-105](#)(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection [31A-32a-105](#)(3); or

(iii) an amount required to be added to adjusted gross income in accordance with

Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was

276 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

277 (g) any distribution received by a resident beneficiary of a nonresident trust of
278 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
279 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
280 was not taxed at the trust level by any state, with undistributed distributable net income
281 considered to be distributed from the most recently accumulated undistributed distributable net
282 income; and

283 (h) any adoption expense:

284 (i) for which a resident or nonresident individual receives reimbursement from another
285 person; and

286 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
287 expense:

288 (A) on a return filed under this chapter for a taxable year beginning on or before
289 December 31, 2007; or

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

291 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
292 individual:

293 (a) the difference between:

294 (i) the interest or a dividend on an obligation or security of the United States or an
295 authority, commission, instrumentality, or possession of the United States, to the extent that
296 interest or dividend is:

297 (A) included in adjusted gross income for federal income tax purposes for the taxable
298 year; and

299 (B) exempt from state income taxes under the laws of the United States; and

300 (ii) any interest on indebtedness incurred or continued to purchase or carry the
301 obligation or security described in Subsection (2)(a)(i);

302 (b) for taxable years beginning on or after January 1, 2000, if the conditions of
303 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

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

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

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

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

(A) a state; or

(B) the District of Columbia; and

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

(d) the amount of a railroad retirement benefit:

(i) paid:

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

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

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

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year~~[-]; and~~

(j) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

- 369 (i) the taxpayer is a Ute tribal member; and
370 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
371 requirements of this Subsection (3).
- 372 (b) The agreement described in Subsection (3)(a):
373 (i) may not:
374 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
375 (B) provide a subtraction under this section greater than or different from the
376 subtraction described in Subsection (2)(b); or
377 (C) affect the power of the state to establish rates of taxation; and
378 (ii) shall:
379 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
380 (B) be in writing;
381 (C) be signed by:
382 (I) the governor; and
383 (II) the chair of the Business Committee of the Ute tribe;
384 (D) be conditioned on obtaining any approval required by federal law; and
385 (E) state the effective date of the agreement.
- 386 (c) (i) The governor shall report to the commission by no later than February 1 of each
387 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
388 in effect.
- 389 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
390 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
391 after the January 1 following the termination of the agreement.
- 392 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
393 Utah Administrative Rulemaking Act, the commission may make rules:
- 394 (i) for determining whether income is derived from a source within the Uintah and
395 Ouray Reservation; and
396 (ii) that are substantially similar to how adjusted gross income derived from Utah
397 sources is determined under Section [59-10-117](#).
- 398 (4) (a) For purposes of this Subsection (4), "Form 8814" means:
399 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

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

(i) the lesser of:

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

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

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

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

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

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

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

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

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

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

Section 3. Section **59-10-516** is amended to read:

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

(b) (i) For a return filed by a taxpayer except for a partnership, the extension under Subsection (1)(a) may not exceed six months.

(ii) For a return filed by a partnership, the extension under Subsection (1)(a) may not exceed five months.

(2) ~~[(a)]~~ Except as provided in Subsection ~~[(2)(b)]~~ (3), the commission may not impose ~~[on a taxpayer]~~ a penalty under Section 59-1-401 on:

(a) a pass-through entity during the extension period described under Subsection (1) if the pass-through entity pays, on or before the 15th day of the fourth month following the close of the pass-through entity's taxable year, the tax the pass-through entity pays or withholds on behalf of a pass-through entity taxpayer; or

(b) a taxpayer other than a taxpayer described in Subsection (2)(a) during the extension period prescribed under Subsection (1) ~~[a penalty under Section 59-1-401]~~ if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lesser of:

(i) 90% of the total tax reported on the return for the current taxable year; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the commission may apply to the total balance due a penalty as provided in Section 59-1-401.

~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a determination of qualification for a federal tax exemption due to residency outside of the United States, a taxpayer shall file a return within 30 days after that determination is made.

Section 4. Section **59-10-1403** is amended to read:

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by this chapter.

462 (2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or
463 credit of a pass-through entity shall be passed through to one or more pass-through entity
464 taxpayers as provided in this part.

465 (3) A pass-through entity is subject to the return filing requirements of Sections
466 59-10-507 [and], 59-10-514, and 59-10-516.

467 (4) For purposes of taxation under this title, a pass-through entity that transacts
468 business in the state shall be classified in the same manner as the pass-through entity is
469 classified for federal income tax purposes.

470 Section 5. **Retrospective operation.**

471 This bill has retrospective operation for a taxable year beginning on or after January 1,
472 2020.