

Representative Steve Eliason proposes the following substitute bill:

AMENDMENTS TO TAX LAW

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the state's income tax provisions.

Highlighted Provisions:

This bill:

- ▶ addresses the apportionment of business income for income tax purposes by:
 - phasing in a requirement that certain taxpayers use only the sales factor to calculate the fraction for apportioning business income to the state;
 - allowing an optional apportionment taxpayer to choose between a single sales factor and an equally weighted method to calculate the fraction for apportioning business income to the state; and
 - requiring an optional apportionment taxpayer that chooses to apportion business income using the single sales factor method to continue using the single sales factor method of apportionment in subsequent taxable years;
- ▶ provides a method for a taxpayer to determine if the taxpayer is an optional apportionment taxpayer;
- ▶ reduces the state's corporate and individual income tax rates;
- ▶ defines terms;
- ▶ modifies the calculation of the taxpayer tax credit; and



26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides retrospective operation.

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-7-104**, as repealed and reenacted by Laws of Utah 1993, Chapter 169

35 **59-7-110**, as last amended by Laws of Utah 2016, Chapters 311 and 323

36 **59-7-201**, as last amended by Laws of Utah 1993, Chapter 169

37 **59-7-302**, as last amended by Laws of Utah 2017, Chapters 181 and 268

38 **59-7-311**, as last amended by Laws of Utah 2016, Chapters 311 and 323

39 **59-7-312**, as last amended by Laws of Utah 2008, Chapter 283

40 **59-7-315**, as last amended by Laws of Utah 2008, Chapter 283

41 **59-10-104**, as last amended by Laws of Utah 2008, Chapter 389

42 **59-10-1018**, as last amended by Laws of Utah 2012, Chapter 295



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

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

46 **59-7-104. Tax -- Minimum tax.**

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

51 (2) The tax shall be [~~5%~~] 4.95% of a corporation's Utah taxable income.

52 (3) The minimum tax a corporation shall pay under this chapter is \$100.

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

54 **59-7-110. Utah net loss -- Carryforward and carryback -- Deduction.**

55 (1) [~~The amount of Utah net loss that shall be carried~~] A taxpayer shall determine the
56 amount of Utah net loss that the taxpayer may carry back or forward to offset income of

57 another taxable year ~~[is determined]~~ as provided in this section.

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

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

63 (i) carry back a Utah net loss from a taxable year ~~[beginning on or after January 1,~~
64 ~~1994, may be carried back]~~ for three taxable years preceding the taxable year of the loss; and
65 ~~[carried]~~

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

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

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

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

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

79 (ii) the remaining Utah taxable income before net loss deduction of the year identified
80 in Subsection (3) after deduction of Utah net losses from previous years that ~~[were carried or~~
81 ~~required to be carried]~~ a taxpayer carried or was required to carry to the year identified in
82 Subsection (3).

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

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

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

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

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

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

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

101 (a) subject to Subsection (7):

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

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

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

110 (C) an amount determined by [~~(F)~~] dividing the total sales of the acquired corporation
111 in this state during the taxable year by the total sales of the unitary group everywhere during the
112 taxable year; [~~and~~] or

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

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

119 state during the taxable year by the total sales of the unitary group everywhere during the
120 taxable year;

121 (b) dividing the amount calculated under Subsection (6)(a) by the same denominator of
122 the fraction the unitary group uses to apportion business income to this state[~~-(i)~~] for that
123 taxable year[~~;- and (ii)~~] in accordance with Section 59-7-311;

124 (c) multiplying the amount calculated under Subsection (6)(b) by the business income
125 of the unitary group for the taxable year that is subject to apportionment under Section
126 59-7-311; and

127 (d) calculating the sum of:

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

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

130 (A) nonbusiness income allocable to this state; or

131 (B) nonbusiness loss allocable to this state.

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

136 Section 3. Section 59-7-201 is amended to read:

137 **59-7-201. Tax -- Minimum tax.**

138 (1) There is imposed upon each corporation, except ~~[those]~~ a corporation that is
139 exempt under Section 59-7-102 [for each taxable year], a tax upon [its] the corporation's Utah
140 taxable income for the taxable year that is derived from sources within this state other than
141 income for any period [which] that the corporation is required to include in [its] the
142 corporation's tax base under Section 59-7-104.

143 (2) The tax imposed by Subsection (1) shall be ~~[5%]~~ 4.95% of a corporation's Utah
144 taxable income.

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

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

147 **59-7-302. Definitions -- Determination of taxpayer status.**

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

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

150 manufacturer of the aircraft.

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

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

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

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

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

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

- 165 (i) NAICS Code 211120, Crude Petroleum Extraction;
- 166 (ii) NAICS Industry Group 2121, Coal Mining;
- 167 (iii) NAICS Industry Group 2212, Natural Gas Distribution;
- 168 (iv) NAICS Subsector 311, Food Manufacturing;
- 169 (v) NAICS Industry Group 3121, Beverage Manufacturing;
- 170 (vi) NAICS Code 327310, Cement Manufacturing;
- 171 (vii) NAICS Subsector 482, Rail Transportation; or
- 172 (viii) NAICS Code 522110, Commercial Banking.

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

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

176 (A) a spare engine; or

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

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

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

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

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

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

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

195 (i) is not a sales factor weighted taxpayer;

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

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

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

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

200 59-7-311(4) during the previous taxable year.

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

202 ~~[(k)]~~ (m) "Sales" means all gross receipts of the taxpayer not allocated under Sections
 203 59-7-306 through 59-7-310.

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

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

212 ~~[(A) a NAICS code within NAICS Sector 21, Mining;]~~
 213 ~~[(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]~~
 214 ~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS~~
 215 ~~Code 336111, Automobile Manufacturing;]~~
 216 ~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~
 217 ~~[(E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector~~
 218 ~~519, Other Information Services; or]~~
 219 ~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or]~~
 220 ~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the~~
 221 ~~taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if~~
 222 ~~the economic activities are classified in a NAICS code of the 2002 or 2007 North American~~
 223 ~~Industry Classification System of the federal Executive Office of the President, Office of~~
 224 ~~Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F).]~~
 225 ~~[(m)]~~ (o) "State" means any state of the United States, the District of Columbia, the
 226 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
 227 foreign country or political subdivision thereof.
 228 ~~[(n)]~~ (p) "Transportation revenue" means revenue an airline earns from:
 229 (i) transporting a passenger or cargo; or
 230 (ii) from miscellaneous sales of merchandise as part of providing transportation
 231 services.
 232 ~~[(o)]~~ (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles
 233 within the borders of this state:
 234 (i) during the airline's tax period; and
 235 (ii) from flight stages that originate or terminate in this state.
 236 ~~[(2) The following apply to Subsections (1)(i) and (1):]~~
 237 ~~[(a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a~~
 238 ~~taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.]~~
 239 (2) (a) A taxpayer is a sales factor weighted taxpayer if, regardless of the number of
 240 economic activities the taxpayer performs, the taxpayer generates greater than 50% of the
 241 taxpayer's total sales everywhere from economic activities that are classified in a NAICS code
 242 of the 2002 or 2007 North American Industry Classification System of the federal Executive

243 Office of the President, Office of Management and Budget, other than:

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

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

246 (iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except NAICS Code

247 336111, Automobile Manufacturing;

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

249 (v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector

250 519, Other Information Services; or

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

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

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

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

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

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

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

263 (i) calculate the following two fractions:

264 (A) the property factor fraction as described in Subsection [59-7-312\(3\)](#); and

265 (B) the payroll factor fraction as described in Subsection [59-7-315\(3\)](#);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

295 **59-7-311. Method of apportionment of business income.**

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

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

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

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

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

305 ~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~
 306 ~~[(C) the sales factor as calculated under Section 59-7-317; and]~~
 307 ~~[(ii) the denominator of the fraction is three; or]~~
 308 ~~[(b) a fraction where:]~~
 309 ~~[(i) the numerator of the fraction is the sum of:]~~
 310 ~~[(A) the property factor as calculated under Section 59-7-312;]~~
 311 ~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~
 312 ~~[(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and]~~
 313 ~~[(ii) the denominator of the fraction is four.]~~
 314 ~~[(3)]~~ (2) Subject to the other provisions of this part, a sales factor weighted taxpayer
 315 shall calculate the fraction for apportioning business income to this state using a fraction
 316 where:

317 (a) the numerator of the fraction is the sales factor as calculated under Section
 318 59-7-317; and

319 (b) the denominator of the fraction is one.

320 ~~[(4)]~~ (3) Subject to the other provisions of this part, an optional ~~[sales factor weighted]~~
 321 apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall calculate
 322 the fraction for apportioning business income to this state using ~~[a method described in~~
 323 Subsection (2)(a), (2)(b), or (3):] one of the following fractions:

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

325 (b) the fraction where:

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

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

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

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

330 (ii) the denominator of the fraction is three.

331 (4) (a) Subject to other provisions of this part, a phased-in sales factor weighted
 332 taxpayer shall calculate the fraction for apportioning business income to this state as provided
 333 in Subsections (4)(b) through (d).

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

- 336 (i) the numerator of the fraction is the sum of:
337 (A) the property factor as calculated under Section 59-7-312;
338 (B) the payroll factor as calculated under Section 59-7-315; and
339 (C) the sales factor as calculated under Subsection (4)(e)(i); and
340 (ii) the denominator of the fraction is six.
341 (c) For the taxable year that begins on or after January 1, 2020, but begins on or before
342 December 31, 2020:
343 (i) the numerator of the fraction is the sum of:
344 (A) the property factor as calculated under Section 59-7-312;
345 (B) the payroll factor as calculated under Section 59-7-315; and
346 (C) the sales factor as calculated under Subsection (4)(e)(ii); and
347 (ii) the denominator of the fraction is 10.
348 (d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor
349 weighted taxpayer shall calculate the fraction as described in Subsection (2).
350 (e) (i) For the taxable year that begins on or after January 1, 2019, but begins on or
351 before December 31, 2019, the sales factor shall be:
352 (A) calculated as described in Section 59-7-317; and
353 (B) multiplied by four.
354 (ii) For the taxable year that begins on or after January 1, 2020, but begins on or before
355 December 31, 2020, the sales factor shall be:
356 (A) calculated as described in Section 59-7-317; and
357 (B) multiplied by eight.
358 (5) (a) The taxpayer shall determine the method for calculating the fraction for
359 apportioning business income to this state under this section on or before the due date for filing
360 the taxpayer's return under this chapter for the taxable year, including extensions.
361 (b) The method described in Subsection (5)(a) is in effect for the taxable year.
362 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
363 commission may make rules providing procedures for a taxpayer to make the election required
364 by [~~Subsections (2) and (4)~~] Subsection (3).
365 Section 6. Section 59-7-312 is amended to read:
366 **59-7-312. Property factor for apportionment of business income -- Mobile flight**

367 **equipment of an airline.**

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

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

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

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

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

380 (b) a fraction[;]:

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

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

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

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

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

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

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

392 **59-7-315. Payroll factor for apportionment of business income -- Compensation**
393 **of flight personnel by an airline.**

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

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

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

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

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

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

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

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

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

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

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

414 (b) A taxpayer engaged in economic activities that are classified in an excluded NAICS
415 code shall exclude an individual's payroll from the calculation of the payroll factor fraction
416 described in Subsection (3)(a) if the individual's payroll may be attributed:

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

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

421 Section 8. Section **59-10-104** is amended to read:

422 **59-10-104. Tax basis -- Tax rate -- Exemption.**

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

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

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

428 (b) [~~5%~~] 4.95%.

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

431 Section 9. Section 59-10-1018 is amended to read:

432 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

433 (1) As used in this section:

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

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

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

438 [~~(iii) is:~~]

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

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

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

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

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

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

449 [~~(iii) is:~~]

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

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

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

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

459 [(ii) not receiving residential services from the Division of Services for People with

460 ~~Disabilities created under Section 62A-5-102 or a school established under Title 53A, Chapter~~
461 ~~25b, Utah Schools for the Deaf and the Blind; and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

483 ~~(A) pays for the taxable year; and~~

484 ~~(B) reports on the claimant's federal individual income tax return for the taxable year,~~

485 ~~regardless of whether the claimant is allowed an itemized deduction on the claimant's federal~~

486 ~~individual income tax return for the taxable year for the full amount of state or local income tax~~

487 ~~paid; and~~

488 ~~(ii) \$10,000.~~

489 ~~(e) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as~~

490 ~~an itemized deduction on the claimant's federal individual income tax return for that taxable~~

491 year minus any amount of state or local income tax for the taxable year.

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

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

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

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

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

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

508 ~~[(H) any amount of state or local income taxes the claimant deducts as allowed as an~~
509 ~~itemized deduction on the claimant's federal individual income tax return for that taxable year;~~
510 ~~and]~~

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

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

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

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

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

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

522 (a) for a claimant who has a single filing status, \$12,000;
523 (b) for a claimant who has a head of household filing status, \$18,000; or
524 (c) for a claimant who has a joint filing status, \$24,000.
525 (5) (a) For [~~taxable years~~] a taxable year beginning on or after January 1, 2009, the
526 commission shall increase or decrease annually the following dollar amounts by a percentage
527 equal to the percentage difference between the consumer price index for the preceding calendar
528 year and the consumer price index for calendar year 2007:
529 (i) the dollar amount listed in Subsection (4)(a); and
530 (ii) the dollar amount listed in Subsection (4)(b).
531 (b) After the commission increases or decreases the dollar amounts listed in Subsection
532 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
533 nearest whole dollar.
534 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
535 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
536 the dollar amount listed in Subsection (4)(c) is equal to the product of:
537 (i) the dollar amount listed in Subsection (4)(a); and
538 (ii) two.
539 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
540 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
541 **Section 10. Retrospective operation and effective date.**
542 (1) Except as provided in Subsection (2), this bill has retrospective operation for a
543 taxable year beginning on or after January 1, 2018.
544 (2) The amendments to Sections [59-7-110](#), [59-7-302](#), [59-7-311](#), [59-7-312](#), and
545 [59-7-315](#) take effect for a taxable year beginning on or after January 1, 2019.