

Senator Thomas V. Hatch proposes the following substitute bill:

**PUBLIC EDUCATION AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Thomas V. Hatch**

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5 **This act modifies the State System of Public Education Code and the Election Code**  
6 **relating to the governance and funding of the public education system, the core academic**  
7 **skills, assessment and accountability, and school choice. This act modifies the**  
8 **membership of and the qualifications used by the nominating committee to select**  
9 **candidates for membership on the State Board of Education. This act expands local**  
10 **school board membership for certain local school boards. This act expands the state**  
11 **superintendent of public instruction's annual report. This act requires the core**  
12 **curriculum to increase in depth and complexity from year to year and focus on consistent**  
13 **and continual progress in the core academic areas of English and mathematics. This act**  
14 **modifies the membership of the education evaluation program district joint committees.**  
15 **This act provides an emphasis on competency-based education and progress-based**  
16 **assessments as a characteristic of the public education system. This act allows local**  
17 **boards of education to hire a superintendent and other administrators with outstanding**  
18 **professional qualifications who do not hold an administrative/supervisory license. This**  
19 **act prohibits a local school board from entering into a collective bargaining agreement**  
20 **that prohibits or limits individual contracts of employment. This act allows teacher**  
21 **licenses to be awarded based on the demonstrated competence of the teacher. This act**  
22 **makes teachers with district-specific licenses at-will employees who are ineligible for**  
23 **career employee status. This act increases curriculum and graduation requirements for**  
24 **grades 9 through 12 in language arts, mathematics, and science. This act modifies the**  
25 **Budgetary Procedures Act, and the State Appropriations and Tax Limitation Act by**



26 **creating the Education Budget Reserve Account. This act specifies how money in the**  
27 **Education Budget Reserve Account may be used. This act excludes transfers into or**  
28 **appropriations from the Education Budget Reserve Account from the definition of**  
29 **"appropriations" for the purpose of a limit on state appropriations. This act creates the**  
30 **Competency based Education Block Grant Program and appropriates, beginning on July**  
31 **1, 2004, \$24,000,000 to the program. This act creates the Class Size Reduction Reward**  
32 **Block Grant Program and appropriates, beginning on July 1, 2004, \$24,000,000 to the**  
33 **program. This act modifies Corporate Franchise and Income Taxes and the Individual**  
34 **Income Tax Act provisions. This act increases corporate franchise tax rates, corporate**  
35 **income tax rates, and individual income tax rates, beginning with the January 1, 2004,**  
36 **taxable year. This act provides an addition to taxable income based upon the number of**  
37 **qualifying children for which a federal child tax credit is claimed. This act provides for**  
38 **nonrefundable tax credits for contributions made to a scholarship granting organization**  
39 **to be used for tuition grants for a qualifying student to attend a private school, or**  
40 **nonrefundable tax credits for amounts paid for tuition to a private school on behalf of a**  
41 **qualifying student. This act appropriates \$1,000,000 from the Uniform School Fund, for**  
42 **fiscal year 2003-04 only, to the State Board of Education for distribution to school**  
43 **districts with declining enrollment that are impacted by this act. The act provides**  
44 **definitions and establishes procedures and requirements for administering the tax**  
45 **credits. The act establishes duties of scholarship granting organizations and provides**  
46 **penalties. The act authorizes the State Tax Commission to make rules. This act**  
47 **authorizes the Division of Consumer Protection to enforce certain private school**  
48 **requirements. This act requires the State Board of Education to study, make**  
49 **recommendations, and report to the Education Interim Committee on an enumerated list**  
50 **of strategies to improve public education. This act appropriates \$150,000 for fiscal year**  
51 **2002-03 only to the Office of Legislative Research and General Counsel to allow the**  
52 **Education Interim Committee to issue a specified request for proposals. This act**  
53 **requires the Public Education Appropriations Subcommittee to study and report on**  
54 **specified funding issues. This act requires the State Board of Regents to study and report**  
55 **on specified issues. This act authorizes additional legislative committee meetings during**  
56 **the 2003 interim and appropriates \$24,500 from the General Fund, for fiscal year 2002-03**

57 only, to cover the additional meeting expenses. This act appropriates \$5,000,000 from the  
58 Uniform School Fund, for the fiscal year beginning on July 1, 2003, to the State Board of  
59 Education to begin implementing competency-based education processes. This act  
60 authorizes a State Education Summit Meeting, requires certain reports for the summit,  
61 enumerates its participants, and specifies its purpose. This act makes technical  
62 corrections. This act has retrospective operation for taxable years beginning on or after  
63 January 1, 2003.

64 This act affects sections of Utah Code Annotated 1953 as follows:

65 AMENDS:

66 13-2-1, as last amended by Chapter 222, Laws of Utah 2002  
67 20A-14-104, as last amended by Chapter 184, Laws of Utah 1997  
68 20A-14-105, as enacted by Chapter 1, Laws of Utah 1995  
69 20A-14-202, as last amended by Chapter 331, Laws of Utah 2000  
70 53A-1-301, as last amended by Chapter 244, Laws of Utah 2002  
71 53A-1-402.6, as last amended by Chapters 299 and 324, Laws of Utah 2002  
72 53A-1a-104, as last amended by Chapter 86, Laws of Utah 2001  
73 53A-3-301, as last amended by Chapter 331, Laws of Utah 2000  
74 53A-3-402, as last amended by Chapters 322 and 324, Laws of Utah 2002  
75 53A-3-403, as last amended by Chapter 53, Laws of Utah 1992  
76 53A-3-404, as last amended by Chapter 297, Laws of Utah 2001  
77 53A-3-411, as enacted by Chapter 2, Laws of Utah 1988  
78 53A-6-103, as last amended by Chapter 253, Laws of Utah 2002  
79 53A-6-104, as last amended by Chapter 41, Laws of Utah 2002  
80 53A-6-502, as enacted by Chapter 108, Laws of Utah 1999  
81 59-7-104, as repealed and reenacted by Chapter 169, Laws of Utah 1993  
82 59-7-201, as last amended by Chapter 169, Laws of Utah 1993  
83 53A-8-106, as repealed and reenacted by Chapter 324, Laws of Utah 1999  
84 53A-10-103, as last amended by Chapter 78, Laws of Utah 1990  
85 53A-17a-144, as last amended by Chapter 6, Laws of Utah 1996, Second Special  
86 Session  
87 59-10-104, as last amended by Chapters 323 and 324, Laws of Utah 2001



88           **59-10-114**, as last amended by Chapter 211, Laws of Utah 2002  
89           **63-38c-103**, as last amended by Chapter 332, Laws of Utah 2000  
90           **63-55b-153**, as last amended by Chapters 49, 219 and 301, Laws of Utah 2002

91 ENACTS:

92           **53A-1-409**, Utah Code Annotated 1953  
93           **53A-6-104.5**, Utah Code Annotated 1953  
94           **53A-6-110**, Utah Code Annotated 1953  
95           **53A-13-108**, Utah Code Annotated 1953  
96           **53A-17a-149**, Utah Code Annotated 1953  
97           **53A-17a-150**, Utah Code Annotated 1953  
98           **53A-17a-151**, Utah Code Annotated 1953  
99           **59-7-616**, Utah Code Annotated 1953  
100           **59-7-618**, Utah Code Annotated 1953  
101           **59-10-136**, Utah Code Annotated 1953  
102           **59-10-137**, Utah Code Annotated 1953  
103           **63-38-2.6**, Utah Code Annotated 1953

104 This act enacts uncodified material.

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

106           Section 1. Section **13-2-1** is amended to read:

107           **13-2-1. Consumer protection division established -- Functions.**

108           (1) There is established within the Department of Commerce the Division of Consumer  
109 Protection.

110           (2) The division shall administer and enforce the following:

- 111           (a) Chapter 5, Unfair Practices Act;
- 112           (b) Chapter 10a, Music Licensing Practices Act;
- 113           (c) Chapter 11, Utah Consumer Sales Practices Act;
- 114           (d) Chapter 15, Business Opportunity Disclosure Act;
- 115           (e) Chapter 20, New Motor Vehicles Warranties Act;
- 116           (f) Chapter 21, Credit Services Organizations Act;
- 117           (g) Chapter 22, Charitable Solicitations Act;
- 118           (h) Chapter 23, Health Spa Services Protection Act;

- 119 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;  
120 (j) Chapter 26, Telephone Fraud Prevention Act;  
121 (k) Chapter 28, Prize Notices Regulation Act;  
122 (l) Chapter 30, Utah Personal Introduction Services Protection Act; ~~[and]~~  
123 (m) Chapter 34, Utah Postsecondary Proprietary School Act~~[-]; and~~  
124 (n) Section 59-7-618, the requirements of private schools that issue school tuition  
125 certificates.

126 Section 2. Section **20A-14-104** is amended to read:

127 **20A-14-104. Becoming a candidate for membership on the State Board of**  
128 **Education -- Nominating and recruiting committee -- Membership -- Procedure -- Duties.**

129 (1) (a) Persons interested in becoming a candidate for the State Board of Education  
130 shall file a declaration of candidacy according to the procedures and requirements of Sections  
131 20A-9-201 and 20A-9-202.

132 (b) By June 1 of the year in which a State Board of Education member's term expires,  
133 the lieutenant governor shall submit the name of each person who has filed a declaration of  
134 candidacy for the State Board of Education to the nominating and recruiting committee for the  
135 State Board of Education ~~[district in which that candidate resides].~~

136 (2) By ~~[May]~~ November 1 of ~~[the year in which a State Board of Education member's~~  
137 ~~term expires;]~~ 2003 and every four years thereafter, the governor shall:

138 (a) appoint a nominating and recruiting committee consisting of ~~[seven]~~ 15 members,  
139 each to serve a ~~[one-year]~~ four-year term, ~~[for the state board district that member represents;]~~  
140 of which:

141 (i) seven members shall have education expertise, including at least one member with  
142 special education expertise;

143 (ii) seven members shall have business, industry, or employer expertise; and

144 (iii) one member shall be a public member;

145 (b) ensure that ~~[each]~~ one member of the nominating and recruiting committee resides  
146 within ~~[the]~~ each state board district; and

147 ~~[(c) ensure that:]~~

148 ~~[(i) one member of the nominating committee serves on a local school board within the~~  
149 ~~state board district;]~~

150 ~~[(ii) one member of the nominating committee is employed as a school district or~~  
151 ~~public school administrator;]~~

152 ~~[(iii) one member of the nominating committee is employed as a public school~~  
153 ~~teacher;]~~

154 ~~[(iv) one member of the nominating committee belongs to a parent association that~~  
155 ~~provides direct and ongoing support to public schools within the district; and]~~

156 ~~[(v) three members of the nominating committee represent economic interests and the~~  
157 ~~public at large; and]~~

158 ~~[(d)]~~ (c) designate one member to serve as chair for the committee.

159 (3) (a) The chair, or another member of the committee designated by the chair, shall  
160 schedule and convene all committee meetings.

161 (b) Any formal action by the committee requires the approval of ~~[at least four]~~ a  
162 majority of committee members.

163 (c) Members of the nominating and recruiting committee shall serve without  
164 compensation, but they may be reimbursed for expenses incurred in the performance of their  
165 official duties as established by the Division of Finance.

166 (4) ~~[Each]~~ The nominating and recruiting committee shall:

167 (a) recruit potential candidates for membership on the State Board of Education prior  
168 to the deadline to file a declaration of candidacy;

169 ~~[(a)]~~ (b) prepare a list of candidates for membership on the State Board of Education  
170 [from its district] for each state board district subject to election in that year using the  
171 qualifications under Subsection (5);

172 ~~[(b)]~~ (c) submit a list of [up to five but no fewer than] at least three candidates for [the]  
173 each state board position to the governor by August 1; and

174 ~~[(c)]~~ (d) ensure that the list includes appropriate background information on each  
175 candidate.

176 (5) The nominating committee shall select a broad variety of candidates who possess  
177 outstanding professional qualifications relating to the powers and duties of the State Board of  
178 Education, including experience in the following areas:

179 (a) business and industry administration;

180 (b) business and industry human resource management;

- 181 (c) business and industry finance;  
182 (d) business and industry, including expertise in:  
183 (i) metrics and evaluation;  
184 (ii) manufacturing;  
185 (iii) retailing;  
186 (iv) natural resources;  
187 (v) information technology;  
188 (vi) construction; and  
189 (v) banking;  
190 (e) higher education administration;  
191 (f) applied technology education;  
192 (g) public education administration;  
193 (h) public education instruction;  
194 (i) economic development;  
195 (j) labor; and  
196 (k) other life experiences that would benefit the State Board of Education.

197 Section 3. Section **20A-14-105** is amended to read:

198 **20A-14-105. Becoming a candidate for membership on the State Board of**  
199 **Education -- Selection of candidates by the governor -- Ballot placement.**

- 200 (1) By September 1 of each regular general election year, the governor shall:  
201 (a) for each state board district subject to election in that year, select two candidates  
202 for the State Board of Education from the lists submitted by the state board district nominating  
203 [~~committees~~] and recruiting committee; and  
204 (b) certify the names of the two candidates from each school board district to the  
205 lieutenant governor.  
206 (2) If the governor fails to select two candidates for a state board district by September  
207 1, the nominating and recruiting committee [~~from that district~~] shall:  
208 (a) select the two candidates; and  
209 (b) notify the lieutenant governor of its selections by September 15.  
210 (3) The lieutenant governor shall:  
211 (a) conduct a lottery to determine the order of the candidates' names on the ballot; and

212 (b) certify the names and order of the names to the county clerks for placement on the  
213 nonpartisan section of the ballot.

214 Section 4. Section **20A-14-202** is amended to read:

215 **20A-14-202. Local Boards of Education -- Membership -- When elected --**  
216 **Qualifications -- Avoiding conflicts of interest.**

217 (1) (a) [~~The~~] Except as provided in Subsection (1)(b), the board of education of a  
218 school district with a student population of up to 24,000 students shall consist of five members.

219 (b) The board of education of a school district with a student population of more than  
220 14,000 students but fewer than 24,000 students shall increase from five to seven members  
221 beginning with the [~~2002~~] 2004 regular general election.

222 (c) The board of education of a school district with a student population of 24,000 or  
223 more students shall consist of seven members.

224 [~~(c)~~] (d) Student population is based on the October 1 student count submitted by  
225 districts to the State Office of Education.

226 [~~(d)~~] (e) If the number of members of a local school board is required to change under  
227 Subsection (1)(b), the board shall be reapportioned and elections conducted as provided in  
228 Sections 20A-14-201 and 20A-14-203.

229 [~~(e)~~] (f) A school district which now has or increases to a seven-member board shall  
230 maintain a seven-member board regardless of subsequent changes in student population.

231 [~~(f)~~] (g) (i) Members of a local board of education shall be elected at each regular  
232 general election.

233 (ii) Except as provided in Subsection (1)[~~(f)~~](g)(iii), no more than three members of a  
234 local board of education may be elected to a five-member board, nor more than four members  
235 elected to a seven-member board, in any election year.

236 (iii) More than three members of a local board of education may be elected to a  
237 five-member board and more than four members elected to a seven-member board in any  
238 election year only when required by reapportionment or to fill a vacancy or to implement  
239 Subsection (1)(b).

240 [~~(g)~~] (h) One member of the local board of education shall be elected from each local  
241 school board district.

242 (2) A member of a local school board shall:



243 (a) be and remain a registered voter in the local school board district from which the  
244 member is elected or appointed; and

245 (b) maintain his primary residence within the local school board district from which the  
246 member is elected or appointed.

247 (3) A member of a local school board may not, during the member's term in office, also  
248 serve as an employee of that board.

249 Section 5. Section **53A-1-301** is amended to read:

250 **53A-1-301. Appointment -- Qualifications -- Duties.**

251 (1) (a) The State Board of Education shall appoint a superintendent of public  
252 instruction, hereinafter called the state superintendent, who is the executive officer of the board  
253 and serves at the pleasure of the board.

254 (b) The board shall appoint the state superintendent on the basis of outstanding  
255 professional qualifications.

256 (c) The state superintendent shall administer all programs assigned to the State Board  
257 of Education in accordance with the policies and the standards established by the board.

258 (2) The superintendent shall develop a statewide education strategy focusing on core  
259 academics, including the development of:

260 (a) core curriculum and graduation requirements;

261 (b) a process to select instructional materials that best correlate to the core curriculum  
262 and that are supported by generally accepted scientific standards of evidence, and graduation  
263 requirements;

264 (c) professional development programs for teachers, superintendents, and principals;

265 (d) remediation programs;

266 (e) a method for creating individual student targets and development plans, and a  
267 method of measuring an individual student's performance toward those targets;

268 (f) progress-based assessments for ongoing performance evaluations of districts and  
269 schools;

270 (g) incentives to achieve the desired outcome of individual student progress in core  
271 academics, and which do not create disincentives for setting high goals for the students;

272 (h) an annual report card for school and district performance, measuring learning and  
273 reporting progress-based assessments;

274 (i) a systematic method to encourage innovation in schools and school districts as they  
275 strive to achieve improvement in their performance; and

276 (j) a method for identifying and sharing best demonstrated practices across districts and  
277 schools.

278 [~~2~~] (3) The superintendent shall perform duties assigned by the board, including the  
279 following:

280 (a) investigating all matters pertaining to the public schools;

281 (b) adopting and keeping an official seal to authenticate the superintendent's official  
282 acts;

283 (c) holding and conducting meetings, seminars, and conferences on educational topics;

284 (d) presenting to the governor and the Legislature each December a report of the public  
285 school system for the preceding year to include:

286 (i) data on the general condition of the schools with recommendations considered  
287 desirable for specific programs;

288 (ii) a complete statement of fund balances;

289 (iii) a complete statement of revenues by fund and source;

290 (iv) a complete statement of adjusted expenditures by fund, the status of bonded  
291 indebtedness, the cost of new school plants, and school levies;

292 (v) a complete statement of state funds allocated to each of the state's 40 school  
293 districts by source, including supplemental appropriations, and a complete statement of  
294 expenditures by each district, including supplemental appropriations, by function and object as  
295 outlined in the U.S. Department of Education publication "Financial Accounting for Local and  
296 State School Systems";

297 (vi) a statement that includes such items as fall enrollments, average membership, high  
298 school graduates, licensed and classified employees, pupil-teacher ratios, average salaries,  
299 applicable private school data, and data from standardized norm-referenced tests in grades 5, 8,  
300 and 11 on each school and district;

301 (vii) statistical information regarding incidents of delinquent activity in the schools or  
302 at school-related activities with separate categories for:

303 (A) alcohol and drug abuse;

304 (B) weapon possession;

- 305 (C) assaults; and
- 306 (D) arson; [~~and~~]
- 307 (viii) information about:
- 308 (A) the implementation of the strategy of focusing on core academics;
- 309 (B) the implementation of competency-based education and progress-based
- 310 assessments; and
- 311 (C) the results being achieved under Subsections (3)(d)(viii)(A) and (B), as measured
- 312 by individual progress-based assessments and the comparison of Utah Students' progress with
- 313 the progress of students in other states using standardized norm-referenced tests as
- 314 benchmarks; and
- 315 [~~(viii)~~] (ix) other statistical and financial information about the school system which
- 316 the superintendent considers pertinent;
- 317 (e) collecting and organizing education data into an automated decision support system
- 318 to facilitate school district and school improvement planning, accountability reporting and
- 319 performance recognition, and the evaluation of educational policy and program effectiveness to
- 320 include:
- 321 (i) data that are:
- 322 (A) comparable across schools and school districts;
- 323 (B) appropriate for use in longitudinal studies; and
- 324 (C) comprehensive with regard to the data elements required under applicable state or
- 325 federal law or state board rule;
- 326 (ii) features that enable users, most particularly school administrators, teachers, and
- 327 parents, to:
- 328 (A) retrieve school and school district level data electronically;
- 329 (B) interpret the data visually; and
- 330 (C) draw conclusions that are statistically valid; and
- 331 (iii) procedures for the collection and management of education data that:
- 332 (A) require the state superintendent of public instruction to:
- 333 (I) collaborate with school districts in designing and implementing uniform data
- 334 standards and definitions;
- 335 (II) undertake or sponsor research to implement improved methods for analyzing

336 education data;

337 (III) provide for data security to prevent unauthorized access to or contamination of the  
338 data; and

339 (IV) protect the confidentiality of data under state and federal privacy laws; and

340 (B) require all school districts to comply with the data collection and management  
341 procedures established under Subsection (2)(e); and

342 (f) with the approval of the board, preparing and submitting to the governor a budget  
343 for the board to be included in the budget that the governor submits to the Legislature.

344 ~~[(3)]~~ (4) Upon leaving office, the state superintendent shall deliver to his successor all  
345 books, records, documents, maps, reports, papers, and other articles pertaining to his office.

346 Section 6. Section **53A-1-402.6** is amended to read:

347 **53A-1-402.6. Core curriculum.**

348 (1) In establishing minimum standards related to curriculum and instruction  
349 requirements under Section 53A-1-402, the State Board of Education shall, in consultation  
350 with local school boards, school superintendents, teachers, employers, and parents ~~[define and~~  
351 ~~establish]~~ implement a core curriculum~~[-]~~ which will enable students to:

352 (a) communicate effectively, both verbally and through written communication;

353 (b) apply mathematics;

354 (c) access, analyze, and apply information; and

355 (d) work cooperatively and effectively in teams.

356 (2) The board shall:

357 (a) ~~[include in its definition an identification of]~~ identify the basic knowledge, skills,  
358 and competencies each student is expected to acquire or master as the student advances through  
359 the public education system; and

360 (b) align the core curriculum and tests administered under the Utah Performance  
361 Assessment System for Students (U-PASS) with each other.

362 (3) The basic knowledge, skills, and competencies identified pursuant to Subsection  
363 (2)(a) shall increase in depth and complexity from year to year and focus on consistent and  
364 continual progress within and between grade levels and courses in the core academic areas of:

365 (a) English, including explicit phonics, spelling, grammar, reading, writing,

366 vocabulary, speech, and listening; and

367 (b) mathematics, including basic computational skills.

368 [~~3~~] (4) Local school boards shall design their school programs, that are supported by  
369 generally accepted scientific standards of evidence, to focus on the core curriculum with the  
370 expectation that each program will enhance or help achieve mastery of the core curriculum.

371 [~~4~~] (5) Except as provided in Section 53A-13-101, each school may select  
372 instructional materials and methods of teaching, that are supported by generally accepted  
373 scientific standards of evidence, that it considers most appropriate to meet core curriculum  
374 objectives.

375 Section 7. Section **53A-1-409** is enacted to read:

376 **53A-1-409. Competency-based education -- Recommendations -- Coordination.**

377 The State Board of Education shall:

378 (1) provide expertise to and consult with local school boards and school districts  
379 relating to competency-based education and progress-based assessments;

380 (2) monitor the expenditures of the Competency-based Education Block Grant Program  
381 under Section 53A-17a-149; and

382 (3) make recommendations to the Public Education Appropriations Subcommittee and  
383 the Legislature relating to the Competency-based Education Block Grant Program under  
384 Section 53A-17a-149, the Class Size Reduction Reward Block Grant Program Under Section  
385 53A-17a-151, and other programs, including the amount and allocation of public education  
386 monies, based upon both new public education monies and the reallocation of monies required  
387 to implement:

388 (a) progress-based assessments;

389 (b) a weighted competency unit that distributes public education monies based on  
390 numbers of grade level achieved as measured by the progress-based assessments;

391 (c) a plan to assist students, teachers, schools, and districts that need remediation based  
392 upon Subsections (3)(a) and (b);

393 (d) the reallocation of teaching resources from non-core electives into grades 1-3, 7-12  
394 math, and 7-12 English; and

395 (e) a teacher development program focused on achieving progress in core academics.

396 Section 8. Section **53A-1a-104** is amended to read:

397 **53A-1a-104. Characteristics of public education system.**

398           The Legislature shall assist in maintaining a public education system that has the  
399 following characteristics:

400           (1) assumes that all students have the ability to learn and that each student departing  
401 the system will be prepared to achieve success in productive employment, further education, or  
402 both;

403           (2) provides a personalized education plan or personalized education occupation plan  
404 for each student, which involves the student, the student's parent or guardian, and school  
405 personnel in establishing the plan;

406           (3) provides students with the knowledge and skills to take responsibility for their  
407 decisions and to make appropriate choices;

408           (4) provides opportunities for students to exhibit the capacity to learn, think, reason,  
409 and work effectively, individually and in groups;

410           (5) offers a world-class core curriculum that enables students to successfully compete  
411 in a global society, and to succeed as citizens of a constitutional republic;

412           (6) incorporates an information retrieval system that provides students, parents, and  
413 educators with reliable, useful, and timely data on the progress of each student;

414           (7) attracts, prepares, inducts, and retains excellent teachers for every classroom in  
415 large part through collaborative efforts among the State Board of Education, the State Board of  
416 Regents, and school districts, provides effective ongoing professional development  
417 opportunities for teachers to improve their teaching skills, and provides recognition, rewards,  
418 and compensation for their excellence;

419           (8) empowers each school district and public school to create its own vision and plan  
420 to achieve results consistent with the objectives outlined in this chapter;

421           (9) uses technology to improve teaching and learning processes and for the delivery of  
422 educational services;

423           (10) promotes ongoing research and development projects at the district and the school  
424 level that are directed at improving or enhancing public education;

425           (11) offers a public school choice program, which gives students and their parents  
426 options to best meet the student's personalized education needs; [~~and~~]

427           (12) emphasizes the involvement of educators, parents, business partnerships, and the  
428 community at large in the educational process by allowing them to be involved in establishing

429 and implementing educational goals and participating in decision-making at the school site[-];  
430 and

431 (13) emphasizes competency-based progress and progress-based assessments,  
432 including tracking and measurement systems.

433 Section 9. Section **53A-3-301** is amended to read:

434 **53A-3-301. Superintendent of schools -- Appointment -- Qualifications -- Term --**  
435 **Compensation.**

436 (1) A local school board shall appoint a district superintendent of schools who serves  
437 as the board's chief executive officer.

438 (2) (a) The board shall appoint the superintendent on the basis of outstanding  
439 professional qualifications.

440 (b) The superintendent's term of office is for two years and until a successor is  
441 appointed and qualified.

442 (3) If it becomes necessary to appoint an interim superintendent due to a vacancy in the  
443 office of superintendent, then the board shall make an appointment during a public meeting for  
444 an indefinite term not to exceed one year, which term shall end upon the appointment and  
445 qualification of a new superintendent.

446 (4) (a) The superintendent shall hold an administrative/supervisory license issued by  
447 the State Board of Education, except as otherwise provided in Subsection (4)(b).

448 (b) A local board of education may request, and the State Board of Education [~~shall~~]  
449 may grant, a letter of authorization permitting a person with outstanding professional  
450 qualifications to serve as superintendent without holding an administrative/supervisory license  
451 [~~if the district has a student population of at least 15,000~~].

452 (5) The board shall set the superintendent's compensation for services.

453 (6) The superintendent qualifies for office by taking the constitutional oath of office.

454 Section 10. Section **53A-3-402** is amended to read:

455 **53A-3-402. Powers and duties generally.**

456 (1) Each local school board shall:

457 (a) implement the core curriculum utilizing instructional materials that best correlate to  
458 the core curriculum;

459 (b) administer tests, required by the State Board of Education, which measure the

460 progress of each student, and coordinate with the state superintendent and State Board of  
461 Education to assess results and create plans to improve the student's progress which shall be  
462 submitted to the State Office of Education for approval;

463 (c) use progress-based assessments as part of a plan to identify schools, teachers, and  
464 students that need remediation and determine the type and amount of state and local resources  
465 to implement remediation;

466 (d) develop early warning systems for students or classes failing to make progress;

467 (e) work with the State Office of Education to establish a library of documented best  
468 practices for use by the local districts; and

469 (f) implement training programs for school administrators, including basic  
470 management training, best practices in instructional methods, budget training, staff  
471 management, managing for learning results and continuous improvement, and how to help  
472 every child achieve optimal learning in core academics.

473 [~~(1)~~] (2) Local school boards shall spend minimum school program funds for programs  
474 and activities for which the State Board of Education has established minimum standards or  
475 rules under Section 53A-1-402.

476 [~~(2)~~] (3) (a) A board may purchase, sell, and make improvements on school sites,  
477 buildings, and equipment and construct, erect, and furnish school buildings.

478 (b) School sites or buildings may only be conveyed or sold on board resolution  
479 affirmed by at least two-thirds of the members.

480 [~~(3)~~] (4) (a) A board may participate in the joint construction or operation of a school  
481 attended by children residing within the district and children residing in other districts either  
482 within or outside the state.

483 (b) Any agreement for the joint operation or construction of a school shall:

484 (i) be signed by the president of the board of each participating district;

485 (ii) include a mutually agreed upon pro rata cost; and

486 (iii) be filed with the State Board of Education.

487 [~~(4)~~] (5) A board may establish, locate, and maintain elementary, secondary, and  
488 applied technology schools.

489 [~~(5)~~] (6) A board may enroll children in school who are at least five years of age before  
490 September 2 of the year in which admission is sought.



491           ~~[(6)]~~ (7) A board may establish and support school libraries.

492           ~~[(7)]~~ (8) A board may collect damages for the loss, injury, or destruction of school  
493 property.

494           ~~[(8)]~~ (9) A board may authorize guidance and counseling services for children and their  
495 parents or guardians prior to, during, or following enrollment of the children in schools.

496           ~~[(9)]~~ (10) (a) A board may apply for, receive, and administer funds made available  
497 through programs of the federal government.

498           (b) Federal funds are not considered funds within the school district budget under Title  
499 53A, Chapter 19, School District Budgets.

500           (c) Federal funds may only be expended for the purposes for which they are received  
501 and are accounted for by the board.

502           ~~[(10)]~~ (11) (a) A board may organize school safety patrols and adopt rules under which  
503 the patrols promote student safety.

504           (b) A student appointed to a safety patrol shall be at least ten years old and have written  
505 parental consent for the appointment.

506           (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion  
507 of a highway intended for vehicular traffic use.

508           (d) Liability may not attach to a school district, its employees, officers, or agents or to a  
509 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting  
510 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

511           ~~[(11)]~~ (12) (a) A board may on its own behalf, or on behalf of an educational institution  
512 for which the board is the direct governing body, accept private grants, loans, gifts,  
513 endowments, devises, or bequests that are made for educational purposes.

514           (b) These contributions are not subject to appropriation by the Legislature.

515           ~~[(12)]~~ (13) (a) A board may appoint and fix the compensation of a compliance officer  
516 to issue citations for violations of Subsection 76-10-105(2).

517           (b) A person may not be appointed to serve as a compliance officer without the  
518 person's consent.

519           (c) A teacher or student may not be appointed as a compliance officer.

520           ~~[(13)]~~ (14) A board shall adopt bylaws and rules for its own procedures.

521           ~~[(14)]~~ (15) (a) A board shall make and enforce rules necessary for the control and

522 management of the district schools.

523 (b) All board rules and policies shall be in writing, filed, and referenced for public  
524 access.

525 [~~15~~] 16 A board may hold school on legal holidays other than Sundays.

526 [~~16~~] 17 (a) Each board shall establish for each school year a school traffic safety  
527 committee to implement this Subsection [~~16~~] 17.

528 (b) The committee shall be composed of one representative of:

529 (i) the schools within the district;

530 (ii) the Parent Teachers' Association of the schools within the district;

531 (iii) the municipality or county;

532 (iv) state or local law enforcement; and

533 (v) state or local traffic safety engineering.

534 (c) The committee shall:

535 (i) receive suggestions from parents, teachers, and others and recommend school traffic  
536 safety improvements, boundary changes to enhance safety, and school traffic safety program  
537 measures;

538 (ii) review and submit annually to the Department of Transportation and affected  
539 municipalities and counties a child access routing plan for each elementary, middle, and junior  
540 high school within the district;

541 (iii) consult the Utah Safety Council and the Division of Family Health Services and  
542 provide training to all school children in kindergarten through grade six, within the district, on  
543 school crossing safety and use; and

544 (iv) help ensure the district's compliance with rules made by the Department of  
545 Transportation under Section 41-6-20.1.

546 (d) The committee may establish subcommittees as needed to assist in accomplishing  
547 its duties under Subsection [~~16~~] 17(c).

548 (e) The board shall require the school community council of each elementary, middle,  
549 and junior high school within the district to develop and submit annually to the committee a  
550 child access routing plan.

551 [~~17~~] 18 (a) Each school board shall adopt and implement a comprehensive  
552 emergency response plan to prevent and combat violence in its public schools, on school

553 grounds, on its school vehicles, and in connection with school-related activities or events.

554 (b) The board shall implement its plan by July 1, 2000.

555 (c) The plan shall:

556 (i) include prevention, intervention, and response components;

557 (ii) be consistent with the student conduct and discipline policies required for school  
558 districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

559 (iii) require inservice training for all district and school building staff on what their  
560 roles are in the emergency response plan; and

561 (iv) provide for coordination with local law enforcement and other public safety  
562 representatives in preventing, intervening, and responding to violence in the areas and activities  
563 referred to in Subsection [~~17~~] (18)(a).

564 (d) The State Board of Education, through the state superintendent of public  
565 instruction, shall develop comprehensive emergency response plan models that local school  
566 boards may use, where appropriate, to comply with Subsection [~~17~~] (18)(a).

567 (e) Each local school board shall, by July 1 of each year, certify to the State Board of  
568 Education that its plan has been practiced at the school level and presented to and reviewed by  
569 its teachers, administrators, students, and their parents and local law enforcement and public  
570 safety representatives.

571 [~~18~~] (19) (a) Each local school board may adopt an emergency response plan for the  
572 treatment of sports-related injuries that occur during school sports practices and events.

573 (b) The plan may be implemented by each secondary school in the district that has a  
574 sports program for students.

575 (c) The plan may:

576 (i) include emergency personnel, emergency communication, and emergency  
577 equipment components;

578 (ii) require inservice training on the emergency response plan for school personnel who  
579 are involved in sports programs in the district's secondary schools; and

580 (iii) provide for coordination with individuals and agency representatives who:

581 (A) are not employees of the school district; and

582 (B) would be involved in providing emergency services to students injured while  
583 participating in sports events.

584 (d) The board, in collaboration with the schools referred to in Subsection [~~(18)~~]  
585 (19)(b), may review the plan each year and make revisions when required to improve or  
586 enhance the plan.

587 (e) The State Board of Education, through the state superintendent of public  
588 instruction, shall provide local school boards with an emergency plan response model that local  
589 boards may use to comply with the requirements of this Subsection [~~(18)~~] (19).

590 [~~(19)~~] (20) A board shall do all other things necessary for the maintenance, prosperity,  
591 and success of the schools and the promotion of education.

592 Section 11. Section **53A-3-403** is amended to read:

593 **53A-3-403. School district fiscal year -- Statistical reports.**

594 (1) A school district's fiscal year begins on July 1 and ends on June 30.

595 (2) (a) The district shall forward statistical reports for the preceding school year,  
596 containing items required by law or by the State Board of Education, to the state superintendent  
597 not later than November 1 of each year.

598 (b) The reports shall include information to enable the state superintendent to complete  
599 the statement required under Subsection 53A-1-301 [~~(2)~~] (3)(d)(v).

600 (3) The district shall forward the opinion on the statistical report of the auditors  
601 employed under Section 51-2-1 to the state superintendent not later than October 15 of each  
602 year.

603 (4) The district shall include the following information in its report:

604 (a) a summary of the number of students in the district given fee waivers, the number  
605 of students who worked in lieu of a waiver, and the total dollar value of student fees waived by  
606 the district;

607 (b) a copy of the district's fee and fee waiver policy;

608 (c) a copy of the district's fee schedule for students; and

609 (d) notices of fee waivers provided to a parent or guardian of a student.

610 Section 12. Section **53A-3-404** is amended to read:

611 **53A-3-404. Annual financial report -- Audit report.**

612 (1) The annual financial report of each school district, containing items required by law  
613 or by the State Board of Education and attested to by independent auditors, shall be prepared as  
614 required by Section 51-2-1.

615 (2) The auditors employed under Section 51-2-1 shall complete their field work in  
616 sufficient time to allow them to verify necessary audit adjustments included in the annual  
617 financial report to the state superintendent.

618 (3) (a) (i) The district shall forward the annual financial report to the state  
619 superintendent not later than October 1.

620 (ii) The report shall include information to enable the state superintendent to complete  
621 the statement required under Subsection 53A-1-301[~~(2)~~] (3)(d)(v).

622 (b) (i) The State Board of Education shall publish electronically a copy of the report on  
623 the Internet not later than December 15.

624 (ii) The report may be combined with the report required to be published under  
625 Subsection 53A-3-416(3)(b).

626 (4) The completed audit report shall be delivered to the school district board of  
627 education and the state superintendent of public instruction not later than November 30 of each  
628 year.

629 Section 13. Section **53A-3-411** is amended to read:

630 **53A-3-411. Employment of school personnel -- Length of contract -- Termination**  
631 **for cause -- Individual contract of employment.**

632 (1) A local school board may enter into a written employment contract for a term not to  
633 exceed five years.

634 (2) Nothing in the terms of the contract shall restrict the power of a local school board  
635 to terminate the contract for cause at any time.

636 (3) (a) A local school board may not enter into a collective bargaining agreement that  
637 prohibits or limits individual contracts of employment.

638 (b) Subsection (3)(a) does not apply to an agreement that was entered into before May  
639 5, 2003.

640 Section 14. Section **53A-6-103** is amended to read:

641 **53A-6-103. Definitions.**

642 As used in this chapter:

643 (1) "Accredited institution" means an institution meeting the requirements of Section  
644 53A-6-107.

645 (2) (a) "Alternative preparation program" means preparation for licensure in

646 accordance with applicable law and rule through other than an approved preparation program.

647 (b) "Alternative preparation program" includes the competency-based licensing  
648 program described in Section 53A-6-104.5.

649 (3) "Ancillary requirement" means a requirement established by law or rule in addition  
650 to completion of an approved preparation program or alternative education program or  
651 establishment of eligibility under the NASDTEC Interstate Contract, and may include any of  
652 the following:

- 653 (a) minimum grade point average;
- 654 (b) standardized testing or assessment;
- 655 (c) mentoring;
- 656 (d) recency of professional preparation or experience;
- 657 (e) graduation from an accredited institution; or
- 658 (f) evidence relating to moral, ethical, physical, or mental fitness.

659 (4) "Approved preparation program" means a program for preparation of educational  
660 personnel offered through an accredited institution in Utah or in a state which is a party to a  
661 contract with Utah under the NASDTEC Interstate Contract and which, at the time the  
662 program was completed by the applicant:

- 663 (a) was approved by the governmental agency responsible for licensure of educators in  
664 the state in which the program was provided;
- 665 (b) satisfied requirements for licensure in the state in which the program was provided;
- 666 (c) required completion of a baccalaureate; and
- 667 (d) included a supervised field experience.

668 (5) "Board" means the Utah State Board of Education.

669 (6) "Certificate" means a license issued by a governmental jurisdiction outside the  
670 state.

671 (7) "Core academic subjects" means English, reading or language arts, mathematics,  
672 science, foreign languages, civics and government, economics, arts, history, and geography.

673 [~~(7)~~] (8) "Educator" means:

- 674 (a) a person who holds a license;
- 675 (b) a teacher, counselor, administrator, librarian, or other person required, under rules  
676 of the board, to hold a license; or

677 (c) a person who is the subject of an allegation which has been received by the board or  
678 UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a  
679 position requiring licensure.

680 ~~[(8)]~~ (9) "Endorsement" means a stipulation appended to a license setting forth the  
681 areas of practice to which the license applies.

682 ~~[(9)]~~ (10) "License" means an authorization issued by the board which permits the  
683 holder to serve in a professional capacity in the public schools. The ~~[four]~~ five levels of  
684 licensure are:

685 (a) "letter of authorization," which is:

686 (i) a temporary license issued to a person who has not completed requirements for a  
687 district-specific, charter school-specific, or level 1, 2, or 3 license, such as:

688 (A) a student teacher ~~[or a person hired to perform professional services on an~~  
689 ~~emergency basis when fully qualified personnel are not available]; or~~

690 (B) a person participating in an alternative preparation program; or

691 (ii) a license issued, pursuant to board rules, to a person who has achieved eminence,  
692 or has outstanding qualifications, in a field taught in public schools;

693 (b) (i) "district-specific license" which:

694 (A) is a competency-based license issued by a school district to a teacher based on the  
695 teacher's demonstrated teaching skills and abilities; and

696 (B) allows the teacher to teach within the school district; and

697 (ii) "charter school-specific license" which:

698 (A) is a competency-based license issued by a charter school to a teacher based on the  
699 teacher's demonstrated teaching skills and abilities; and

700 (B) allows the teacher to teach at the charter school;

701 ~~[(b)]~~ (c) "level 1 license," which is a license issued upon completion of an approved  
702 preparation program or an alternative preparation program, or pursuant to an agreement under  
703 the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements  
704 established by law or rule;

705 ~~[(c)]~~ (d) "level 2 license," which is a license issued after satisfaction of all requirements  
706 for a level 1 license as well as any additional requirements established by law or rule relating to  
707 professional preparation or experience; and

708           ~~[(d)]~~ (e) "level 3 license," which is a license issued to an educator who holds a current  
709 Utah level 2 license and has also received, in the educator's field of practice, National Board  
710 certification or a doctorate from an accredited institution.

711           ~~[(10)]~~ (11) "NASDTEC" means the National Association of State Directors of Teacher  
712 Education and Certification.

713           ~~[(11)]~~ (12) "NASDTEC Interstate Contract" means the contract implementing Title  
714 53A, Chapter 6, Part 2, Compact for Interstate Qualification of Educational Personnel, which is  
715 administered through NASDTEC.

716           ~~[(12)]~~ (13) "National Board certification" means a current certificate issued by the  
717 National Board for Professional Teaching Standards.

718           ~~[(13)]~~ (14) "Necessarily existent small school" means a school classified as a  
719 necessarily existent small school in accordance with Section 53A-17a-109.

720           ~~[(14)]~~ (15) "Office" means the Utah State Office of Education.

721           ~~[(15)]~~ (16) "Rule" means an administrative rule adopted by the board under Title 63,  
722 Chapter 46a, Utah Administrative Rulemaking Act.

723           ~~[(16)]~~ (17) "School" means a public or private entity which provides educational  
724 services to a minor child.

725           ~~[(17)]~~ (18) "Small school district" means a school district with an enrollment of less  
726 than 5,000 students.

727           ~~[(18)]~~ (19) "UPPAC" means the Utah Professional Practices Advisory Commission.  
728 Section 15. Section **53A-6-104** is amended to read:

729           **53A-6-104. Board licensure.**

730           (1) (a) The board may issue licenses for educators.

731           (b) ~~[(i)]~~ A person employed in a position that requires licensure by the board shall hold  
732 the appropriate license.

733           ~~[(ii) The board shall issue a letter of authorization permitting a person to be employed  
734 as a classroom teacher if requested by a local school board which has determined that:]~~

735           ~~[(A) the person has outstanding professional qualifications or extensive job experience  
736 in the public or private sector in such areas as mathematics, science, business, information  
737 technology, and applied technology; and]~~

738           ~~[(B) employment of the person would permit the school district to better meet the~~



739 ~~educational goals of students.]~~

740 (2) (a) The board may by rule rank, endorse, or otherwise classify licenses and  
741 establish the criteria for obtaining and retaining licenses.

742 (b)(i) The board shall make rules requiring participation in professional development  
743 activities in order for educators to retain their licenses.

744 (ii) An educator who is enrolling in a course of study at an institution within the state  
745 system of higher education to satisfy the professional development requirements of Subsection  
746 (2)(b)(i) is exempt from tuition, except for a semester registration fee established by the State  
747 Board of Regents, if:

748 (A) the educator is enrolled on the basis of surplus space in the class after regularly  
749 enrolled students have been assigned and admitted to the class in accordance with regular  
750 procedures, normal teaching loads, and the institution's approved budget; and

751 (B) enrollments are determined by each institution under rules and guidelines  
752 established by the State Board of Regents in accordance with findings of fact that space is  
753 available for the educator's enrollment.

754 (3) Unless suspended or revoked by the board, or surrendered by the educator:

755 (a) a letter of authorization is valid for one year, or a shorter period as specified by the  
756 board, subject to renewal by the board in accordance with board rules [~~for a total of not more  
757 than four years of full-time equivalent employment~~];

758 (b) a level 1 license is valid for three years, subject to renewal by the board in  
759 accordance with board rules;

760 (c) a level 2 license is valid for five years, subject to renewal by the board in  
761 accordance with board rules; and

762 (d) a level 3 license is valid for seven years, subject to renewal by the board in  
763 accordance with board rules.

764 Section 16. Section **53A-6-104.5** is enacted to read:

765 **53A-6-104.5. Licensing by competency.**

766 (1) A license to teach may be issued based on the demonstrated competence of a  
767 teacher as provided in this section.

768 (2) A school district or charter school may employ a candidate for a competency-based  
769 license if the candidate meets the following qualifications:

770 (a) as a prerequisite for employment, a license candidate who teaches one or more core  
771 academic subjects in an elementary school shall:

772 (i) hold at least a bachelor's degree; and

773 (ii) have demonstrated, by passing a rigorous state test, subject knowledge and teaching  
774 skills in reading, writing, mathematics, and other areas of the basic elementary school  
775 curriculum;

776 (b) as a prerequisite for employment, a license candidate who teaches one or more core  
777 academic subjects in a middle or secondary school shall:

778 (i) hold at least a bachelor's degree; and

779 (ii) have demonstrated a high level of competency in each of the academic subjects in  
780 which the teacher teaches by:

781 (A) passing a rigorous state academic subject test in each of the academic subjects in  
782 which the teacher teaches; or

783 (B) successful completion, in each of the academic subjects in which the teacher  
784 teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate  
785 academic major, or advanced certification or credentialing; or

786 (c) as a prerequisite for employment, a license candidate who teaches subjects other  
787 than a core academic subject in an elementary, middle, or high school shall:

788 (i) hold a bachelor's degree, associate's degree, or skill certification; and

789 (ii) have skills, talents, or abilities, as evaluated by the employing entity, that make the  
790 person suited for the teaching position.

791 (3) At the request of a school district or charter school, the board shall issue a letter of  
792 authorization permitting a person meeting the qualifications specified in Subsection (2) to be  
793 employed by the school district or charter school.

794 (4) A school district or charter school:

795 (a) shall monitor and assess the performance of each candidate for a competency-based  
796 license; and

797 (b) may award a candidate a district-specific or charter school-specific license if the  
798 candidate:

799 (i) completes a minimum of one year full-time employment experience; and

800 (ii) demonstrates competence in the skills relevant to the teaching position held by the

801 candidate.

802 (5) In lieu of, or in addition to, awarding a license candidate a district-specific or  
803 charter-school specific license, a school district or charter school may recommend that the  
804 license candidate's training and assessment be reviewed by the Utah State Office of Education  
805 for a level 1 license.

806 Section 17. Section **53A-6-110** is enacted to read:

807 **53A-6-110. Administrative/supervisory letters of authorization.**

808 (1) A local school board may request, and the State Board of Education may grant, a  
809 letter of authorization permitting a person with outstanding professional qualifications to serve  
810 in any position that requires a person to hold an administrative/supervisory license or  
811 certificate, including principal, assistant principal, associate principal, vice principal, assistant  
812 superintendent, administrative assistant, director, specialist, or other district position.

813 (2) The State Board of Education may grant a letter of authorization permitting a  
814 person with outstanding professional qualifications to serve in any position at the State Office  
815 of Education that requires a person to hold an administrative/supervisory license or certificate.

816 Section 18. Section **53A-6-502** is amended to read:

817 **53A-6-502. Mandatory reporting of physical or sexual abuse of students.**

818 (1) For purposes of this section, "educator" means, in addition to a person included  
819 under [~~Subsection~~] Section 53A-6-103[~~(7)~~], a person, including a volunteer or temporary  
820 employee, who at the time of an alleged offense was performing a function in a private school  
821 for which a license would be required in a public school.

822 (2) In addition to any duty to report suspected cases of child abuse or neglect under  
823 Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have  
824 been physically or sexually abused by a school employee shall immediately report the belief  
825 and all other relevant information to the school principal, superintendent, or to the office.

826 (3) A school administrator who has received a report under Subsection (2) or who  
827 otherwise has reasonable cause to believe that a student may have been physically or sexually  
828 abused by an educator shall immediately report that information to the office.

829 (4) Failure to comply with Subsection (2) or (3) shall be considered unprofessional  
830 conduct.

831 (5) A person who makes a report under this section in good faith shall be immune from

832 civil or criminal liability that might otherwise arise by reason of that report.

833 Section 19. Section **53A-8-106** is amended to read:

834 **53A-8-106. Career employee status for provisional employees.**

835 (1) A provisional employee must work for a school district on at least a half-time basis  
836 for three consecutive years to obtain career employee status.

837 (2) Policies of an employing school district shall determine the status of a career  
838 employee in the event of the following:

839 (a) the employee accepts a position which is substantially different from the position in  
840 which career status was achieved; or

841 (b) the employee accepts employment in another school district.

842 (3) If an employee who is under an order of probation or remediation in one  
843 assignment in a school district is transferred or given a new assignment in the district, the order  
844 shall stand until its provisions are satisfied.

845 (4) An employee who is given extra duty assignments in addition to a primary  
846 assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary  
847 employee in those extra duty assignments and may not acquire career status beyond the primary  
848 assignment.

849 (5) A teacher is an at-will employee and is not eligible for career employee status if the  
850 teacher:

851 (a) holds a letter of authorization and is a candidate for a competency-based license  
852 pursuant to Section 53A-6-104.5; or

853 (b) holds a district-specific license issued under Section 53A-6-104.5 and does not  
854 hold a level 1, 2, or 3 license as defined in Section 53A-6-103.

855 Section 20. Section **53A-10-103** is amended to read:

856 **53A-10-103. Establishment of educator evaluation program -- Joint committee.**

857 (1) Each local school board shall develop an evaluation program in consultation with  
858 its educators through appointment of a joint committee.

859 (2) The joint committee shall be comprised of an equal number of classroom teachers,  
860 parents, and administrators appointed by the board.

861 (3) A board may appoint members of the joint committee from a list of nominees;

862 (a) voted on by classroom teachers in a nomination election [~~and from a list of~~

863 nominees];

864 (b) voted on by the administrators in a nomination election[-]; and

865 (c) of parents submitted by community councils within the district.

866 (4) The evaluation program developed by the joint committee must comply with the

867 requirements of Section 53A-10-106.

868 Section 21. Section **53A-13-108** is enacted to read:

869 **53A-13-108. Curriculum and graduation requirements.**

870 (1) The State Board of Education shall establish curriculum and graduation

871 requirements under Section 53A-1-402 for grades 9 through 12 that, beginning no later than

872 with the graduating class of 2007, require at least the following credits or their equivalents in a

873 competency-based system:

874 (a) 4.0 units of credit in language arts;

875 (b) 3.0 units of credit in mathematics; and

876 (c) 3.0 units of credit in science.

877 (2) School districts may allow students to earn credit by any of the following methods:

878 (a) successful completion of secondary school courses;

879 (b) successful completion of concurrent enrollment classes consistent with Section

880 53A-17a-120;

881 (c) demonstrated competence;

882 (d) assessment;

883 (e) review of student work or projects; or

884 (f) following successful completion of correspondence or electronic coursework

885 offered by an accredited education institution.

886 Section 22. Section **53A-17a-144** is amended to read:

887 **53A-17a-144. Contribution of state to cost of minimum school program --**

888 **Determination of amounts -- Levy on taxable property -- Disbursal -- Deficiency.**

889 (1) The state's contribution to the total cost of the minimum school program is

890 determined and distributed as ~~[follows:]~~ provided in this section.

891 ~~[(+)]~~ (2) (a) Prior to June 16 of each year, the State Board of Education shall determine

892 the estimated total cost of the minimum school program for each school district for the next

893 school year.

894           ~~[(a)]~~ (b) The board shall certify this cost to the State Tax Commission, the Division of  
895 Finance, and the state auditor.

896           ~~[(b)]~~ (c) The certified report shall include the estimated number of units, the cost of the  
897 minimum program for each district as determined with the district, and the amount of any  
898 deficiency in the state's contribution to the minimum school program for the current and the  
899 preceding years.

900           ~~[(2)]~~ (3) (a) The State Tax Commission shall levy an amount determined by the  
901 Legislature on all taxable property of the state.

902           ~~[(a)]~~ (b) This amount, together with other funds provided by law, is the state's  
903 contribution to the minimum school program.

904           ~~[(b)]~~ (c) The statewide levy is set at zero until changed by the Legislature.

905           ~~[(3)]~~ (4) During the first week in November, the State Tax Commission shall certify to  
906 the State Board of Education the amounts designated as state aid for each district under Section  
907 59-2-902.

908           ~~[(4)]~~ (5) (a) The actual amounts computed under Section 59-2-902 are the state's  
909 contribution to the minimum school program of each district.

910           (b) The state board shall provide each district with a statement of the amount of state  
911 aid.

912           ~~[(5)]~~ (6) (a) Prior to the first day of each month, the state treasurer and the Division of  
913 Finance, with the approval of the State Board of Education, shall disburse 1/12 of the state's  
914 contribution to the cost of the minimum school program to each school district.

915           ~~[(a)]~~ (b) A disbursement may not be made to a district whose payments have been  
916 interrupted under Subsection ~~[(5)]~~~~(d)]~~ (6)(e).

917           ~~[(b)]~~ (c) Discrepancies between the monthly disbursements and the actual cost of the  
918 program shall be adjusted in the final settlement under Subsection ~~[(6)]~~ (7).

919           ~~[(c)]~~ (d) If the monthly distributions overdraw the money in the Uniform School Fund,  
920 the Division of Finance is authorized to run this fund in a deficit position.

921           ~~[(d)]~~ (e) (i) The state board may interrupt disbursements to a district if, in the judgment  
922 of the board, the district;

923           (A) is failing to comply with the minimum school program[;];

924           (B) is operating programs that are not approved by the state board[;]; or

925 (C) has not submitted reports required by law or the state board.

926 ~~[(†)]~~ (ii) Disbursements shall be resumed upon request of the state board.

927 ~~[(††)]~~ (iii) Back disbursements shall be included in the next regular disbursement, and  
928 the amount disbursed certified to the State Division of Finance and state treasurer by the state  
929 board.

930 ~~[(e)]~~ (f) The State Board of Education may authorize exceptions to the 1/12 per month  
931 disbursement formula for grant funds if the board determines that a different disbursement  
932 formula would better serve the purposes of the grant.

933 ~~[(6)]~~ (7) (a) If monies in the Uniform School Fund are insufficient to meet the state's  
934 contribution to the minimum school program as appropriated, the amount of the deficiency  
935 ~~[thus]~~ created shall be carried as a deficiency in the Uniform School Fund until the next session  
936 of the Legislature, at which time the Legislature shall appropriate funds to cover the deficiency.

937 (b) If there is an operating deficit in public education Uniform School Fund  
938 appropriations, the Legislature shall eliminate the deficit by:

939 (i) budget transfers or other legal means;

940 (ii) appropriating money from the Education Budget Reserve Account created in  
941 Section 63-38-2.6;

942 ~~[(††)]~~ (iii) appropriating up to 25% of the balance in the ~~[Budgetary]~~ Budget Reserve  
943 Account created in Section 63-38-2.5; or

944 ~~[(†††)]~~ (iv) some combination of Subsections (7)(b)(i) ~~[and (ii)]~~ through (7)(b)(iii).

945 (c) Nothing in Subsection (7)(b) precludes the Legislature from appropriating more  
946 than 25% of the balance in the ~~[Budgetary]~~ Budget Reserve Account created in Section  
947 63-38-2.5 to fund operating deficits in public education appropriations.

948 Section 23. Section **53A-17a-149** is enacted to read:

949 **53A-17a-149. Competency-based Education Block Grant Program -- State**  
950 **contributions.**

951 (1) There is appropriated to the State Board of Education for the fiscal year beginning  
952 July 1, 2004, \$24,000,000 for the Competency-based Education Block Grant Program.

953 (2) The State Board of Education shall distribute the appropriation under Subsection  
954 (1) to school districts and charter schools according to a formula adopted by the board, after  
955 consultation with school districts and charter schools, that allocates the funding in a fair and

956 equitable manner.

957 (3) Schools districts and charter schools shall use their Competency-based Education  
958 Block Grant monies to improve student academic progress in core academic subjects through  
959 the implementation of competency-based education, as measured by individual progress-based  
960 assessments, including remediation for students not individually progressing.

961 (4) Each local school board shall, in an open public meeting, approve a plan to spend  
962 Competency-based Education Block Grant monies in accordance with this section.

963 Section 24. Section **53A-17a-150** is enacted to read:

964 **53A-17a-150. Appropriation for school districts with declining enrollment.**

965 (1) For fiscal year 2003-04 only, there is appropriated \$1,000,000 from the Uniform  
966 School Fund to the State Board of Education to be distributed to school districts that:

967 (a) experience a net decline in enrollment in the 2003-04, 2004-05, or 2005-06 school  
968 year; and

969 (b) all or a part of the decline can be attributed to the enactment of Section 59-7-616,  
970 59-10-136, or 59-10-137.

971 (2) The appropriation under Subsection (1) shall be nonlapsing.

972 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
973 board shall make rules establishing criteria and procedures for the distribution of funds  
974 appropriated under Subsection (1).

975 Section 25. Section **53A-17a-151** is enacted to read:

976 **53A-17a-151. Class Size Reduction Reward Block Grant Program -- State**  
977 **contributions.**

978 (1) There is appropriated to the State Board of Education for the fiscal year beginning  
979 July 1, 2004, \$24,000,000 for the Class Size Reduction Reward Block Grant Program.

980 (2) (a) (i) The State Board of Education shall calculate each elementary school's  
981 allocation of the appropriation under Subsection (1).

982 (ii) The allocation is equal to the total school enrollment of students in kindergarten  
983 through the 3rd grade multiplied by the quotient obtained by dividing the appropriation under  
984 Subsection (1) by the total state public school enrollment of students in kindergarten through  
985 the 3rd grade.

986 (iii) The allocation under this Subsection (2) shall be adjusted so that the allocation for



987 a kindergarten student shall be .55 of the allocation for a student in the 1st through 3rd grade.

988 (b) The State Board of Education shall distribute the school allocation calculated under  
989 this Subsection (2) to each school district or charter school for each school that, on October 1,  
990 does not have a class in kindergarten through the 3rd grade with more than 20 students.

991 (c) The State Board of Education shall remit the school allocation calculated under this  
992 Subsection (2) to the Division of Finance to deposit in the Education Budget Reserve Account  
993 created in Section 63-38-2.6 for each school that, on October 1, has a class in kindergarten  
994 through the 3rd grade with more than 20 students.

995 (3) School districts and charter schools shall use Class Size Reduction Reward Block  
996 Grant Program monies for:

997 (a) maintenance and operation costs;

998 (b) capital outlay; and

999 (c) debt service.

1000 (4) Each local school board shall, in an open public meeting, approve a plan to spend  
1001 Class Size Reduction Reward Block Grant Program monies in accordance with this section.

1002 Section 26. Section **59-7-104** is amended to read:

1003 **59-7-104. Tax -- Minimum tax.**

1004 (1) Each domestic and foreign corporation, except those exempted under Section  
1005 59-7-102, shall pay an annual tax to the state based on its Utah taxable income for the taxable  
1006 year for the privilege of exercising its corporate franchise or for the privilege of doing business  
1007 in the state.

1008 (2) ~~[The]~~ (a) For taxable years beginning on or after January 1, 1994, but beginning on  
1009 or before December 31, 2003, the tax ~~[shall be]~~ is 5% of a corporation's Utah taxable income.

1010 (b) For the taxable year beginning on or after January 1, 2004, but beginning on or  
1011 before December 31, 2004, the tax is 5.125% of a corporation's Utah taxable income.

1012 (c) For taxable years beginning on or after January 1, 1994, but beginning on or after  
1013 January 1, 2005, the tax is 5.25% of a corporation's Utah taxable income.

1014 (3) ~~[The]~~ (a) For taxable years beginning on or after January 1, 1994, but beginning on  
1015 or before December 31, 2003, the minimum tax ~~[a corporation shall pay under this chapter]~~  
1016 imposed by Subsection (1) is \$100.

1017 (b) For the taxable year beginning on or after January 1, 2004, but beginning on or

1018 before December 31, 2004, the minimum tax imposed by Subsection (1) is \$150.

1019 (c) For taxable years beginning on or after January 1, 2005, the minimum tax imposed  
1020 by Subsection (1) is \$200.

1021 Section 27. Section **59-7-201** is amended to read:

1022 **59-7-201. Tax -- Minimum tax.**

1023 (1) There is imposed upon each corporation except those exempt under Section  
1024 59-7-102 for each taxable year, a tax upon its Utah taxable income derived from sources within  
1025 this state other than income for any period which the corporation is required to include in its  
1026 tax base under Section 59-7-104.

1027 (2) ~~[The]~~ (a) For taxable years beginning on or after January 1, 1994, but beginning on  
1028 or before December 31, 2003, the tax imposed by Subsection (1) ~~[shall be]~~ is 5% of a  
1029 corporation's Utah taxable income.

1030 ~~[(3) In no case shall the tax be less than \$100.]~~

1031 (b) For the taxable year beginning on or after January 1, 2004, but beginning on or  
1032 before December 31, 2004, the tax is 5.125% of a corporation's Utah taxable income.

1033 (c) For taxable years beginning on or after January 1, 1994, but beginning on or after  
1034 January 1, 2005, the tax is 5.25% of a corporation's Utah taxable income.

1035 (3) (a) For taxable years beginning on or before December 31, 2003, the minimum tax  
1036 imposed by Subsection (1) is \$100.

1037 (b) For the taxable year beginning on or after January 1, 2004, but beginning on or  
1038 before December 31, 2004, the minimum tax imposed by Subsection (1) is \$150.

1039 (c) For taxable years beginning on or after January 1, 2005, the minimum tax imposed  
1040 by Subsection (1) is \$200.

1041 Section 28. Section **59-7-616** is enacted to read:

1042 **59-7-616. Tax credit for contributions to scholarship granting organizations --**  
1043 **Definitions -- Duties of scholarship granting organizations -- Penalties.**

1044 (1) As used in this section:

1045 (a) (i) "Private school" means an elementary or secondary school within this state that:

1046 (A) is not owned and controlled by a governmental entity;

1047 (B) provides instruction for one or more grades kindergarten through 12; and

1048 (C) at which the compulsory attendance requirements of Section 53A-11-101 may be

1049 met.

1050 (ii) "Private school" does not include a home school.

1051 (b) (i) "Qualifying student" means, except as provided in Subsection (1)(b)(ii), an  
1052 individual:

1053 (A) who is enrolled at a private school as a full-time student as determined by the  
1054 private school § , BUT IS NOT ALSO:

1054a (I) ENROLLED IN OR ATTENDING A PUBLIC SCHOOL; AND

1054b (II) PARTICIPATING IN DUAL ENROLLMENT UNDER SECTION 53A-11-102.5 § ;

1055 (B) for whom the private school has on file a release of information form;

1056 (C) who will be under 19 years of age on the last day of the school year as determined  
1057 by the private school or, if the individual is disabled and has not graduated from high school  
1058 with a regular diploma, will be under 22 years of age on the last day of the school year as  
1059 determined by the private school; § [and]

1059a (D) WHO IS A UTAH RESIDENT; AND

1060 [~~(D)~~] (E) § who meets one or more of the following criteria:

1061 (I) the individual was not enrolled at a private school between July 1, 2002 and January  
1062 1, 2003; or

1063 (II) the individual is a member of a household as defined in 7 C.F.R. Sec. 245.2 whose  
1064 household income as determined under 7 C.F.R. Part 245, Determining Eligibility for Free and  
1065 Reduced Price Meals and Free Milk in Schools, is less than 100% of the reduced price meals  
1066 income eligibility guideline for the applicable household size as published by the U.S.  
1067 Department of Agriculture by notice in the Federal Register.

1068 (ii) "Qualifying student" does not include a private school student while enrolled in  
1069 kindergarten during the 2003-04 school year.

1070 (c) "Release of information form" means a form developed by a private school that:

1071 (i) states that a parent of a qualifying student consents to the release of the information  
1072 contained in the school tuition certificate; and

1073 (ii) is consistent with the requirements of 20 U.S.C. Sec. 1232g, Family Educational  
1074 Rights and Privacy Act of 1974.

1075 (d) "Scholarship granting organization" means an organization that:

1076 (i) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and

1077 (ii) makes tuition grants to qualifying students to attend private schools in this state.

1078 (e) "School tuition certificate" means a certificate developed by a private school that:

1079 (i) is issued by the private school to the first taxpayer or scholarship granting

1080 organization that during the calendar year:

1081 (A) makes a:

1082 (I) tuition grant to a qualifying student in accordance with this section or Section  
1083 59-10-136; or

1084 (II) tuition payment on behalf of a qualifying student in accordance with Section  
1085 59-10-137; and

1086 (B) requests the certificate from the private school; and

1087 (ii) lists:

1088 (A) the name of the qualifying student:

1089 (I) receiving a tuition grant in accordance with this section or Section 59-10-136; or

1090 (II) on behalf of whom a tuition payment is made in accordance with Section  
1091 59-10-137;

1092 (B) the calendar year for which the school tuition certificate is issued; and

1093 (C) the value of the weighted pupil unit on the first day of the calendar year described  
1094 in Subsection (1)(e)(ii)(B).

1095 (f) "Value of the weighted pupil unit" means the amount specified in Section  
1096 53A-17a-103 that is multiplied by the number of weighted pupil units to yield the funding level  
1097 for the basic state-supported school program.

1098 (2) (a) For taxable years beginning on or after January 1, 2003, a taxpayer may claim a  
1099 nonrefundable tax credit against the taxes imposed by this chapter as provided in this section  
1100 for monetary contributions:

1101 (i) the taxpayer makes during a taxable year to a scholarship granting organization; and

1102 (ii) that will be used to make tuition grants, in accordance with Subsections (5) through  
1103 (7), to qualifying students to attend private school.

1104 (b) The maximum tax credit that may be claimed under this section is ~~§ [50%]~~ 20% § of the  
1105 taxpayer's tax liability imposed by this chapter.

1106 (3) The tax credit provided for in this section may not be carried forward or carried  
1107 back.

1108 (4) A scholarship granting organization shall within 30 days after the day on which a  
1109 taxpayer seeking to claim a tax credit under this section or Section 59-10-136 makes a  
1110 contribution to the scholarship granting organization, provide to the taxpayer a written

1111 statement:

1112 (a) certifying that the contribution shall be used to make tuition grants, in accordance  
1113 with Subsections (5) through (7), to qualifying students to attend private schools; and

1114 (b) listing the amount of the contribution.

1115 (5) A scholarship granting organization shall make tuition payments for a qualifying  
1116 student receiving a tuition grant funded from a contribution for which the scholarship granting  
1117 organization issues a written statement in accordance with Subsection (4) to any private school  
1118 in this state that is not under an injunction from the Division of Consumer Protection in  
1119 accordance with Section 59-7-618, as selected by a parent of the qualifying student.

1120 (6) (a) A scholarship granting organization may make a tuition grant during a calendar  
1121 year to a qualifying student from a contribution for which the scholarship granting organization  
1122 issues a written statement in accordance with Subsection (4), if the scholarship granting  
1123 organization during the calendar year:

1124 (i) does not make tuition grants to that qualifying student from a contribution for which  
1125 the scholarship granting organization issues a written statement in accordance with Subsection  
1126 (4) the total amount of which exceeds the amount specified in Subsection (6)(b); and

1127 (ii) obtains from the private school a school tuition certificate listing the name of that  
1128 qualifying student.

1129 (b) For the purpose of Subsection (6)(a), a scholarship granting organization may make  
1130 tuition grants to:

1131 (i) a qualifying student enrolled in private school for only kindergarten during the  
1132 calendar year in an amount not to exceed the greater of:

1133 (A) \$586; or

1134 (B) \$586 adjusted by the percentage increase in the value of the weighted pupil unit  
1135 from January 1, 2003 to the first day of the calendar year for which the private school issues the  
1136 school tuition certificate in accordance with this section;

1137 (ii) a qualifying student enrolled in private school for both kindergarten and a higher  
1138 grade during the calendar year in an amount not to exceed the greater of:

1139 (A) \$1,652; or

1140 (B) \$1,652 adjusted by the percentage increase in the value of the weighted pupil unit  
1141 from January 1, 2003 to the first day of the calendar year for which the private school issues the

1142 school tuition certificate in accordance with this section; and

1143 (iii) a qualifying student enrolled in private school for only grades 1-12 during a  
1144 calendar year in an amount not to exceed the greater of:

1145 (A) \$2,132; or

1146 (B) the value of the weighted pupil unit on the first day of the calendar year for which  
1147 the private school issues the school tuition certificate in accordance with this section.

1148 (c) A private school may not issue more than one school tuition certificate during a  
1149 calendar year that lists the name of a particular qualifying student.

1150 (d) (i) A scholarship granting organization shall pay to the commission a penalty  
1151 calculated under Subsection (6)(d)(ii) if during a calendar year the scholarship granting  
1152 organization makes one or more tuition grants to a qualifying student:

1153 (A) that exceed the total amount described in Subsections (6)(a) and (6)(b); or

1154 (B) without obtaining from the private school a school tuition certificate listing the  
1155 name of that qualifying student.

1156 (ii) (A) The penalty for making tuition grants to a qualifying student that exceed the  
1157 total amount described in Subsections (6)(a) and (6)(b) is an amount equal to the difference  
1158 between:

1159 (I) the total amount described in Subsections (6)(a) and (6)(b); and

1160 (II) the total amount of tuition grants the scholarship granting organization makes to  
1161 the qualifying student during a calendar year from a contribution for which the scholarship  
1162 granting organization issues a written statement in accordance with Subsection (4).

1163 (B) The penalty for making tuition grants to a qualifying student without obtaining a  
1164 school tuition certificate for the student is an amount equal to the total amount of tuition grants  
1165 the scholarship granting organization makes to the qualifying student during a calendar year  
1166 from a contribution for which the scholarship granting organization issues a written statement  
1167 in accordance with Subsection (4).

1168 (e) The commission shall deposit any penalties the commission collected under this  
1169 Subsection (6) into the Uniform School Fund.

1170 (7) (a) A scholarship granting organization shall expend at least 98% of each  
1171 contribution for which the organization issues a written statement in accordance with  
1172 Subsection (4):

1173 (i) for tuition grants to qualifying students to attend private schools in this state; and  
1174 (ii) within a 12-month period after the day on which the organization receives the  
1175 contribution.

1176 (b) A scholarship granting organization may expend up to 2% of each contribution for  
1177 which the organization issues a written statement in accordance with Subsection (4) to  
1178 administer the tuition grant program.

1179 (c) A scholarship granting organization that fails to comply with the requirements of  
1180 Subsection (7)(a) shall pay to the commission a penalty equal to the sum of:

1181 (i) the amount that is not spent in accordance with Subsection (7)(a); and

1182 (ii) the interest or earnings the scholarship granting organization receives on the  
1183 amount that is not spent in accordance with Subsection (7)(a).

1184 (d) The commission shall deposit any penalties the commission collects under this  
1185 Subsection (7) into the Uniform School Fund.

1186 (8) A scholarship granting organization that receives contributions from taxpayers  
1187 seeking a tax credit pursuant to this section or Section 59-10-136 shall provide to the  
1188 commission an annual audit conducted by an independent certified public accountant that  
1189 includes a:

1190 (a) financial audit of its accounts and records; and

1191 (b) compliance audit of the requirements under this section and Section 59-10-136.

1192 (9) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1193 commission may make rules requiring scholarship granting organizations to verify that each  
1194 tuition grant recipient meets the requirements of a qualifying student under Subsection (1)(b).

1195 (10) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, the  
1196 commission may enjoin a scholarship granting organization that fails to comply with this  
1197 section from accepting contributions from taxpayers seeking to claim a tax credit under this  
1198 section or Section 59-10-136 for a period of up to one year.

1199 (11) Nothing in this section or Section 13-2-1, 59-7-618, 59-10-136, or 59-10-137  
1200 grants additional authority to any state agency or school district to regulate private schools,  
1201 except as expressly set forth in these sections.

1202 Section 29. Section **59-7-618** is enacted to read:

1203 **59-7-618. Private school requirements -- School tuition certificates -- Enforcement**

## 1204 -- Orders.

1205 (1) As used in this section:1206 (a) "Private school" is as defined in Section 59-7-616.1207 (b) "School tuition certificate" is as defined in Section 59-7-616.1208 (2) A private school may not issue a school tuition certificate unless it:1209 (a) (i) annually assesses the achievement of each student for which a tuition tax credit  
1210 certificate is issued by administering a standardized achievement test scored by an independent  
1211 party that provides a comparison of the student's performance to other students on a national  
1212 basis; and1213 (ii) (A) reports the test results to the student's parents; and1214 (B) upon request, makes tests results available to other persons, in manner that does  
1215 not reveal the identity of any student;1216 (b) provides to parents the relevant credentials of teachers who will be teaching their  
1217 children;1218 (c) provides to parents a statement indicating which, if any, organizations have  
1219 accredited the private school; and1220 (d) has not been enjoined from issuing school tuition certificates in accordance with  
1221 Subsection (3).1222 (3) (a) The Division of Consumer Protection may use its enforcement powers to  
1223 investigate complaints and convene administrative hearings for a violation of Subsection (2).1224 (b) If the Division of Consumer Protection finds repeated and willful violations of  
1225 Subsection (2), it shall issue an order that enjoins the private school from issuing a school  
1226 tuition certificate for the subsequent school year.1227 Section 30. Section **59-10-104** is amended to read:1228 **59-10-104. Tax basis -- Rates -- Exemption.**1229 (1) Except as provided in Subsection (4), for taxable years beginning on or after  
1230 January 1, 2001, a tax is imposed on the state taxable income, as defined in Section 59-10-112,  
1231 of every resident individual as provided in this section.1232 (2) [~~For~~] (a) For taxable years beginning on or after January 1, 2001, but beginning on  
1233 or before December 31, 2003, for an individual, other than a husband and wife or head of  
1234 household required to use the tax table under Subsection [~~(3)~~] (2)(b), the tax under this section



1235 is imposed in accordance with the following table:

1236 If the state taxable income is:	The tax is:
1237 Less than or equal to \$863	2.3% of the state taxable income
1238 Greater than \$863 but less than or equal	\$20, plus 3.3% of state taxable
1239 to \$1,726	income greater than \$863
1240 Greater than \$1,726 but less than or equal	\$48, plus 4.2% of state taxable
1241 to \$2,588	income greater than \$1,726
1242 Greater than \$2,588 but less than or equal	\$85, plus 5.2% of state taxable
1243 to \$3,450	income greater than \$2,588
1244 Greater than \$3,450 but less than or equal	\$129, plus 6% of state taxable
1245 to \$4,313	income greater than \$3,450
1246 Greater than \$4,313	\$181, plus 7% of state taxable
1247	income greater than \$4,313

1248 ~~[(3) For]~~ (b) For taxable years beginning on or after January 1, 2001, but beginning on  
 1249 or before December 31, 2003, for a husband and wife filing a single return jointly, or a head of  
 1250 household as defined in Section 2(b), Internal Revenue Code, filing a single return, the tax  
 1251 under this section is imposed in accordance with the following table:

1252 If the state taxable income is:	The tax is:
1253 Less than or equal to \$1,726	2.3% of the state taxable income
1254 Greater than \$1,726 but less than or equal	\$40, plus 3.3% of state taxable
1255 to \$3,450	income greater than \$1,726
1256 Greater than \$3,450 but less than or equal	\$97, plus 4.2% of state taxable
1257 to \$5,176	income greater than \$3,450
1258 Greater than \$5,176 but less than or equal	\$169, plus 5.2% of state taxable
1259 to \$6,900	income greater than \$5,176
1260 Greater than \$6,900 but less than or equal	\$259, plus 6% of state taxable
1261 to \$8,626	income greater than \$6,900
1262 Greater than \$8,626	\$362, plus 7% of state taxable
1263	income greater than \$8,626

1264 (3) (a) For the taxable year beginning on or after January 1, 2004, but beginning on or  
 1265 before December 31, 2004, for an individual, other than a husband and wife or head of

1266 household required to use the tax table under Subsection (3)(b), the tax under this section is  
 1267 imposed in accordance with the following table:

1268	<u>If the state taxable income is:</u>	<u>The tax is:</u>
1269	<u>Less than or equal to \$863</u>	<u>2.33% of the state taxable income</u>
1270	<u>Greater than \$863 but less than or equal</u>	<u>\$20, plus 3.35% of state taxable</u>
1271	<u>to \$1,726</u>	<u>income greater than \$863</u>
1272	<u>Greater than \$1,726 but less than or equal</u>	<u>\$49, plus 4.26% of state taxable</u>
1273	<u>to \$2,588</u>	<u>income greater than \$1,726</u>
1274	<u>Greater than \$2,588 but less than or equal</u>	<u>\$86, plus 5.27% of state taxable</u>
1275	<u>to \$3,450</u>	<u>income greater than \$2,588</u>
1276	<u>Greater than \$3,450 but less than or equal</u>	<u>\$131, plus 6.08% of state taxable</u>
1277	<u>to \$4,313</u>	<u>income greater than \$3,450</u>
1278	<u>Greater than \$4,313</u>	<u>\$184, plus 7.1% of state taxable</u>
1279		<u>income greater than \$4,313</u>

1280 (b) For the taxable year beginning on or after January 1, 2004, but beginning on or  
 1281 before December 31, 2004, for a husband and wife filing a single return jointly, or a head of  
 1282 household as defined in Section 2(b), Internal Revenue Code, filing a single return, the tax  
 1283 under this section is imposed in accordance with the following table:

1284	<u>If the state taxable income is:</u>	<u>The tax is:</u>
1285	<u>Less than or equal to \$1,726</u>	<u>2.33% of the state taxable income</u>
1286	<u>Greater than \$1,726 but less than or equal</u>	<u>\$40, plus 3.35% of state taxable</u>
1287	<u>to \$3,450</u>	<u>income greater than \$1,726</u>
1288	<u>Greater than \$3,450 but less than or equal</u>	<u>\$97, plus 4.26% of state taxable</u>
1289	<u>to \$5,176</u>	<u>income greater than \$3,450</u>
1290	<u>Greater than \$5,176 but less than or equal</u>	<u>\$171, plus 5.27% of state taxable</u>
1291	<u>to \$6,900</u>	<u>income greater than \$5,176</u>
1292	<u>Greater than \$6,900 but less than or equal</u>	<u>\$262, plus 6.08% of state taxable</u>
1293	<u>to \$8,626</u>	<u>income greater than \$6,900</u>
1294	<u>Greater than \$8,626</u>	<u>\$367, plus 7.1% of state taxable</u>
1295		<u>income greater than \$8,626</u>

1296 (4) (a) For taxable years beginning on or after January 1, 2005, for an individual, other

1297 than a husband and wife or head of household required to use the tax table under Subsection  
 1298 (4)(b), the tax under this section is imposed in accordance with the following table:

1299	<u>If the state taxable income is:</u>	<u>The tax is:</u>
1300	<u>Less than or equal to \$863</u>	<u>2.36% of the state taxable income</u>
1301	<u>Greater than \$863 but less than or equal</u>	<u>\$20, plus 3.39% of state taxable</u>
1302	<u>to \$1,726</u>	<u>income greater than \$863</u>
1303	<u>Greater than \$1,726 but less than or equal</u>	<u>\$50, plus 4.32% of state taxable</u>
1304	<u>to \$2,588</u>	<u>income greater than \$1,726</u>
1305	<u>Greater than \$2,588 but less than or equal</u>	<u>\$87, plus 5.34% of state taxable</u>
1306	<u>to \$3,450</u>	<u>income greater than \$2,588</u>
1307	<u>Greater than \$3,450 but less than or equal</u>	<u>\$133, plus 6.17% of state taxable</u>
1308	<u>to \$4,313</u>	<u>income greater than \$3,450</u>
1309	<u>Greater than \$4,313</u>	<u>\$186, plus 7.19% of state taxable</u>
1310		<u>income greater than \$4,313</u>

1311 (c) For taxable years beginning on or after January 1, 2005, for a husband and wife  
 1312 filing a single return jointly, or a head of household as defined in Section 2(b), Internal  
 1313 Revenue Code, filing a single return, the tax under this section is imposed in accordance with  
 1314 the following table:

1315	<u>If the state taxable income is:</u>	<u>The tax is:</u>
1316	<u>Less than or equal to \$1,726</u>	<u>2.36% of the state taxable income</u>
1317	<u>Greater than \$1,726 but less than or equal</u>	<u>\$40, plus 3.39% of state taxable</u>
1318	<u>to \$3,450</u>	<u>income greater than \$1,726</u>
1319	<u>Greater than \$3,450 but less than or equal</u>	<u>\$98, plus 4.32% of state taxable</u>
1320	<u>to \$5,176</u>	<u>income greater than \$3,450</u>
1321	<u>Greater than \$5,176 but less than or equal</u>	<u>\$173, plus 5.34% of state taxable</u>
1322	<u>to \$6,900</u>	<u>income greater than \$5,176</u>
1323	<u>Greater than \$6,900 but less than or equal</u>	<u>\$265, plus 6.17% of state taxable</u>
1324	<u>to \$8,626</u>	<u>income greater than \$6,900</u>
1325	<u>Greater than \$8,626</u>	<u>\$371, plus 7.19% of state taxable</u>
1326		<u>income greater than \$8,626</u>

1327 ~~(4)~~ (5) This section does not apply to a resident individual exempt from taxation

1328 under Section 59-10-104.1.

1329 Section 31. Section **59-10-114** is amended to read:

1330 **59-10-114. Additions to and subtractions from federal taxable income of an**  
1331 **individual.**

1332 (1) There shall be added to federal taxable income of a resident or nonresident  
1333 individual:

1334 (a) the amount of any income tax imposed by this or any predecessor Utah individual  
1335 income tax law and the amount of any income tax imposed by the laws of another state, the  
1336 District of Columbia, or a possession of the United States, to the extent deducted from federal  
1337 adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal  
1338 taxable income;

1339 (b) a lump sum distribution that the taxpayer does not include in adjusted gross income  
1340 on the taxpayer's federal individual income tax return for the taxable year;

1341 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's  
1342 income calculated under Subsection (5) that:

1343 (i) a parent elects to report on the parent's federal individual income tax return for the  
1344 taxable year; and

1345 (ii) the parent does not include in adjusted gross income on the parent's federal  
1346 individual income tax return for the taxable year;

1347 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue  
1348 Code;

1349 (e) a withdrawal from a medical care savings account and any penalty imposed in the  
1350 taxable year if:

1351 (i) the taxpayer did not deduct or include the amounts on his federal tax return pursuant  
1352 to Section 220, Internal Revenue Code; and

1353 (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);

1354 (f) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education  
1355 Savings Incentive Program, in the year in which the amount is refunded; ~~and~~

1356 (g) except as provided in Subsection (6), for taxable years beginning on or after  
1357 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after  
1358 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by

1359 one or more of the following entities:

1360 (i) a state other than this state;

1361 (ii) the District of Columbia;

1362 (iii) a political subdivision of a state other than this state; or

1363 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through

1364 (iii)[-]; and

1365 (h) (i) for the taxable year beginning on or after January 1, 2004, but beginning on or  
1366 before December 31, 2004, an amount equal to the product of:

1367 (A) the total number of qualifying children for which the resident or nonresident  
1368 individual claims a tax credit:

1369 (I) for that taxable year; and

1370 (II) in accordance with Section 24, Internal Revenue Code; and

1371 (B) \$643; and

1372 (ii) for taxable years beginning on or after January 1, 2005, an amount equal to the  
1373 product of:

1374 (A) the total number of qualifying children for which the resident or nonresident  
1375 individual is allowed to claim a tax credit:

1376 (I) for that taxable year; and

1377 (II) in accordance with Section 24, Internal Revenue Code; and

1378 (B) \$1,286.

1379 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
1380 individual:

1381 (a) the interest or dividends on obligations or securities of the United States and its

1382 possessions or of any authority, commission, or instrumentality of the United States, to the

1383 extent includable in gross income for federal income tax purposes but exempt from state

1384 income taxes under the laws of the United States, but the amount subtracted under this

1385 Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to

1386 purchase or carry the obligations or securities described in this Subsection (2)(a), and by any

1387 expenses incurred in the production of interest or dividend income described in this Subsection

1388 (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in

1389 determining federal taxable income;

1390 (b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income  
1391 tax paid or payable to the United States after all allowable credits, as reported on the United  
1392 States individual income tax return of the taxpayer for the same taxable year; and

1393 (ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after  
1394 January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or  
1395 nonresident individual's United States individual income tax return allowed as a result of the  
1396 acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,  
1397 Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be  
1398 used in calculating the amount described in Subsection (2)(b)(i);

1399 (c) the amount of adoption expenses which, for purposes of this Subsection (2)(c),  
1400 means any actual medical and hospital expenses of the mother of the adopted child which are  
1401 incident to the child's birth and any welfare agency, child placement service, legal, and other  
1402 fees or costs relating to the adoption;

1403 (d) amounts received by taxpayers under age 65 as retirement income which, for  
1404 purposes of this section, means pensions and annuities, paid from an annuity contract  
1405 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),  
1406 Internal Revenue Code, or purchased by an employee under a plan which meets the  
1407 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or  
1408 political subdivision thereof, or the District of Columbia, to the employee involved or the  
1409 surviving spouse;

1410 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500  
1411 personal retirement exemption;

1412 (f) 75% of the amount of the personal exemption, as defined and calculated in the  
1413 Internal Revenue Code, for each dependent child with a disability and adult with a disability  
1414 who is claimed as a dependent on a taxpayer's return;

1415 (g) any amount included in federal taxable income that was received pursuant to any  
1416 federal law enacted in 1988 to provide reparation payments, as damages for human suffering,  
1417 to United States citizens and resident aliens of Japanese ancestry who were interned during  
1418 World War II;

1419 (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the  
1420 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

1421 (i) for:

1422 (A) the taxpayer;

1423 (B) the taxpayer's spouse; and

1424 (C) the taxpayer's dependents; and

1425 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or

1426 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

1427 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a

1428 contribution made during the taxable year on behalf of the taxpayer to a medical care savings

1429 account and interest earned on a contribution to a medical care savings account established

1430 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the

1431 contribution is accepted by the account administrator as provided in the Medical Care Savings

1432 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal

1433 individual income tax return pursuant to Section 220, Internal Revenue Code; and

1434 (ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the

1435 following:

1436 (A) the maximum contribution allowed under the Medical Care Savings Account Act

1437 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is

1438 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that

1439 covers the other spouse, and each spouse has a medical care savings account; or

1440 (B) the maximum contribution allowed under the Medical Care Savings Account Act

1441 for the tax year for taxpayers:

1442 (I) who do not file a joint return; or

1443 (II) who file a joint return, but do not qualify under Subsection (2)(i)(i)(A); and

1444 (j) the amount included in federal taxable income that was derived from money paid by

1445 the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings

1446 Incentive Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d), and

1447 investment income earned on participation agreements under Subsection 53B-8a-106(1) that is

1448 included in federal taxable income, but only when the funds are used for qualified higher

1449 education costs of the beneficiary;

1450 (k) for taxable years beginning on or after January 1, 2000, any amounts paid for

1451 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the

1452 amounts paid for long-term care insurance were not deducted under Section 213, Internal  
1453 Revenue Code, in determining federal taxable income; and

1454 (l) for taxable years beginning on or after January 1, 2000, if the conditions of  
1455 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

1456 (i) during a time period that the Ute tribal member resides on homesteaded land  
1457 diminished from the Uintah and Ouray Reservation; and

1458 (ii) from a source within the Uintah and Ouray Reservation.

1459 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted  
1460 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or  
1461 \$4,800, except that:

1462 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1463 earned over \$32,000, the amount of the retirement income exemption that may be subtracted  
1464 shall be reduced by 50 cents;

1465 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1466 earned over \$16,000, the amount of the retirement income exemption that may be subtracted  
1467 shall be reduced by 50 cents; and

1468 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1469 \$25,000, the amount of the retirement income exemption that may be subtracted shall be  
1470 reduced by 50 cents.

1471 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption  
1472 shall be further reduced according to the following schedule:

1473 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income  
1474 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50  
1475 cents;

1476 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
1477 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50  
1478 cents; and

1479 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
1480 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

1481 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be  
1482 calculated by adding to federal adjusted gross income any interest income not otherwise



1483 included in federal adjusted gross income.

1484 (d) For purposes of determining ownership of items of retirement income common law  
1485 doctrine will be applied in all cases even though some items may have originated from service  
1486 or investments in a community property state. Amounts received by the spouse of a living  
1487 retiree because of the retiree's having been employed in a community property state are not  
1488 deductible as retirement income of such spouse.

1489 (e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care  
1490 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

1491 (i) for an amount that is reimbursed or funded in whole or in part by the federal  
1492 government, the state, or an agency or instrumentality of the federal government or the state;  
1493 and

1494 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded  
1495 in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

1496 (4) (a) A subtraction for an amount described in Subsection (2)(l) is allowed only if:

1497 (i) the taxpayer is a Ute tribal member; and

1498 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1499 requirements of this Subsection (4).

1500 (b) The agreement described in Subsection (4)(a):

1501 (i) may not:

1502 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1503 (B) provide a subtraction under this section greater than or different from the  
1504 subtraction described in Subsection (2)(l); or

1505 (C) affect the power of the state to establish rates of taxation; and

1506 (ii) shall:

1507 (A) provide for the implementation of the subtraction described in Subsection (2)(l);

1508 (B) be in writing;

1509 (C) be signed by:

1510 (I) the governor; and

1511 (II) the chair of the Business Committee of the Ute tribe;

1512 (D) be conditioned on obtaining any approval required by federal law; and

1513 (E) state the effective date of the agreement.

1514 (c) (i) The governor shall report to the commission by no later than February 1 of each  
1515 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is  
1516 in effect.

1517 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the  
1518 subtraction permitted under Subsection (2)(l) is not allowed for taxable years beginning on or  
1519 after the January 1 following the termination of the agreement.

1520 (d) For purposes of Subsection (2)(l) and in accordance with Title 63, Chapter 46a,  
1521 Utah Administrative Rulemaking Act, the commission may make rules:

1522 (i) for determining whether income is derived from a source within the Uintah and  
1523 Ouray Reservation; and

1524 (ii) that are substantially similar to how federal adjusted gross income derived from  
1525 Utah sources is determined under Section 59-10-117.

1526 (5) (a) For purposes of this Subsection (5), "Form 8814" means:

1527 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's  
1528 Interest and Dividends; or

1529 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
1530 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
1531 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
1532 on 2000 Form 8814 is reported on a form other than Form 8814; and

1533 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
1534 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
1535 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
1536 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
1537 8814.

1538 (b) The amount of a child's income added to adjusted gross income under Subsection  
1539 (1)(c) is equal to the difference between:

1540 (i) the lesser of:

1541 (A) the base amount specified on Form 8814; and

1542 (B) the sum of the following reported on Form 8814:

1543 (I) the child's taxable interest;

1544 (II) the child's ordinary dividends; and

1545 (III) the child's capital gain distributions; and  
1546 (ii) the amount not taxed that is specified on Form 8814.  
1547 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences  
1548 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be  
1549 added to federal taxable income of a resident or nonresident individual if, as annually  
1550 determined by the commission:

1551 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the  
1552 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
1553 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

1554 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose  
1555 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of  
1556 this state:

1557 (i) the entity; or

1558 (ii) (A) the state in which the entity is located; or

1559 (B) the District of Columbia, if the entity is located within the District of Columbia.

1560 Section 32. Section **59-10-136** is enacted to read:

1561 **59-10-136. Tax credit for contributions to scholarship granting organizations --**

1562 **Definitions -- Duties of scholarship granting organizations -- Penalties.**

1563 (1) As used in this section:

1564 (a) "Private school" is as defined in Section 59-7-616.

1565 (b) "Qualifying student" is as defined in Section 59-7-616.

1566 (c) "Scholarship granting organization" is as defined in Section 59-7-616.

1567 (d) "School tuition certificate" is as defined in Section 59-7-616.

1568 (e) "Value of the weighted pupil unit" is as defined in Section 59-7-616.

1569 (2) For taxable years beginning on or after January 1, 2003, a taxpayer may claim a  
1570 nonrefundable tax credit against the taxes imposed by this chapter as provided in this section  
1571 for monetary contributions:

1572 (a) the taxpayer makes during a taxable year to a scholarship granting organization; and

1573 (b) that will be used to make tuition grants, in accordance with Section 59-7-616 and  
1574 rules adopted by the commission under that section, to qualifying students to attend private  
1575 school.

1576 (3) The tax credit provided for in this section may not be carried forward or carried  
1577 back.

1578 (4) A scholarship granting organization shall provide a written statement to a taxpayer  
1579 seeking to claim a tax credit under this section in accordance with Section 59-7-616.

1580 Section 33. Section **59-10-137** is enacted to read:

1581 **59-10-137. Nonrefundable tuition tax credit -- Definitions.**

1582 (1) As used in this section:

1583 (a) "Private school" is as defined in Section 59-7-616.

1584 (b) "Qualifying student" is as defined in Section 59-7-616.

1585 (c) "School tuition certificate" is as defined in Section 59-7-616.

1586 (d) "Value of the weighted pupil unit" is as defined in Section 59-7-616.

1587 (2) For taxable years beginning on or after January 1, 2003, a taxpayer may claim a  
1588 nonrefundable tax credit against the taxes imposed by this chapter as provided in this section  
1589 for amounts paid to a private school for tuition:

1590 (a) on behalf of a qualifying student; and

1591 (b) during the taxable year.

1592 (3) (a) For a taxable year the amount of tax credit that a taxpayer may claim under this  
1593 section for a qualifying student on whose behalf the taxpayer paid tuition in accordance with  
1594 Subsection (2) may not exceed the amounts specified in Subsection (3)(b).

1595 (b) For the purpose of Subsection (3)(a), a taxpayer may claim a tax credit for tuition  
1596 paid on behalf of:

1597 (i) a qualifying student enrolled in private school for only kindergarten during the  
1598 taxable year in an amount not to exceed the lesser of:

1599 (A) the amount of tuition the taxpayer paid on behalf of the qualifying student during  
1600 the taxable year; or

1601 (B) the greater of:

1602 (I) \$586; or

1603 (II) \$586 adjusted by the percentage increase in the value of the weighted pupil unit  
1604 from January 1, 2003 to the first day of the calendar year for which the private school issues the  
1605 school tuition certificate in accordance with Section 59-7-616;

1606 (ii) a qualifying student enrolled in private school for both kindergarten and a higher

1607 grade during the taxable year in an amount not to exceed the lesser of:

1608 (A) the amount of tuition the taxpayer paid on behalf of the qualifying student during  
1609 the taxable year; or

1610 (B) the greater of:

1611 (I) \$1,652; or

1612 (II) \$1,652 adjusted by the percentage increase in the value of the weighted pupil unit  
1613 from January 1, 2003 to the first day of the calendar year for which the private school issues the  
1614 school tuition certificate in accordance with Section 59-7-616; and

1615 (iii) a qualifying student enrolled in private school for only grades 1-12 during the  
1616 taxable year in an amount not to exceed the lesser of:

1617 (A) the amount of tuition the taxpayer paid on behalf of the qualifying student during  
1618 the taxable year; or

1619 (B) the greater of:

1620 (I) \$2,132; or

1621 (II) the value of the weighted pupil unit on the first day of the calendar year for which  
1622 the private school issues the school tuition certificate in accordance with this section.

1623 (4) The tax credit provided for in this section may not be carried forward or carried  
1624 back.

1625 (5) A taxpayer may claim a tax credit under this section for a taxable year only if the  
1626 taxpayer obtains from a private school a school tuition certificate listing the name of the  
1627 qualifying student on whose behalf the taxpayer paid tuition in accordance with Subsection (2).

1628 (6) A private school may not issue more than one school tuition certificate during a  
1629 calendar year that lists the name of a particular qualifying student.

1630 Section 34. Section **63-38-2.6** is enacted to read:

1631 **63-38-2.6. Education Budget Reserve Account created -- Use of account monies --**  
1632 **Interest -- Nonlapsing.**

1633 (1) There is created within the Uniform School Fund a restricted account known as the  
1634 Education Budget Reserve Account.

1635 (2) The Legislature may appropriate money from the Education Budget Reserve  
1636 Account to cover:

1637 (a) operating deficits or projected deficits in the Uniform School Fund;

1638           **(b) a deficiency in the Uniform School Fund at the end of a fiscal year; or**  
1639           **(c) retroactive tax refunds.**  
1640           **(3) All interest earned on monies in the Education Budget Reserve Account shall be**  
1641 **deposited into the account.**

1642           **(4) Appropriations to the account are nonlapsing.**  
1643           Section 35. Section **63-38c-103** is amended to read:

1644           **63-38c-103. Definitions.**

1645           As used in this chapter:

1646           (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations  
1647 from unrestricted General Fund, Uniform School Fund, and Transportation Fund sources as  
1648 presented in the governor's executive budgets.

1649           (b) "Appropriation" includes appropriations that are contingent upon available  
1650 surpluses in the General Fund, Uniform School Fund, or Transportation Fund.

1651           (c) "Appropriation" includes appropriations made to the Centennial Highway Fund  
1652 from unrestricted General Fund and Transportation Fund revenues.

1653           (d) "Appropriations" does not mean:

1654           (i) debt service expenditures;

1655           (ii) emergency expenditures;

1656           (iii) expenditures from all other fund or subfund sources presented in the executive  
1657 budgets;

1658           (iv) transfers into, or appropriations made to, the [~~Budgetary~~] Budget Reserve Account  
1659 established in Section 63-38-2.5 or Education Budget Reserve Account established in Section  
1660 63-38-2.6;

1661           (v) monies appropriated to fund the total one-time project costs for the construction of  
1662 capital developments as defined in Section 63A-5-104; or

1663           (vi) appropriations made to the Centennial Highway Fund from sources other than the  
1664 unrestricted General Fund and Transportation Fund revenues created by Section 72-2-118.

1665           (2) "Base year real per capita appropriations" means the result obtained for the state by  
1666 dividing the fiscal year 1985 actual appropriations of the state less debt monies, less \$55  
1667 million appropriated for flooding and less \$14.2 million appropriated for capital projects in  
1668 Section 3 of Chapter 265, Laws of Utah 1985 General Session, by:

- 1669 (a) the state's July 1, 1983 population; and  
1670 (b) the fiscal year 1983 inflation index divided by 100.
- 1671 (3) "Calendar year" means the time period beginning on January 1 of any given year  
1672 and ending on December 31 of the same year.
- 1673 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate  
1674 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special  
1675 Session.
- 1676 (5) "Fiscal year" means the time period beginning on July 1 of any given year and  
1677 ending on June 30 of the subsequent year.
- 1678 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual  
1679 capital and operations appropriations from general, uniform school, and transportation fund  
1680 sources, less debt monies, less \$55 million appropriated for flooding, and less \$14.2 million  
1681 appropriated for capital projects in Section 3, Chapter 265, Laws of Utah 1985.
- 1682 (7) "Inflation index" means the change in the general price level of goods and services  
1683 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
1684 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.
- 1685 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
1686 be, or could have been, spent in any given year under the limitations of this chapter.
- 1687 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
1688 spent or actual expenditures.
- 1689 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two  
1690 fiscal years previous to the fiscal year for which the maximum allowable inflation and  
1691 population appropriations limit is being computed under this chapter.
- 1692 (10) "Most recent fiscal year's personal income" means the fiscal year personal income  
1693 two fiscal years previous to the fiscal year for which the maximum allowable personal income  
1694 appropriations limit is being computed under this chapter.
- 1695 (11) "Most recent fiscal year's population" means the fiscal year population two fiscal  
1696 years previous to the fiscal year for which the maximum allowable inflation and population  
1697 appropriations limit is being computed under this chapter.
- 1698 (12) "Personal income" means the total personal income of the state as calculated by  
1699 the Office of Planning and Budget according to the procedures and requirements of Section

1700 63-38c-202.

1701 (13) "Population" means the number of residents of the state as of July 1 of each year  
1702 as calculated by the Office of Planning and Budget according to the procedures and  
1703 requirements of Section 63-38c-202.

1704 (14) "Revenues" means the revenues of the state from every tax, penalty, receipt, and  
1705 other monetary exaction and interest connected with it that are recorded as unrestricted revenue  
1706 of the General Fund, Uniform School Fund, and Transportation Fund, except as specifically  
1707 exempted by this chapter.

1708 (15) "Security" means any bond, note, warrant, or other evidence of indebtedness,  
1709 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an  
1710 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

1711 Section 36. Section **63-55b-153** is amended to read:

1712 **63-55b-153. Repeal dates -- Titles 53 and 53A.**

1713 (1) Subsection 53-3-205(9)(a)(i)(D) is repealed July 1, 2007.

1714 (2) Subsection 53-3-804(2)(g) is repealed July 1, 2007.

1715 (3) Subsection 53-5-710(4) pertaining to restrictions at Olympic venue secure areas is  
1716 repealed April 1, 2002.

1717 (4) Title 53, Chapter 12, State Olympic Public Safety Command Act, is repealed July  
1718 1, 2003.

1719 (5) Section 53-12-301.1 is repealed April 1, 2002.

1720 (6) Section 53A-1-403.5 is repealed July 1, 2007.

1721 (7) Section 53A-3-602 is repealed July 1, 2002.

1722 (8) Section 53A-17a-150 is repealed July 1, 2006.

1723 Section 37. **Legislative finding -- State Board of Education study and**  
1724 **recommendations -- Reports.**

1725 (1) The Legislature finds that a free public education should:

1726 (a) prepare each student for the student's choice of higher education or gainful  
1727 employment, focusing on the core academic skills of reading, writing, science, and  
1728 mathematics, balanced with exposure to the arts which will enable students, through teamwork  
1729 and cooperation, to:

1730 (i) communicate effectively, both verbally and through written communication;



- 1731 (ii) apply mathematics; and  
1732 (iii) access, analyze, and apply information; and  
1733 (b) train students in the key attributes required for successful living including those  
1734 described in "What Work Requires of Schools: A SCANS Report for America 2000" from the  
1735 Secretary's Commission on Achieving Necessary Skills of the U.S. Department of Labor.  
1736 (2) In accordance with the findings described under Subsection (1), the State Board of  
1737 Education shall study and make recommendations for:  
1738 (a) aligning responsibility, authority, accountability, and funding for the State Board of  
1739 Education, state superintendent, and local school districts;  
1740 (b) an improved environment of academic achievement;  
1741 (c) implementing competency-based progress and measurement systems that allow  
1742 each student to continually progress within and between course levels at an individual optimal  
1743 rate;  
1744 (d) assuring that each high school senior is progressing in challenging courses;  
1745 (e) developing, with employers, trades, § THE STATE BOARD OF REGENTS § and  
1745a professions, competency standards for  
1746 progress or graduation;  
1747 (f) improving methods of motivating school districts to increase academic discipline,  
1748 including reduced cutting of classes by students and utilizing means such as closed campuses;  
1749 (g) implementing a progress-based assessment system that continually tracks individual  
1750 student progress each year in each of the core academic areas by:  
1751 (i) tracking student progress from year to year on a longitudinal basis, rather than  
1752 aggregate levels of performance;  
1753 (ii) utilizing national norm-referenced tests as benchmarks, so that the progress of Utah  
1754 students can be compared to the progress of students in other states and the nation;  
1755 (iii) providing progress assessment data that follow each student wherever that student  
1756 attends schools in the state; and  
1757 (iv) making the assessment data available to parents to permit them to make fully  
1758 informed decisions regarding the districts, schools, and teachers they wish to involve in the  
1759 educational process for their children;  
1760 (h) developing methods to increase school choice among public schools, including  
1761 intradistrict and interdistrict transfers, and expansion of alternative schools such as charter

1762 schools and New Century schools;

1763 (i) aligning the current funding mechanisms with the priorities of the strategy focusing  
1764 on core academics, to include financial incentives and consequences;

1765 (j) developing a new incremental state funding mechanism for public education that:

1766 (i) motivates school districts to focus on achieving value-added progress in core  
1767 academics;

1768 (ii) is tied to the progress-based assessment system described under Subsection (2)(g);

1769 (iii) provides funding details, including adjustments for mobility; and

1770 (iv) provides school districts, parents, students, and educators an economic incentive  
1771 for developing economic efficiencies in the delivery of instruction;

1772 (k) remediating schools and districts that do not meet appropriate standards based on  
1773 the progress-based assessment described above, including possible transfer of control to the  
1774 State Board of Education;

1775 (l) developing ways to meet a variety of learning styles;

1776 (m) developing savings through building utilization, including double sessions and  
1777 year-round schedules; and

1778 (n) implementing other best demonstrated practices of other states and their school  
1779 districts that are achieving significant improvement in core academic progress.

1780 (3) (a) By August 15, 2003, the State Board of Education shall submit an initial report  
1781 to the governor's office for use at the State Education Summit Meeting.

1782 (b) The State Board of Education shall make at least three annual reports on the issues  
1783 described under Subsection (2) to the Education Interim Committee.

1784 (c) A final report, including any proposed legislation, shall be presented to the  
1785 Education Interim Committee prior to November 30, 2003, 2004, and 2005.

1786 **Section 38. Education Interim Committee -- Request for proposals --**  
1787 **Appropriation.**

1788 (1) The Education Interim Committee, after consultation with the State Board of  
1789 Education, shall issue a three-stage request for proposals responding to Utah's need to stretch  
1790 educational dollars and improve student performance, including:

1791 (a) the core definition and mission of public education in the state;

1792 (b) how the following features could be used to accelerate student progress and

1793 achievement:

1794 (i) daily and weekly competency-based progress;

1795 (ii) self-paced progress;

1796 (iii) new curriculum structures;

1797 (iv) new information technology;

1798 (v) new classroom operation processes;

1799 (vi) new student and teacher support mechanisms; and

1800 (vii) use of the Internet; and

1801 (c) how the components described under Subsection (1)(b) can be aligned and

1802 harmonized to reduce delivery costs and overhead, including administration and clerical work.

1803 (2) The issuance of the request for proposals under Subsection (1) shall proceed as

1804 follows:

1805 (a) a general and widely advertised invitation for preliminary proposals;

1806 (b) a selection of up to three promising proposals for the development of a complete

1807 proposal, but promising consideration of all complete proposals developed with private funds;

1808 and

1809 (c) a selection of one or more of the final proposals for recommendation to the

1810 Legislature and the educational community for developmental funding and implementation.

1811 (3) There is appropriated from the General Fund for fiscal year 2002-03 only, \$150,000

1812 to the Office of Legislative Research and General Counsel for the Education Interim

1813 Committee to issue the request for proposals described in this section.

1814 (4) By August 15, 2003, the Education Interim Committee shall submit an initial report

1815 to the governor's office for use at the State Education Summit Meeting.

1816 **Section 39. Public Education Appropriations Subcommittee -- Study -- Report.**

1817 (1) The Public Education Appropriations Subcommittee shall study and make

1818 recommendations for:

1819 (a) the Competency-based Education Block Grant Program under Section

1820 53A-17a-149, the Class Size Reduction Reward Block Grant Program under Section

1821 53A-17a-151, and other programs, including the amount and allocation of public education

1822 monies, based upon both new public education monies and the reallocation of monies required

1823 to implement:

- 1824           (i) progress-based assessments;  
1825           (ii) a weighted competency unit that distributes public education monies based on  
1826 numbers of grade level achieved as measured by the progress-based assessments;  
1827           (iii) a plan to assist students, teachers, schools, and districts that need remediation  
1828 based upon Subsections (1)(a)(i) and (ii); and  
1829           (iv) the reallocation of teaching resources from non-core electives into grades 1-3, 7-12  
1830 math, and 7-12 English; and  
1831           (v) a teacher development program focused on achieving progress in core academics;  
1832 and  
1833           (b) other issues that may be recommended by the Public Education Appropriations  
1834 Subcommittee.

- 1835           (2) (a) By August 15, 2003, the Public Education Appropriations Subcommittee shall  
1836 submit an initial report to the governor's office for use at the State Education Summit Meeting.  
1837           (b) A final report shall be presented before November 30, 2003, to the Executive  
1838 Appropriations Committee.

1839           Section 40. **Additional meetings authorized -- Appropriations.**

- 1840           (1) The Education Interim Committee and the Public Education Appropriations  
1841 Subcommittee are each authorized to hold two additional meetings during the 2003 interim.  
1842           (2) There is appropriated from the General Fund for fiscal year 2002-03 only, the  
1843 following amounts for the additional meetings under Subsection (1):  
1844           (a) \$4,500 to the Senate to pay for the compensation and expenses of senators on the  
1845 committees;  
1846           (b) \$10,000 to the House of Representatives to pay for the compensation and expenses  
1847 of representatives on the committees;  
1848           (c) \$5,000 to the Office of Legislative Research and General Counsel to pay for  
1849 staffing expenses; and  
1850           (d) \$5,000 to the Office of the Legislative Fiscal Analyst to pay for staffing expenses.

1851           Section 41. **State Board of Regents -- Study.**

- 1852           (1) The State Board of Regents shall study and make recommendations on changes to  
1853 the system of higher education that may be required to accommodate and coordinate with  
1854 public education as public education implements competency-based education and

1855 progress-based assessments.

1856 (2) By August 15, 2003, the State Board of Regents shall submit a report to the  
1857 governor's office for use at the State Education Summit Meeting.

1858 **Section 42. State Board of Education -- Appropriation.**

1859 (1) There is appropriated for the fiscal year beginning July 1, 2003, \$5,000,000 from  
1860 the Uniform School Fund to the State Office of Education.

1861 (2) The State Board of Education shall use the appropriation under Subsection (1) to:

1862 (a) create a definition of how competency-based educational processes will be

1863 employed in the public education system;

1864 (b) complete an initial pilot program in competency-based educational processes;

1865 (c) create specifications for developing and implementing:

1866 (i) a progress-based assessment system to measure and monitor individual student

1867 progress in core academic subjects; and

1868 (ii) a teacher development plan focused on achieving progress in core academic

1869 subjects;

1870 (d) develop a joint program between public education and higher education to foster

1871 superior teaching as defined by progress-based assessments in core academic subjects; and

1872 (e) fund those costs of the State Education Summit Meeting that benefit public

1873 education in this state.

1874 **Section 43. State Education Summit Meeting.**

1875 (1) (a) The governor's office shall organize a State Education Summit Meeting to be  
1876 held after September 1 in 2003.

1877 (b) The State Board of Education and state superintendent of public instruction shall  
1878 provide staff support for the summit meeting.

1879 (2) The participants in the State Education Summit Meeting shall be:

1880 (a) the State Board of Education;

1881 (b) the state superintendent of public instruction;

1882 (c) representatives of local school boards and superintendents;

1883 (d) the Education Interim Committee;

1884 (e) the Public Education Appropriations Subcommittee;

1885 (f) the governor's office;

- 1886            (g) the State Board of Regents;  
1887            (h) the commissioner of higher education;  
1888            (i) representatives of Utah's higher education institutions;  
1889            (j) representatives of educators;  
1890            (k) representatives of business, industry, and employers;  
1891            (l) representatives of students' parents; and  
1892            (m) other invited participants.  
1893            (3) The purpose of the State Education Summit Meeting shall be to:  
1894            (a) hear the initial reports of the State Board of Education, the Education Interim  
1895 Committee, the Public Education Appropriations Subcommittee, and State Board of Regents  
1896 required under this act;  
1897            (b) discuss issues relating to this act, including the emphasis on core academic  
1898 subjects, competency-based education, and progress-based assessments;  
1899            (c) develop plans, coordinate efforts, make recommendations, and propose legislation  
1900 needed to implement this act.  
1901            **Section 44. Retrospective operation.**  
1902            This act has retrospective operation for taxable years beginning on or after January 1,  
1903 2003.

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**Fiscal Note****Public Education Amendments**

24-Feb-03

**Bill Number: SB0154s3**10:17 AM

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The estimated net fiscal impact of this bill for FY 2003 is a cost of \$174,500 from general funds; for FY 2004, a cost to the state of \$9,877,300; and for FY 2005, a net positive revenue to the state of \$1,094,700.

The bill appropriates for FY 2003 only; \$155,000 in General Funds to the Office of Legislative Research and General Council, \$5,000 to the Office of the Legislative Fiscal Analyst; \$4,500 to the Senate, and \$10,000 to the House of Representatives to pay for interim studies required by the bill.

For FY 2004 the bill appropriates \$5,000,000 from the Uniform School Fund to the State Board of Education to develop planning required by the bill. An appropriation of \$12,400 from the Uniform School Fund to the Utah State Tax Commission will be required in FY 2004 for computer programming costs. The bill also appropriates for FY 2004 only, \$1,000,000 from the Uniform School Fund to the State Board of Education to be used as a hold harmless account to help school districts that may be adversely impacted as a result of students using a tax credit to go to a private school. Passage of the bill would also require an appropriation of \$148,400 in FY 2004, and \$172,400 in FY 2005 from the Commerce Service Fund to the Department of Commerce, Division of Consumer Protection for administrative costs. Appropriations from (or revenue generated by) the Commerce Service Fund affect(s) the amount available for transfer to the General Fund. The issuance of tuition tax credits could reduce income tax revenue by an estimated \$12,343,200 in FY 2004, and \$19,329,600 in FY 2005. The loss in revenue would be offset by reduced appropriations to the Minimum School Program for students leaving the Public Education System. The offset for FY 2004 is estimated at \$12,594,900, and for FY 2005 an amount of \$19,996,700. The bill provides that Scholarship Granting Organizations may use up to two percent of tax credit donations for administrative costs. Two percent in FY 2004 could be as much as \$151,600; and in FY 2005 the estimate is \$229,600.

For FY 2005 the bill appropriates \$48,000,000 to the State Board of Education of which \$24,000,000 is for a Competency Based Education Block Grant to be distributed to school districts. The remaining \$24,000,000 is for distribution to local school districts for a Class Size Reduction Reward Block Grant program. The bill creates a Uniform School Fund restricted Education Budget Reserve Account. Class size funds allocated for school districts who do not meet class size requirements in the bill are to be deposited into this account. Local School Districts could potentially benefit by savings in school construction costs over time depending on how many students choose private schooling. Because of the time frame of developing and implementing all of the provisions of the bill it is impossible to estimate all of the costs for full implementation. Future costs are subject to Legislative appropriations.

The bill provides for school districts with a student population of more than 14,000 students but fewer than 24,000 to increase the number of board members from five to seven. For districts where this would apply there could be some additional expenses for extra board member costs.

The tax provisions of this bill increase the Uniform School Fund by an estimated \$12,200,000 for FY 2004; \$48,600,000 in FY 2005; and \$97,300,000 in FY 2006.

	<u>FY 03 Approp.</u>	<u>FY 03 Revenue</u>	<u>FY 04 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Approp.</u>	<u>FY 05 Revenue</u>
General Fund	\$174,500	\$0	\$0	\$0	\$0	\$0
Uniform School Fund	\$0	\$0	\$6,285,700	(\$3,443,200)	\$28,003,300	\$29,270,400
Commerce Service Fund	\$0	\$0	\$148,400	\$0	\$172,400	\$0

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**Fiscal Note****Public Education Amendments***24-Feb-03***Bill Number: SB0154s3***10:17 AM*

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<b>TOTAL</b>	<b>\$174,500</b>	<b>\$0</b>	<b>\$6,434,100</b>	<b>(\$3,443,200)</b>	<b>\$28,175,700</b>	<b>\$29,270,400</b>
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**Individual and Business Impact**

The bill provides a tax credit for qualifying individuals and Scholarship Granting Organizations. The average credit ranges from \$1,015 to \$2,132.

Savings in state construction costs assumes that there would be comparable costs to private entities. The bill imposes tax provisions that will impact business and individuals. For a two parent family with two children the increased income tax liability ranges from \$165 to \$320 depending on income level. Taxes on business increases by 0.25% over two years and the minimum tax increases from \$100 to \$150 and then \$200 the second year.

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**Office of the Legislative Fiscal Analyst**