

Representative Scott L Wyatt proposes the following substitute bill:

JUDICIARY AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Scott L Wyatt

LONG TITLE

General Description:

This bill makes changes to the Tax and Judicial Codes regarding overpayment of taxes, court commissioners, earmarked funds, and other changes.

Highlighted Provisions:

This bill:

- ▶ deletes a provision that required the court to reduce the amount of bail by the amount it received from an overpayment of taxes;
- ▶ includes court commissioners in the definition of judge for the purpose of imposing penalties for persons who threaten, intimidate, or interfere with a commissioner, or who retaliate against a commissioner for the performance of the commissioner's official duties;
- ▶ increases the amount of per annum compensation a presiding judge receives;
- ▶ provides that child protective orders expire when the subject of the order is 18 years of age, unless a judge vacates the order before the subject of the order is 18 years of age;
- ▶ increases the amount of money allocated to the Children's Legal Defense Account and the Dispute Resolution Fund; and
- ▶ clarifies that a defendant has the right to a hearing within three days, if the



26 defendant demands a hearing within three days of being served with notice that the plaintiff has
27 filed a possession bond.

28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill coordinates with S.B. 136, Unlawful Detainer Amendments, by providing
32 which amendments supersede.

33 **Utah Code Sections Affected:**

34 AMENDS:

- 35 **59-10-529**, as last amended by Chapter 35, Laws of Utah 2002
- 36 **63-63a-8**, as last amended by Chapters 46 and 255, Laws of Utah 2001
- 37 **76-8-316**, as last amended by Chapters 9 and 209, Laws of Utah 2001
- 38 **78-3-29**, as last amended by Chapter 171, Laws of Utah 1998
- 39 **78-3h-105**, as last amended by Chapter 201, Laws of Utah 2004
- 40 **78-7-35**, as last amended by Chapters 132 and 199, Laws of Utah 2006
- 41 **78-31b-9**, as last amended by Chapter 329, Laws of Utah 2002
- 42 **78-36-8.5**, as last amended by Chapter 123, Laws of Utah 1987



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

45 Section 1. Section **59-10-529** is amended to read:

46 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

47 (1) In cases where there has been an overpayment of any tax imposed by this chapter,
48 the amount of overpayment is credited as follows:

- 49 (a) against any income tax then due from the taxpayer;
- 50 (b) against:
 - 51 (i) the amount of any judgment against the taxpayer, including one ordering the
 - 52 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims
 - 53 Restitution Act, obtained through due process of law by any entity of state government; or
 - 54 (ii) any child support obligation which is due or past due, as determined by the Office
 - 55 of Recovery Services in the Department of Human Services and after notice and an opportunity
 - 56 for an adjudicative proceeding, as provided in Subsection (2); or

57 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to
58 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of
59 competent jurisdiction has not approved an alternative form of payment. This bail may be
60 applied to any fine or forfeiture which is due and related to a warrant which is outstanding on
61 or after February 16, 1984, and in accordance with Subsections (3) and (4).

62 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services
63 has sent written notice to the taxpayer's last-known address or the address on file under Section
64 62A-11-304.4, stating:

65 (i) the amount of child support that is due or past due as of the date of the notice or
66 other specified date;

67 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child
68 support specified in the notice; and

69 (iii) that the taxpayer may contest the amount of past-due child support specified in the
70 notice by filing a written request for an adjudicative proceeding with the office within 15 days
71 of the notice being sent.

72 (b) The Office of Recovery Services shall establish rules to implement this Subsection
73 (2), including procedures, in accordance with the other provisions of this section, to ensure
74 prompt reimbursement to the taxpayer of any amount of an overpayment of taxes which was
75 credited against a child support obligation in error, and to ensure prompt distribution of
76 properly credited funds to the obligee parent.

77 (3) Subsection (1)(c) may be exercised only if:

78 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
79 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

80 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
81 sent to the person's current address on file with the commission.

82 (4) (a) The commission shall deliver the overpayment applied as bail to the court that
83 issued the warrant of arrest. The clerk of the court is authorized to endorse the check or
84 commission warrant of payment on behalf of the payees and deposit the monies in the court
85 treasury.

86 (b) The court receiving the overpayment applied as bail shall order withdrawal of the
87 warrant for arrest of the taxpayer if the case is one for which a personal appearance of the

88 taxpayer is not required and if the dollar amount of the overpayment represents the full dollar
89 amount of bail. In all other cases, the court receiving the overpayment applied as bail is not
90 required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day
91 period, and the taxpayer may be arrested on the warrant. [~~However, the bail amount shall be~~
92 ~~reduced by the amount of tax overpayment received by the court.~~]

93 (c) If the taxpayer fails to respond to the notice described in Subsection (3), or to
94 resolve the warrant within 40 days after the notice was sent under that Subsection, the
95 overpayment applied as bail is forfeited and notice of the forfeiture shall be mailed to the
96 taxpayer at the current address on file with the commission. The court may then issue another
97 warrant or allow the original warrant to remain in force if:

98 (i) the taxpayer has not complied with an order of the court;

99 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a
100 personal appearance is required; or

101 (iii) the taxpayer has paid partial but not full bail in a case for which a personal
102 appearance is not required.

103 (5) If the alleged violations named in the warrant are later resolved in favor of the
104 taxpayer, the bail amount shall be remitted to the taxpayer.

105 (6) Any balance shall be refunded immediately to the taxpayer.

106 (7) (a) If a refund or credit is due because the amount of tax deducted and withheld
107 from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless
108 the taxpayer or his legal representative files with the commission a tax return claiming the
109 refund or credit:

110 (i) within three years from the due date of the return, plus the period of any extension
111 of time for filing the return provided for in Subsection (7)(c); or

112 (ii) within two years from the date the tax was paid, whichever period is later.

113 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit
114 of tax which has not been deducted and withheld from income is due, a credit or refund may
115 not be allowed or made after three years from the time the tax was paid, unless, before the
116 expiration of the period, a claim is filed by the taxpayer or his legal representative.

117 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to
118 file a claim under Subsection (7)(a)(i) if:

- 119 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and
- 120 (ii) the commission and the taxpayer sign a written agreement:
 - 121 (A) authorizing the extension; and
 - 122 (B) providing for the length of the extension.
- 123 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission
- 124 shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:
 - 125 (i) the three-year period under Subsection (7)(b) has not expired; and
 - 126 (ii) the commission and the taxpayer sign a written agreement:
 - 127 (A) authorizing the extension; and
 - 128 (B) providing for the length of the extension.
- 129 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines
- 130 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described
- 131 in this section which are outstanding on or after February 16, 1984.
- 132 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the
- 133 tax to which the credit relates, the excess is considered an overpayment.
- 134 (10) A claim for credit or refund of an overpayment which is attributable to the
- 135 application to the taxpayer of a net operating loss carryback shall be filed within three years
- 136 from the time the return was due for the taxable year of the loss.
- 137 (11) If there has been an overpayment of the tax which is required to be deducted and
- 138 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent
- 139 that the amount of overpayment was not deducted and withheld by the employer.
- 140 (12) If there is no tax liability for a period in which an amount is paid as income tax,
- 141 the amount is an overpayment.
- 142 (13) If an income tax is assessed or collected after the expiration of the applicable
- 143 period of limitation, that amount is an overpayment.
- 144 (14) (a) If a taxpayer is required to report a change or correction in federal taxable
- 145 income reported on his federal income tax return, or to report a change or correction which is
- 146 treated in the same manner as if it were an overpayment for federal income tax purposes, or to
- 147 file an amended return with the commission, a claim for credit or refund of any resulting
- 148 overpayment of tax shall be filed by the taxpayer within two years from the date the notice of
- 149 the change, correction, or amended return was required to be filed with the commission.

150 (b) If the report or amended return is not filed within 90 days, interest on any resulting
151 refund or credit ceases to accrue after the 90-day period.

152 (c) The amount of the credit or refund may not exceed the amount of the reduction in
153 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
154 federal income tax return.

155 (d) Except as specifically provided, this section does not affect the amount or the time
156 within which a claim for credit or refund may be filed.

157 (15) No credit or refund may be allowed or made if the overpayment is less than \$1.

158 (16) The amount of the credit or refund may not exceed the tax paid during the three
159 years immediately preceding the filing of the claim, or if no claim is filed, then during the three
160 years immediately preceding the allowance of the credit or refund.

161 (17) In the case of an overpayment of tax by the employer under the withholding
162 provisions of this chapter, a refund or credit shall be made to the employer only to the extent
163 that the amount of the overpayment was not deducted and withheld from wages under the
164 provisions of this chapter.

165 (18) If a taxpayer who is entitled to a refund under this chapter dies, the commission
166 may make payment to the duly appointed executor or administrator of the taxpayer's estate. If
167 there is no executor or administrator, payment may be made to those persons who establish
168 entitlement to inherit the property of the decedent in the proportions set out in Title 75, Utah
169 Uniform Probate Code.

170 (19) Where an overpayment relates to adjustments to net income referred to in
171 Subsection 59-10-536~~(3)(c)~~ (5), credit may be allowed or a refund paid any time before the
172 expiration of the period within which a deficiency may be assessed.

173 (20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate
174 and in the manner prescribed in Section 59-1-402.

175 Section 2. Section **63-63a-8** is amended to read:

176 **63-63a-8. Children's Legal Defense Account.**

177 (1) There is created a restricted account within the General Fund known as the
178 Children's Legal Defense Account.

179 (2) The purpose of the Children's Legal Defense Account is to provide for programs
180 that protect and defend the rights, safety, and quality of life of children.

181 (3) The Legislature shall appropriate money from the account for the administrative
182 and related costs of the following programs:

183 (a) implementing the Mandatory Educational Course on Children's Needs for
184 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
185 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child
186 Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;

187 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
188 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litem and volunteers as
189 provided in Section 78-3a-912; and termination of parental rights as provided in Sections
190 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental
191 Rights Act. This account may not be used to supplant funding for the guardian ad litem
192 program in the juvenile court as provided in Section 78-3a-912; and

193 (c) implementing and administering the Expedited Parent-time Enforcement Pilot
194 Program as provided in Section 30-3-38.

195 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
196 Account and used only for the purposes provided in Subsections (3)(a) through (c):

197 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
198 as provided in Section 17-16-21; and

199 (b) a fee of [~~\$2~~] \$4 shall be withheld from the existing civil filing fee collected on any
200 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

201 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
202 the General Fund to the Children's Legal Defense Account.

203 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
204 of any fiscal year shall lapse into the General Fund.

205 Section 3. Section **76-8-316** is amended to read:

206 **76-8-316. Influencing, impeding, or retaliating against a judge or member of the**
207 **Board of Pardons and Parole.**

208 (1) A person is guilty of a third degree felony if the person threatens to assault, kidnap,
209 or murder a judge or a member of the Board of Pardons and Parole with the intent to impede,
210 intimidate, or interfere with the judge or member of the board while engaged in the
211 performance of the judge's or member's official duties or with the intent to retaliate against the

212 judge or member on account of the performance of those official duties.

213 (2) A person is guilty of a second degree felony if the person commits an assault on a
214 judge or a member of the Board of Pardons and Parole with the intent to impede, intimidate, or
215 interfere with the judge or member of the board while engaged in the performance of the
216 judge's or member's official duties, or with the intent to retaliate against the judge or member
217 on account of the performance of those official duties.

218 (3) A person is guilty of a first degree felony if the person commits aggravated assault
219 or attempted murder on a judge or a member of the Board of Pardons and Parole with the
220 purpose to impede, intimidate, or interfere with the judge or member of the board while
221 engaged in the performance of the judge's or member's official duties or with the purpose to
222 retaliate against the judge or member on account of the performance of those official duties.

223 (4) As used in this section:

224 (a) "Immediate family" means parents, spouse, surviving spouse, children, and siblings
225 of the officer.

226 (b) "Judge" means judges of all courts of record and courts not of record and court
227 commissioners.

228 (c) "Judge or member" includes the members of the judge's or member's immediate
229 family.

230 (d) "Member of the Board of Pardons and Parole" means appointed members of the
231 board.

232 (5) A member of the Board of Pardons and Parole is an executive officer for purposes
233 of Subsection 76-5-202(1)(k).

234 Section 4. Section **78-3-29** is amended to read:

235 **78-3-29. Presiding judge -- Associate presiding judge -- Election -- Term --**
236 **Compensation -- Powers -- Duties.**

237 (1) In judicial districts having more than one judge, the district court judges shall elect
238 one judge of the district to the office of presiding judge.

239 (2) In judicial districts having more than two judges, the district court judges may elect
240 one judge of the district to the office of associate presiding judge.

241 (3) In districts having five or more full-time judges, court commissioners, referees, or
242 hearing officers, the presiding judge shall receive an additional [~~\$1,000~~] \$2,000 per annum as

243 compensation.

244 (4) In districts having ten or more full-time judges, court commissioners, referees, or
245 hearing officers, the associate presiding judge shall receive an additional [~~\$1,000~~] \$2,000 per
246 annum as compensation.

247 (5) The presiding judge has the following authority and responsibilities, consistent with
248 the policies of the Judicial Council:

249 (a) implementing policies of the Judicial Council; and

250 (b) exercising powers and performing administrative duties as authorized by the
251 Judicial Council.

252 (6) When the presiding judge is unavailable, the associate presiding judge shall assume
253 the responsibilities of the presiding judge. The associate presiding judge shall perform other
254 duties assigned by the presiding judge.

255 Section 5. Section **78-3h-105** is amended to read:

256 **78-3h-105. Service -- Income withholding -- Expiration.**

257 (1) If the court enters an ex parte child protective order or a child protective order, the
258 court shall:

259 (a) make reasonable efforts to ensure that the order is understood by the petitioner and
260 the respondent, if present;

261 (b) as soon as possible transmit the order to the county sheriff for service; and

262 (c) by the end of the next business day after the order is entered transmit a copy of the
263 order to any law enforcement agency designated by the petitioner and to the statewide domestic
264 violence network described in Section 30-6-8.

265 (2) The county sheriff shall serve the order and transmit verification of service to the
266 statewide domestic violence network described in Section 30-6-8 in an expeditious manner.

267 Any law enforcement agency may serve the order and transmit verification of service to the
268 statewide domestic violence network if the law enforcement agency has contact with the
269 respondent or if service by that law enforcement agency is in the best interests of the child.

270 (3) When an order is served on a respondent in a jail, prison, or other holding facility,
271 the law enforcement agency managing the facility shall notify the petitioner of the respondent's
272 release. Notice to the petitioner consists of a prompt, good faith effort to provide notice,
273 including mailing the notice to the petitioner's last-known address.

274 (4) Child support orders issued as part of a child protective order are subject to
275 mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in
276 IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.

277 (5) After notice and hearing a court may modify or vacate a child protective order
278 without a showing of substantial and material change in circumstances, except that the criminal
279 provisions of the child protective order may not be vacated within two years of issuance unless
280 the petitioner:

281 (a) is personally served with notice of the hearing as provided in Rule 4, Utah Rules of
282 Civil Procedure, and the petitioner personally appears before the court and gives specific
283 consent to the vacation of the criminal provisions of the protective order; or

284 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
285 provisions of the protective order.

286 (6) The civil provisions of the child protective order expire 150 days after the date of
287 the order unless a different date is set by the court. The court may not set a date more than 150
288 days after the date of the order without a finding of good cause. The court may review and
289 extend the expiration date, but may not extend it to more than 150 days after the date of the
290 order without a finding of good cause.

291 (7) Notwithstanding Subsections (5) and (6), unless the judge orders otherwise all child
292 protective orders expire when the subject of the order is 18 years of age, unless the judge
293 vacates the order earlier.

294 Section 6. Section **78-7-35** is amended to read:

295 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

296 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
297 court of record not governed by another Subsection is \$155.

298 (b) The fee for filing a complaint or petition is:

299 (i) \$50 if the claim for damages or amount in interpleader exclusive of court costs,
300 interest, and attorney fees is \$2,000 or less;

301 (ii) \$95 if the claim for damages or amount in interpleader exclusive of court costs,
302 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

303 (iii) \$155 if the claim for damages or amount in interpleader is \$10,000 or more; and

304 (iv) \$155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter

305 4, Separate Maintenance.

306 (c) The fee for filing a small claims affidavit is:

307 (i) \$45 if the claim for damages or amount in interpleader exclusive of court costs,
308 interest, and attorney fees is \$2,000 or less; and

309 (ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs,
310 interest, and attorney fees is greater than \$2,000.

311 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
312 complaint, or other claim for relief against an existing or joined party other than the original
313 complaint or petition is:

314 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
315 \$2,000 or less;

316 (ii) \$75 if the claim for relief exclusive of court costs, interest, and attorney fees is
317 greater than \$2,000 and less than \$10,000;

318 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is
319 \$10,000 or more, or the party seeks relief other than monetary damages; and

320 (iv) \$85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
321 Chapter 4, Separate Maintenance.

322 (e) The fee for filing a small claims counter affidavit is:

323 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is
324 \$2,000 or less; and

325 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
326 greater than \$2,000.

327 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
328 action already before the court is determined under Subsection (1)(b) based on the amount
329 deposited.

330 (g) The fee for filing a petition is:

331 (i) \$75 for trial de novo of an adjudication of the justice court or of the small claims
332 department; and

333 (ii) \$55 for an appeal of a municipal administrative determination in accordance with
334 Section 10-3-703.7.

335 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or

336 petition for writ of certiorari is \$205.

337 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
338 petition for expungement is \$65.

339 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

340 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
341 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
342 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
343 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
344 Act.

345 (ii) [~~Two~~] Four dollars of the fees established by Subsections (1)(a) through (i) shall be
346 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
347 Defense Account, as provided in Section 63-63a-8.

348 (iii) [~~One dollar~~] Three dollars of the fees established under Subsections (1)(a) through
349 (e), (1)(g), and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as
350 provided in Section 78-31b-9.

351 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
352 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
353 deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.

354 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
355 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
356 Security Account, as provided in Section 63-63c-102.

357 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
358 United States is \$25.

359 (l) The fee for filing probate or child custody documents from another state is \$25.

360 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
361 Utah State Tax Commission is \$30.

362 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
363 or a judgment, order, or decree of an administrative agency, commission, board, council, or
364 hearing officer of this state or of its political subdivisions other than the Utah State Tax
365 Commission, is \$40.

366 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is

367 \$25.

368 (o) The fee for filing an award of arbitration for confirmation, modification, or
369 vacation under Title 78, Chapter 31a, Utah Uniform Arbitration Act, that is not part of an
370 action before the court is \$25.

371 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

372 (q) The fee for filing any accounting required by law is:

373 (i) \$10 for an estate valued at \$50,000 or less;

374 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

375 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

376 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

377 (v) \$150 for an estate valued at more than \$168,000.

378 (r) The fee for filing a demand for a civil jury is \$75.

379 (s) The fee for filing a notice of deposition in this state concerning an action pending in
380 another state under Utah Rule of Civil Procedure 26 is \$25.

381 (t) The fee for filing documents that require judicial approval but are not part of an
382 action before the court is \$25.

383 (u) The fee for a petition to open a sealed record is \$25.

384 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
385 addition to any fee for a complaint or petition.

386 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
387 30-1-9 is \$5.

388 (ii) The fee for a petition for emancipation of a minor provided in Title 78, Chapter 3a,
389 Part 10, Emancipation, is \$50.

390 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

391 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
392 page.

393 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
394 per page.

395 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
396 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
397 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be

398 credited to the court as a reimbursement of expenditures.

399 (bb) There is no fee for services or the filing of documents not listed in this section or
400 otherwise provided by law.

401 (cc) Except as provided in this section, all fees collected under this section are paid to
402 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
403 accepts the pleading for filing or performs the requested service.

404 (dd) The filing fees under this section may not be charged to the state, its agencies, or
405 political subdivisions filing or defending any action. In judgments awarded in favor of the
406 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
407 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
408 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
409 order, fine, tax, lien, or other penalty and costs permitted by law.

410 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
411 shall transfer all revenues representing the difference between the fees in effect after May 2,
412 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
413 Facilities Construction and Management Capital Projects Fund.

414 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
415 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
416 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
417 initiate the development of a courts complex in Salt Lake City.

418 (B) If the Legislature approves funding for construction of a courts complex in Salt
419 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
420 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
421 (2)(a)(ii) to construct a courts complex in Salt Lake City.

422 (C) After the courts complex is completed and all bills connected with its construction
423 have been paid, the Division of Facilities Construction and Management shall use any monies
424 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
425 District Court building.

426 (iii) The Division of Facilities Construction and Management may enter into
427 agreements and make expenditures related to this project before the receipt of revenues
428 provided for under this Subsection (2)(a)(iii).

429 (iv) The Division of Facilities Construction and Management shall:

430 (A) make those expenditures from unexpended and unencumbered building funds
431 already appropriated to the Capital Projects Fund; and

432 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
433 under this Subsection (2).

434 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
435 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
436 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
437 account.

438 (c) The Division of Finance shall deposit all revenues received from the court
439 administrator into the restricted account created by this section.

440 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
441 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
442 Vehicles, in a court of record to the Division of Facilities Construction and Management
443 Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated
444 on the balance of the fine or bail forfeiture paid.

445 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
446 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
447 a court of record to the Division of Finance for deposit in the restricted account created by this
448 section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the
449 balance of the fine or bail forfeiture paid.

450 (3) (a) There is created within the General Fund a restricted account known as the State
451 Courts Complex Account.

452 (b) The Legislature may appropriate monies from the restricted account to the
453 administrator of the courts for the following purposes only:

454 (i) to repay costs associated with the construction of the court complex that were
455 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

456 (ii) to cover operations and maintenance costs on the court complex.

457 Section 7. Section **78-31b-9** is amended to read:

458 **78-31b-9. Dispute Resolution Fund -- Appropriation.**

459 There is created within the General Fund a restricted account known as the Dispute

460 Resolution Fund. [~~One dollar~~] Three dollars of the fees established in Subsections
461 78-7-35(1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited in the fund. The
462 Legislature shall annually appropriate money from the Dispute Resolution Fund to the
463 Administrative Office of the Courts to implement the purposes of the Alternative Dispute
464 Resolution Act.

465 Section 8. Section **78-36-8.5** is amended to read:

466 **78-36-8.5. Possession bond of plaintiff -- Alternative remedies.**

467 (1) At any time between the filing of his complaint and the entry of final judgment, the
468 plaintiff may execute and file a possession bond. The bond may be in the form of a corporate
469 bond, a cash bond, certified funds, or a property bond executed by two persons who own real
470 property in the state and who are not parties to the action. The court shall approve the bond in
471 an amount that is the probable amount of costs of suit and damages which may result to the
472 defendant if the suit has been improperly instituted. The bond shall be payable to the clerk of
473 the court for the benefit of the defendant for all costs and damages actually adjudged against
474 the plaintiff. The plaintiff shall notify the defendant that he has filed a possession bond. This
475 notice shall be served in the same manner as service of summons and shall inform the
476 defendant of all of the alternative remedies and procedures under Subsection (2).

477 (2) The following are alternative remedies and procedures applicable to an action if the
478 plaintiff files a possession bond under Subsection (1):

479 (a) With respect to an unlawful detainer action based solely upon nonpayment of rent
480 or utilities, the existing contract shall remain in force and the complaint shall be dismissed if
481 the defendant, within three days of the service of the notice of the possession bond, pays
482 accrued rent, utility charges, any late fee, and other costs, including attorney's fees, as provided
483 in the rental agreement.

484 (b) The defendant may remain in possession if he executes and files a counter bond in
485 the form of a corporate bond, a cash bond, certified funds, or a property bond executed by two
486 persons who own real property in the state and who are not parties to the action. The form of
487 the bond is at the defendant's option. The bond shall be payable to the clerk of the court. The
488 defendant shall file the bond prior to the expiration of three days from the date he is served
489 with notice of the filing of plaintiff's possession bond. The court shall approve the bond in an
490 amount that is the probable amount of costs of suit and actual damages that may result to the

491 plaintiff if the defendant has improperly withheld possession. The court shall consider prepaid
492 rent to the owner as a portion of the defendant's total bond.

493 (c) ~~[The] If the defendant~~~~[, upon demand,]~~ demands, within three days of being served
494 with notice of the filing of plaintiff's possession bond, the defendant shall be granted a hearing
495 ~~[to be held prior to the expiration of three days from the date the defendant is served with~~
496 ~~notice of the filing of plaintiff's possession bond]~~ within three days of the defendant's demand.

497 (3) If the defendant does not elect and comply with a remedy under Subsection (2)
498 within the required time, the plaintiff, upon ex parte motion, shall be granted an order of
499 restitution. The constable of the precinct or the sheriff of the county where the property is
500 situated shall return possession of the property to the plaintiff promptly.

501 (4) If the defendant demands a hearing under Subsection (2)(c), and if the court rules
502 after the hearing that the plaintiff is entitled to possession of the property, the constable or
503 sheriff shall promptly return possession of the property to the plaintiff. If at the hearing the
504 court allows the defendant to remain in possession and further issues remain to be adjudicated
505 between the parties, the court shall require the defendant to post a bond as required in
506 Subsection (2)(b). If at the hearing the court rules that all issues between the parties can be
507 adjudicated without further court proceedings, the court shall, upon adjudicating those issues,
508 enter judgment on the merits.

509 **Section 9. Coordinating S.B. 224 with S.B. 136 -- Superseding amendments.**

510 If this S.B. 224 and S.B. 136, Unlawful Detainer Amendments, both pass, it is the
511 intent of the Legislature that the amendments to Subsection 78-36-8.5(2)(c) in this bill
512 supersede the amendments to Subsection 78-36-8.5(2)(c) in S.B. 136 when the Office of
513 Legislature Research and General Counsel prepares the Utah Code database for publication.

S.B. 224 1st Sub. (Green) - Judiciary Amendments

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will require additional appropriations of \$9,000 for the Courts to fund presiding judge increases as provided in the bill. Additional fees are expected to generate \$215,000 for the Children's Legal Defense Fund and \$210,000 for the Dispute Resolution Fund annually.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$9,000	\$9,000	\$0	\$0	\$0
Restricted Funds	\$0	\$0	\$0	\$0	\$425,000	\$425,000
Total	\$0	\$9,000	\$9,000	\$0	\$425,000	\$425,000

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Presiding judges will see a \$1,000 annual compensation increase.
