

Representative Stephen H. Urquhart proposes the following substitute bill:

**INCOME TAX ADDITIONS, SUBTRACTIONS,
AND TAX CREDITS FOR HIGHER
EDUCATION SAVINGS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill amends the Higher Education Savings Incentive Program chapter, the Corporate Franchise and Income Taxes chapter, and the Individual Income Tax Act relating the program for higher education savings, additions to and subtractions from income for higher education savings, and to provide a tax credit for higher education savings.

Highlighted Provisions:

This bill:

- ▶ provides and modifies definitions;
- ▶ addresses the taxation of the Utah Educational Savings Plan Trust and its income;
- ▶ addresses the maximum amount of a qualified investment in the Utah Educational

Savings Plan Trust that a person, estate, or trust may:

- subtract from income; or
- use as the basis for claiming a tax credit;
- ▶ modifies and clarifies the amount of a qualified investment in the Utah Educational Savings Plan Trust that a corporation or a resident or nonresident individual may



- 26 subtract from income;
- 27 ▶ modifies an addition to income for a corporation or a resident or nonresident
- 28 individual who is an account owner under the Utah Educational Savings Plan Trust
- 29 for amounts not expended for higher education costs under certain circumstances;
- 30 ▶ provides that a resident or nonresident estate or trust may subtract certain qualified
- 31 investments in the Utah Educational Savings Plan Trust from income;
- 32 ▶ requires a resident or nonresident estate or trust that is an account owner under the
- 33 Utah Educational Savings Plan Trust to add to income amounts not expended for
- 34 higher education costs under certain circumstances;
- 35 ▶ allows a tax credit under the Single Rate Individual Income Tax Act for qualified
- 36 investments in the Utah Educational Savings Plan Trust; and
- 37 ▶ makes technical changes.

38 **Monies Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 This bill has retrospective operation for taxable years beginning on or after January 1,

42 2007.

43 This bill coordinates with S.B. 223, Tax Amendments, by merging substantive

44 amendments.

45 **Utah Code Sections Affected:**

46 AMENDS:

- 47 **53B-8a-102**, as last amended by Chapter 109, Laws of Utah 2005
- 48 **53B-8a-103**, as last amended by Chapter 109, Laws of Utah 2005
- 49 **53B-8a-104**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session
- 50 **53B-8a-105**, as last amended by Chapter 109, Laws of Utah 2005
- 51 **53B-8a-106**, as last amended by Chapter 223, Laws of Utah 2006
- 52 **53B-8a-107**, as last amended by Chapter 109, Laws of Utah 2005
- 53 **53B-8a-108**, as last amended by Chapter 109, Laws of Utah 2005
- 54 **53B-8a-109**, as last amended by Chapter 109, Laws of Utah 2005
- 55 **53B-8a-111**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session
- 56 **53B-8a-112**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session

- 57 **53B-8a-113**, as last amended by Chapter 109, Laws of Utah 2005
- 58 **59-7-105**, as last amended by Chapter 109, Laws of Utah 2005
- 59 **59-7-106**, as last amended by Chapter 211, Laws of Utah 2002
- 60 **59-10-114**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 61 **59-10-201**, as last amended by Chapter 223, Laws of Utah 2006
- 62 **59-10-202**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 63 **59-10-1202**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 64 **59-10-1203**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session

65 ENACTS:

- 66 **59-10-1206.1**, Utah Code Annotated 1953
- 67 **59-10-1206.9**, Utah Code Annotated 1953



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

70 Section 1. Section **53B-8a-102** is amended to read:

71 **53B-8a-102. Definitions.**

72 As used in this chapter:

73 (1) "Account agreement" means an agreement between an account owner and the Utah
74 Educational Savings Plan Trust entered into under this chapter.

75 (2) "Account owner" means [~~an individual, firm, corporation, or its legal representative~~
76 ~~or legal successor, who~~] a person, estate, or trust, if that person, estate, or trust has entered into
77 an account agreement under this chapter for the advance payment of higher education costs on
78 behalf of a beneficiary.

79 (3) "Administrative fund" means the moneys used to administer the Utah Educational
80 Savings Plan Trust.

81 (4) "Beneficiary" means the individual designated in an account agreement to benefit
82 from payments for higher education costs at an institution of higher education.

83 (5) "Benefits" means the payment of higher education costs on behalf of a beneficiary
84 by the Utah Educational Savings Plan Trust during the beneficiary's attendance at an institution
85 of higher education.

86 (6) "Board" means the board of directors of the Utah Educational Savings Plan Trust
87 which is the state Board of Regents acting in its capacity as the Utah Higher Education

88 Assistance Authority under Title 53B, Chapter 12.

89 (7) "Endowment fund" means the endowment fund established under Section
90 53B-8a-107 which is held as a separate fund within the Utah Educational Savings Plan Trust.

91 (8) "Higher education costs" means [~~the certified costs of tuition, fees, room and board,~~
92 ~~books, supplies, and equipment required for the enrollment or attendance of a designated~~
93 ~~beneficiary at an institution of higher education]~~ qualified higher education expenses as defined
94 in Section 529(e)(3), Internal Revenue Code.

95 (9) "Institution of higher education" means a qualified proprietary school approved by
96 the board, a two-year or four-year public or regionally accredited private nonprofit college or
97 university or a Utah college of applied technology, with regard to students enrolled in
98 postsecondary training or education programs.

99 (10) "Program administrator" means the administrator of the Utah Educational Savings
100 Plan Trust appointed by the board to administer and manage the Utah Educational Savings Plan
101 Trust.

102 (11) "Program fund" means the program fund created under Section 53B-8a-107,
103 which is held as a separate fund within the Utah Educational Savings Plan Trust.

104 (12) "Qualified investment" means an amount invested in accordance with an account
105 agreement established under this chapter.

106 [~~(12)~~] (13) "Tuition and fees" means the quarterly or semester charges imposed to
107 attend an institution of higher education and required as a condition of enrollment.

108 [~~(13)~~] (14) "Utah Educational Savings Plan Trust" [~~or "trust"~~] means the Utah
109 Educational Savings Plan Trust created under Section 53B-8a-103.

110 [~~(14)~~] (15) "Vested account" means an account agreement which has been in full force
111 and effect during eight continuous years of residency of the beneficiary in the state while
112 participating in the Utah Educational Savings Plan Trust.

113 Section 2. Section **53B-8a-103** is amended to read:

114 **53B-8a-103. Creation of Utah Educational Savings Plan Trust.**

115 (1) There is created the Utah Educational Savings Plan Trust.

116 (2) The board is the trustee of the Utah Educational Savings Plan Trust.

117 (3) The board, in the capacity of trustee, may:

118 (a) exercise any authority granted by law to the Board of Regents;

- 119 (b) make and enter into contracts necessary for the administration of the Utah
- 120 Educational Savings Plan Trust created under this chapter;
- 121 (c) adopt a corporate seal and change and amend it from time to time;
- 122 (d) invest moneys within the program fund:
- 123 (i) (A) in any investments that are determined by the board to be appropriate and are
- 124 approved by the state treasurer; or
- 125 (B) in mutual funds registered under the Investment Company Act of 1940, consistent
- 126 with the best interests of a designated beneficiary's higher education funding needs; and
- 127 (ii) are in compliance with rules of the State Money Management Council applicable to
- 128 gift funds;
- 129 (e) invest moneys within the endowment fund in any investments that are:
- 130 (i) determined by the board to be appropriate;
- 131 (ii) approved by the state treasurer; and
- 132 (iii) in compliance with rules of the State Money Management Council applicable to
- 133 gift funds;
- 134 (f) enter into agreements with any institution of higher education, any federal or state
- 135 agency, or other entity as required to implement this chapter;
- 136 (g) accept any grants, gifts, legislative appropriations, and other moneys from the state,
- 137 any unit of federal, state, or local government, or any other person, firm, partnership, or
- 138 corporation for deposit to the administrative fund, endowment fund, or the program fund;
- 139 (h) enter into account agreements with account owners;
- 140 (i) make payments to institutions of higher education pursuant to account agreements
- 141 on behalf of beneficiaries;
- 142 (j) make refunds to account owners upon the termination of account agreements
- 143 pursuant to the provisions of this chapter;
- 144 (k) appoint a program administrator and determine the duties of the program
- 145 administrator and other staff as necessary and fix their compensation;
- 146 (l) make provision for the payment of costs of administration and operation of the Utah
- 147 Educational Savings Plan Trust; and
- 148 (m) carry out the duties and obligations of the Utah Educational Savings Plan Trust
- 149 pursuant to this chapter.

150 Section 3. Section **53B-8a-104** is amended to read:

151 **53B-8a-104. Office facilities, clerical, and administrative support for the Utah**
152 **Educational Savings Plan Trust.**

153 (1) The board shall provide to the Utah Educational Savings Plan Trust, by agreement,
154 administrative and clerical support and office facilities and space.

155 (2) Reasonable charges or fees may be levied against the Utah Educational Savings
156 Plan Trust pursuant to the agreement for the services provided by the board.

157 Section 4. Section **53B-8a-105** is amended to read:

158 **53B-8a-105. Additional powers of board as to the Utah Educational Savings Plan**
159 **Trust.**

160 The board has all powers necessary to carry out and effectuate the purposes, objectives,
161 and provisions of this chapter pertaining to the Utah Educational Savings Plan Trust, including
162 the power to:

163 (1) engage:

164 (a) one or more investment advisors, registered under the Investment Advisors Act of
165 1940, with at least 5,000 advisory clients and at least \$1,000,000,000 under management, to
166 provide investment advice to the board with respect to the assets held in each account;

167 (b) an administrator to perform recordkeeping functions on behalf of the Utah
168 Educational Savings Plan Trust; and

169 (c) a custodian for the safekeeping of the assets of the Utah Educational Savings Plan
170 Trust;

171 (2) carry out studies and projections in order to advise account owners regarding
172 present and estimated future higher education costs and levels of financial participation in the
173 Utah Educational Savings Plan Trust required in order to enable account owners to achieve
174 their educational funding objective;

175 (3) contract for goods and services and engage personnel as necessary, including
176 consultants, actuaries, managers, counsel, and auditors for the purpose of rendering
177 professional, managerial, and technical assistance and advice, all of which contract obligations
178 and services shall be payable from any moneys of the Utah Educational Savings Plan Trust;

179 (4) participate in any other way in any federal, state, or local governmental program for
180 the benefit of the Utah Educational Savings Plan Trust;

181 (5) promulgate, impose, and collect administrative fees and charges in connection with
182 transactions of the Utah Educational Savings Plan Trust, and provide for reasonable service
183 charges, including penalties for cancellations and late payments;

184 (6) procure insurance against any loss in connection with the property, assets, or
185 activities of the Utah Educational Savings Plan Trust;

186 (7) administer the funds of the Utah Educational Savings Plan Trust;

187 (8) solicit and accept for the benefit of the endowment fund gifts, grants, and other
188 moneys, including general fund moneys from the state and grants from any federal or other
189 governmental agency;

190 (9) procure insurance indemnifying any member of the board from personal loss or
191 accountability arising from liability resulting from a member's action or inaction as a member
192 of the board; and

193 (10) make rules and regulations for the administration of the Utah Educational Savings
194 Plan Trust.

195 Section 5. Section **53B-8a-106** is amended to read:

196 **53B-8a-106. Account agreements.**

197 The Utah Educational Savings Plan Trust may enter into account agreements with
198 account owners on behalf of beneficiaries under the following terms and agreements:

199 (1) (a) An account agreement may require an account owner to agree to invest a
200 specific amount of money in the Utah Educational Savings Plan Trust for a specific period of
201 time for the benefit of a specific beneficiary, not to exceed an amount determined by the
202 program administrator.

203 (b) Account agreements may be amended to provide for adjusted levels of payments
204 based upon changed circumstances or changes in educational plans.

205 (c) An account owner may make additional optional payments as long as the total
206 payments for a specific beneficiary do not exceed the total estimated higher education costs as
207 determined by the program administrator.

208 (d) Subject to Subsection (1)(f), the maximum amount of a qualified investment that a
209 corporation that is an account owner may subtract from unadjusted income for a taxable year in
210 accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is \$1,560 for each
211 individual beneficiary for the taxable year beginning on or after January 1, 2006, but beginning

212 on or before December 31, 2006.

213 ~~[(d) The]~~ (e) Subject to Subsection (1)(f), the maximum amount of [investments] a
214 qualified investment that may be subtracted from federal taxable income [of a resident or
215 nonresident individual under Subsection 59-10-114(2)(i) shall be \$1,510] of a resident or
216 nonresident individual for a taxable year in accordance with Section 59-10-114, a resident or
217 nonresident estate or trust for a taxable year in accordance with Section 59-10-202, or used as
218 the basis for claiming a tax credit for a taxable year by a resident or nonresident individual in
219 accordance with Section 59-10-1206.1, is:

220 (i) for a resident or nonresident estate or trust that is an account owner, \$1,560 for each
221 individual beneficiary for the [2005 calendar year and an amount adjusted annually thereafter
222 to reflect increases in the Consumer Price Index.] taxable year beginning on or after January 1,
223 2006, but beginning on or before December 31, 2006;

224 (ii) for a resident or nonresident individual that is an account owner, other than a
225 husband and wife who are account owners and file a single return jointly, \$1,560 for each
226 individual beneficiary for the taxable year beginning on or after January 1, 2006, but beginning
227 on or before December 31, 2006; or

228 (iii) for a husband and wife who are account owners and file a single return jointly,
229 \$3,120 for each individual beneficiary:

230 (A) for the taxable year beginning on or after January 1, 2006, but beginning on or
231 before December 31, 2006; and

232 (B) regardless of whether the Utah Educational Savings Plan Trust has entered into:

233 (I) a separate account agreement with each spouse; or

234 (II) a single account agreement with both spouses jointly.

235 (f) (i) For taxable years beginning on or after January 1, 2007, the program
236 administrator shall increase or decrease the maximum amount of a qualified investment
237 described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the percentage
238 difference between the consumer price index for the preceding calendar year and the consumer
239 price index for the calendar year 2005.

240 (ii) After making an increase or decrease required by Subsection (1)(f)(i), the program
241 administrator shall:

242 (A) round the maximum amount of the qualified investments described in Subsections

243 (1)(d) and (1)(e)(i) and (ii) increased or decreased under Subsection (1)(f)(i) to the nearest ten
244 dollar increment; and

245 (B) increase or decrease the maximum amount of the qualified investment described in
246 Subsection (1)(e)(iii) so that the maximum amount of the qualified investment described in
247 Subsection (1)(e)(iii) is equal to the product of:

248 (I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii)
249 as rounded under Subsection (1)(f)(ii)(A); and

250 (II) two.

251 (iii) For purposes of Subsections (1)(f)(i) and (ii), the program administrator shall
252 calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue
253 Code.

254 (2) (a) (i) Beneficiaries designated in account agreements must be designated after
255 birth and before age 19 for ~~[the participant]~~ an account owner to:

256 (A) subtract ~~[allowable investments]~~ a qualified investment from ~~[federal taxable]~~
257 income under ~~[Subsection 59-10-114(2)(i)]~~:

258 (I) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

259 (II) Section 59-10-114; or

260 (III) Section 59-10-202; or

261 (B) use a qualified investment as the basis for claiming a tax credit in accordance with
262 Section 59-10-1206.1.

263 (ii) If the beneficiary is designated after birth and before age 19, the payment of
264 benefits provided under the account agreement must begin not later than the beneficiary's 27th
265 birthday.

266 (b) (i) Account owners may designate beneficiaries age 19 or older, but investments for
267 those beneficiaries are not eligible for subtraction from federal taxable income.

268 (ii) If a beneficiary age 19 or older is designated, the payment of benefits provided
269 under the account agreement must begin not later than ten years from the account agreement
270 date.

271 (3) Each account agreement shall state clearly that there are no guarantees regarding
272 moneys in the Utah Educational Savings Plan Trust as to the return of principal and that losses
273 could occur.

274 (4) Each account agreement shall provide that:
275 (a) no contributor to, or designated beneficiary under, an account agreement may direct
276 the investment of any contributions or earnings on contributions;
277 (b) no part of the money in any account may be used as security for a loan; and
278 (c) no account owner may borrow from the Utah Educational Savings Plan Trust.
279 (5) The execution of an account agreement by the trust may not guarantee in any way
280 that higher education costs will be equal to projections and estimates provided by the Utah
281 Educational Savings Plan Trust or that the beneficiary named in any participation agreement
282 will:
283 (a) be admitted to an institution of higher education;
284 (b) if admitted, be determined a resident for tuition purposes by the institution of
285 higher education, unless the account agreement is vested;
286 (c) be allowed to continue attendance at the institution of higher education following
287 admission; or
288 (d) graduate from the institution of higher education.
289 (6) Beneficiaries may be changed as permitted by the rules and regulations of the board
290 upon written request of the account owner prior to the date of admission of any beneficiary
291 under an account agreement by an institution of higher education so long as the substitute
292 beneficiary is eligible for participation.
293 (7) Account agreements may be freely amended throughout their terms in order to
294 enable account owners to increase or decrease the level of participation, change the designation
295 of beneficiaries, and carry out similar matters as authorized by rule.
296 (8) Each account agreement shall provide that:
297 (a) the account agreement may be canceled upon the terms and conditions, and upon
298 payment of the fees and costs set forth and contained in the board's rules and regulations; and
299 (b) the program administrator may amend the agreement unilaterally and retroactively,
300 if necessary, to maintain the Utah Educational Savings Plan Trust as a qualified tuition
301 program under Section 529 Internal Revenue Code.
302 Section 6. Section **53B-8a-107** is amended to read:
303 **53B-8a-107. Program, endowment, and administrative funds -- Investment and**
304 **payments from funds.**

305 (1) (a) The board shall segregate moneys received by the Utah Educational Savings
306 Plan Trust into three funds, the program fund, the endowment fund, and the administrative
307 fund.

308 (b) No more than two percentage points of the interest earned annually in the
309 endowment fund may be transferred to the administrative fund for the purpose of paying
310 operating costs associated with administering the Utah Educational Savings Plan Trust and as
311 required under Sections 53B-8a-103 through 53B-8a-105.

312 (c) Transfers may be made from the program fund to the administrative fund to pay
313 operating costs:

314 (i) associated with administering the Utah Educational Savings Plan Trust and as
315 required under Sections 53B-8a-103 through 53B-8a-105; and

316 (ii) as included in the budget approved by the board of directors of the Utah
317 Educational Savings Plan Trust.

318 (d) All moneys paid by account owners in connection with account agreements shall be
319 deposited as received into separate accounts within the program fund which shall be promptly
320 invested and accounted for separately.

321 (e) All moneys received by the Utah Educational Savings Plan Trust from the proceeds
322 of gifts and other endowments for the purposes of the Utah Educational Savings Plan Trust
323 shall be deposited as received into the endowment fund, which shall be promptly invested and
324 accounted for separately.

325 (f) Any gifts, grants, or donations made by any governmental unit or any person, firm,
326 partnership, or corporation to the Utah Educational Savings Plan Trust for deposit to the
327 endowment fund shall be a grant, gift, or donation to the state for the accomplishment of a
328 valid public eleemosynary, charitable, and educational purpose and shall not be included in the
329 income of the donor for Utah tax purposes.

330 (2) (a) Through March 31, 2005, each account owner under an account agreement may
331 receive an interest in a portion, as determined by policy, of the investment income derived by
332 the endowment fund in any year during which funds are invested in the program fund on behalf
333 of the beneficiary, to be payable as provided in Subsection (2)(c).

334 (b) The interest in the investment income derived by the endowment fund that accrues
335 to a beneficiary in any year shall be in the ratio that the principal amount paid by the account

336 owner under the account agreement and investment income earned to date under the agreement
337 bears to the principal amount of all moneys, funds, and securities then held in the program fund
338 during the year.

339 (c) (i) Except as provided in Subsection (2)(c)(ii), at the time any payments or
340 disbursements for higher education costs are made from the Utah Educational Savings Plan
341 Trust to any institution of higher education under an account agreement, the Utah Educational
342 Savings Plan Trust shall add to that payment from endowment fund income a pro rata portion
343 of the amount calculated pursuant to Subsection (2)(b), which shall be transferred directly to
344 the institution of higher education simultaneously with the payment made from the program
345 fund and shall be used for payment of the higher education costs of the beneficiary, but not to
346 exceed the amount which, in combination with the current payment due from the program
347 fund, equals the beneficiary's higher education costs for the current period of enrollment.

348 (ii) Effective March 31, 2005, any interest income on the endowment fund accruing to
349 a beneficiary that has not been transferred to an institution of higher education pursuant to
350 Subsection (2)(c)(i) shall be transferred to the beneficiary's program fund account.

351 (3) Beginning on April 1, 2005:

352 (a) interest income on the endowment fund may be used to enhance the savings of low
353 income account owners investing in the Utah Educational Savings Plan Trust, as provided by
354 rules of the board; and

355 (b) the original principal in the endowment fund may be transferred to the
356 administrative fund upon approval by the board.

357 (4) Endowment fund earnings not accruing to a beneficiary under a participation
358 agreement or not transferred to the administrative fund shall be reinvested in the endowment
359 fund.

360 (5) Moneys accrued by account owners in the program fund of the Utah Educational
361 Savings Plan Trust may be used for payments to any institution of higher education.

362 (6) No rights to any moneys derived from the endowment fund shall exist if moneys
363 payable under the account agreement are paid to an education institution which is not an
364 institution of higher education as defined in Section 53B-8a-102.

365 Section 7. Section **53B-8a-108** is amended to read:

366 **53B-8a-108. Cancellation of agreements.**

- 367 (1) Any account owner may cancel an account agreement at will.
- 368 (2) If an account agreement is cancelled by the account owner, the current account
369 balance shall be disbursed to the account owner less:
- 370 (a) an administrative refund fee, which may be charged by the Utah Educational
371 Savings Plan Trust, except as provided in Subsection (3); and
- 372 (b) any penalty or tax required to be withheld by the Internal Revenue Code.
- 373 (3) An administration refund fee may not be levied by the Utah Educational Savings
374 Plan Trust if the account agreement is cancelled due to:
- 375 (a) the death of the beneficiary; or
- 376 (b) the permanent disability or mental incapacity of the beneficiary.
- 377 (4) The board shall make rules for the disposition of monies transferred to an account
378 pursuant to Subsection [~~53A-8a-107~~] 53B-8a-107(2)(c)(ii) and the earnings on those monies
379 when an account agreement is cancelled.

380 Section 8. Section **53B-8a-109** is amended to read:

381 **53B-8a-109. Repayment and ownership of payments and investment income --**
382 **Transfer of ownership rights.**

383 (1) (a) The account owner retains ownership of all payments made under the account
384 agreement until utilized to pay higher education costs for the beneficiary.

385 (b) All income derived from the investment of the payments made by the account
386 owner shall be considered to be held in trust for the benefit of the beneficiary.

387 (2) The institution of higher education shall obtain ownership of the payments made
388 for the higher education costs paid to the institution at the time each payment is made to the
389 institution.

390 (3) Any amounts that may be paid pursuant to the Utah Educational Savings Plan Trust
391 that are not listed in this section are owned by the Utah Educational Savings Plan Trust.

392 (4) (a) An account owner may transfer ownership rights to another eligible person.

393 (b) The transfer shall be affected and the property distributed in accordance with
394 administrative regulations promulgated by the board or the terms of the account agreement.

395 Section 9. Section **53B-8a-111** is amended to read:

396 **53B-8a-111. Annual audited financial report to governor, Legislature, and state**
397 **auditor.**

398 (1) The board shall submit an annual audited financial report, prepared in accordance
399 with generally accepted accounting principles, on the operations of the Utah Educational
400 Savings Plan Trust by November 1 to the governor, the Legislature, and the state auditor.

401 (2) The annual audit shall be made either by the state auditor or by an independent
402 certified public accountant designated by the state auditor and shall include direct and indirect
403 costs attributable to the use of outside consultants, independent contractors, and any other
404 persons who are not state employees.

405 (3) The annual audit shall be supplemented by the following information prepared by
406 the board:

407 (a) any studies or evaluations prepared in the preceding year;

408 (b) a summary of the benefits provided by the Utah Educational Savings Plan Trust
409 including the number of participants and beneficiaries in the Utah Educational Savings Plan
410 Trust; and

411 (c) any other information which is relevant in order to make a full, fair, and effective
412 disclosure of the operations of the Utah Educational Savings Plan Trust.

413 Section 10. Section **53B-8a-112** is amended to read:

414 **53B-8a-112. Tax considerations.**

415 (1) For tax purposes the property of the Utah Educational Savings Plan Trust and its
416 income are governed by [~~Sections 59-7-105, 59-7-106, 59-10-114, and~~] Section 59-10-201.

417 (2) The tax commission, in consultation with the board, may adopt rules necessary to
418 monitor and implement the tax provisions referred to in Subsection (1) as related to the
419 property of the Utah Educational Savings Plan Trust and its income.

420 Section 11. Section **53B-8a-113** is amended to read:

421 **53B-8a-113. Property rights to assets in Utah Educational Savings Plan Trust.**

422 (1) The assets of the Utah Educational Savings Plan Trust, including the program fund
423 and the endowment fund, shall at all times be preserved, invested, and expended solely and
424 only for the purposes of the Utah Educational Savings Plan Trust and shall be held in trust for
425 the account owners and beneficiaries.

426 (2) No property rights in the Utah Educational Savings Plan Trust shall exist in favor
427 of the state.

428 (3) The assets may not be transferred or used by the state for any purposes other than

429 the purposes of the Utah Educational Savings Plan Trust.

430 Section 12. Section **59-7-105** is amended to read:

431 **59-7-105. Additions to unadjusted income.**

432 In computing adjusted income the following amounts shall be added to unadjusted
433 income:

434 (1) interest from bonds, notes, and other evidences of indebtedness issued by any state
435 of the United States, including any agency and instrumentality of a state of the United States;

436 (2) the amount of any deduction taken on a corporation's federal return for taxes paid
437 by a corporation:

438 (a) to Utah for taxes imposed by this chapter; and

439 (b) to another state of the United States, a foreign country, a United States possession,
440 or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or
441 exercising its corporate franchise, including income, franchise, corporate stock and business
442 and occupation taxes;

443 (3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and
444 (2)(a);

445 (4) capital losses that have been deducted on a Utah corporate return in previous years;

446 (5) any deduction on the federal return that has been previously deducted on the Utah
447 return;

448 (6) the amount of contributions claimed as a tax credit pursuant to Section 59-7-602;

449 (7) the amount of the deduction taken pursuant to Section 59-7-603 for sophisticated
450 technological equipment;

451 (8) charitable contributions, to the extent deducted on the federal return when
452 determining federal taxable income;

453 (9) the amount of gain or loss determined under Section 59-7-114 relating to a target
454 corporation under Section 338, Internal Revenue Code, unless such gain or loss has already
455 been included in the unadjusted income of the target corporation;

456 (10) the amount of gain or loss determined under Section 59-7-115 relating to
457 corporations treated for federal purposes as having disposed of its assets under Section 336(e),
458 Internal Revenue Code, unless such gain or loss has already been included in the unadjusted
459 income of the target corporation;

460 (11) adjustments to gains, losses, depreciation expense, amortization expense, and
461 similar items due to a difference between basis for federal purposes and basis as computed
462 under Section 59-7-107; and

463 (12) the amount ~~[disbursed to]~~ withdrawn under Title 53B, Chapter 8a, Higher
464 Education Savings Incentive Program, from the account of a corporation that is an account
465 owner [under Title 53B, Chapter 8a, Higher Education Savings Incentive Program, to the
466 extent deducted on a Utah return in previous years and not used for qualified higher education
467 costs of the beneficiary, in the year in which the amount is disbursed.] as defined in Section
468 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn
469 from the account of the corporation that is the account owner:

470 (a) is not expended for higher education costs as defined in Section 53B-8a-102; and

471 (b) is subtracted by the corporation:

472 (i) that is the account owner; and

473 (ii) in accordance with Subsection 59-7-106(18).

474 Section 13. Section **59-7-106** is amended to read:

475 **59-7-106. Subtractions from unadjusted income.**

476 In computing adjusted income the following amounts shall be subtracted from
477 unadjusted income:

478 (1) the foreign dividend gross-up included in gross income for federal income tax
479 purposes under Section 78, Internal Revenue Code;

480 (2) the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct
481 the loss on the current Utah return. The deduction shall be made by claiming the deduction on
482 the current Utah return which shall be filed by the due date of the return, including extensions.
483 For the purposes of this Subsection all capital losses in a given year must be:

484 (a) deducted in the year incurred; or

485 (b) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue
486 Code;

487 (3) the decrease in salary expense deduction for federal income tax purposes due to
488 claiming the federal jobs credit under Section 51, Internal Revenue Code;

489 (4) the decrease in qualified research and basic research expense deduction for federal
490 income tax purposes due to claiming the federal research and development credit under Section

491 41, Internal Revenue Code;

492 (5) the decrease in qualified clinical testing expense deduction for federal income tax
493 purposes due to claiming the federal orphan drug credit under Section 28, Internal Revenue
494 Code;

495 (6) any decrease in any expense deduction for federal income tax purposes due to
496 claiming any other federal credit;

497 (7) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and
498 (2)(b);

499 (8) any income on the federal corporate return that has been previously taxed by Utah;

500 (9) amounts included in federal taxable income that are due to refunds of taxes
501 imposed for the privilege of doing business, or exercising a corporate franchise, including
502 income, franchise, corporate stock and business and occupation taxes paid by the corporation to
503 Utah, another state of the United States, a foreign country, a United States possession, or the
504 Commonwealth of Puerto Rico to the extent that the taxes were added to unadjusted income
505 under Section 59-7-105;

506 (10) charitable contributions, to the extent allowed as a subtraction under Section
507 59-7-109;

508 (11) (a) 50% of the dividends deemed received or received from subsidiaries which are
509 members of the unitary group and are organized or incorporated outside of the United States
510 unless such subsidiaries are included in a combined report under Section 59-7-402 or 59-7-403.

511 In arriving at the amount of the dividend exclusion, the taxpayer shall first deduct from the
512 dividends deemed received or received, the expense directly attributable to those dividends.
513 Interest expense attributable to excluded dividends shall be determined by multiplying interest
514 expense by a fraction, the numerator of which is the taxpayer's average investment in such
515 dividend paying subsidiaries, and the denominator of which is the taxpayer's average total
516 investment in assets;

517 (b) in determining income apportionable to this state, a portion of the factors of a
518 foreign subsidiary whose dividends are partially excluded under Subsection (11)(a) shall be
519 included in the combined report factors. The portion to be included shall be determined by
520 multiplying each factor of the foreign subsidiary by a fraction, but not to exceed 100%, the
521 numerator of which is the amount of the dividend paid by the foreign subsidiary which is

522 included in adjusted income, and the denominator of which is the current year earnings and
523 profits of the foreign subsidiary as determined under the Internal Revenue Code;

524 (12) (a) 50% of the adjusted income of a foreign operating company unless the
525 taxpayer has elected to file a worldwide combined report as provided in Section 59-7-403. For
526 purposes of this Subsection, when calculating the adjusted income of a foreign operating
527 company, a foreign operating company may not deduct the subtractions allowable under this
528 Subsection (12) and Subsection (11);

529 (b) in determining income apportionable to this state, the factors for a foreign operating
530 company shall be included in the combined report factors in the same percentage its adjusted
531 income is included in the combined adjusted income;

532 (13) the amount of gain or loss which is included in unadjusted income but not
533 recognized for federal purposes on stock sold or exchanged by a member of a selling
534 consolidated group as defined in Section 338, Internal Revenue Code, if an election has been
535 made pursuant to Section 338(h)(10), Internal Revenue Code;

536 (14) the amount of gain or loss which is included in unadjusted income but not
537 recognized for federal purposes on stock sold, exchanged, or distributed by a corporation
538 pursuant to Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
539 Revenue Code, has been made for federal purposes;

540 (15) (a) adjustments to gains, losses, depreciation expense, amortization expense, and
541 similar items due to a difference between basis for federal purposes and basis as computed
542 under Section 59-7-107; and

543 (b) if there has been a reduction in federal basis for a federal tax credit where there is
544 no corresponding Utah tax credit, the amount of the reduction in basis shall be allowed as an
545 expense in the year of the federal credit;

546 (16) any interest expense not deducted on the federal corporate return under Section
547 265(b) or 291(e), Internal Revenue Code;

548 (17) 100% of the dividends received from subsidiaries which are insurance companies
549 exempt from this chapter under Subsection 59-7-102(1)(c) and are under "common ownership"
550 as defined by Subsection 59-7-101(7); and

551 ~~[(18) any amount included in unadjusted income that was derived from money paid by~~
552 ~~the taxpayer to the program fund and investment income earned on those payments under Title~~

553 ~~53B, Chapter 8a, Higher Education Savings Incentive Program, that is included in federal~~
554 ~~taxable income, but only when the monies are used for qualified higher education costs of the~~
555 ~~beneficiary.]~~

556 (18) subject to Subsection 59-7-105(12), the amount of a qualified investment as
557 defined in Section 53B-8a-102 that:

558 (a) a corporation that is an account owner as defined in Section 53B-8a-102 makes
559 during the taxable year;

560 (b) the corporation described in Subsection (18)(a) does not deduct on a federal
561 corporation income tax return; and

562 (c) does not exceed the maximum amount of the qualified investment that may be
563 subtracted from unadjusted income for a taxable year in accordance with Subsections
564 53B-8a-106(1)(d) and (f).

565 Section 14. Section **59-10-114** is amended to read:

566 **59-10-114. Additions to and subtractions from federal taxable income of an**
567 **individual.**

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

570 (a) the amount of any income tax imposed by this or any predecessor Utah individual
571 income tax law and the amount of any income tax imposed by the laws of another state, the
572 District of Columbia, or a possession of the United States, to the extent deducted from adjusted
573 gross income in determining federal taxable income;

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

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

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

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

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

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

586 (i) the resident or nonresident individual did not deduct or include the amounts on the
587 resident or nonresident individual's federal individual income tax return pursuant to Section
588 220, Internal Revenue Code;

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

590 (iii) the withdrawal is deducted by the resident or nonresident individual under
591 Subsection (2)(h);

592 (f) the amount [~~disbursed to~~] withdrawn under Title 53B, Chapter 8a, Higher
593 Education Savings Incentive Program, from the account of a resident or nonresident individual
594 who is an account owner [under Title 53B, Chapter 8a, Higher Education Savings Incentive
595 Program] as defined in Section 53B-8a-102, for the taxable year for which the amount is
596 [disbursed] withdrawn, if that amount [disbursed to] withdrawn from the account of the
597 resident or nonresident individual who is the account owner:

598 (i) is not expended for higher education costs as defined in Section 53B-8a-102; and

599 (ii) is [~~deducted~~];

600 (A) subtracted by the resident or nonresident individual:

601 (I) who is the account owner [under]; and

602 (II) in accordance with Subsection (2)(i); or

603 (B) used as the basis for the resident or nonresident individual who is the account
604 owner to claim a tax credit under Section 59-10-1206.1;

605 (g) except as provided in Subsection (6), for taxable years beginning on or after
606 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
607 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
608 one or more of the following entities:

609 (i) a state other than this state;

610 (ii) the District of Columbia;

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

612 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
613 (iii);

614 (h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a

615 resident trust of income that was taxed at the trust level for federal tax purposes, but was
616 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c);
617 (i) any distribution received by a resident beneficiary of a nonresident trust of
618 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
619 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
620 was not taxed at the trust level by any state, with undistributed distributable net income
621 considered to be distributed from the most recently accumulated undistributed distributable net
622 income; and

623 (j) any adoption expense:

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

626 (ii) to the extent to which the resident or nonresident individual deducts that adoption
627 expense:

628 (A) under Subsection (2)(c); or

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

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

632 (a) the interest or a dividend on obligations or securities of the United States and its
633 possessions or of any authority, commission, or instrumentality of the United States, to the
634 extent that interest or dividend is included in gross income for federal income tax purposes for
635 the taxable year but exempt from state income taxes under the laws of the United States, but
636 the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on
637 indebtedness incurred or continued to purchase or carry the obligations or securities described
638 in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend
639 income described in this Subsection (2)(a) to the extent that such expenses, including
640 amortizable bond premiums, are deductible in determining federal taxable income;

641 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all
642 allowable credits, as reported on the United States individual income tax return of the taxpayer
643 for the same taxable year;

644 (c) the amount of adoption expenses for one of the following taxable years as elected
645 by the resident or nonresident individual:

646 (i) regardless of whether a court issues an order granting the adoption, the taxable year
647 in which the adoption expenses are:

648 (A) paid; or

649 (B) incurred;

650 (ii) the taxable year in which a court issues an order granting the adoption; or

651 (iii) any year in which the resident or nonresident individual may claim the federal
652 adoption expenses credit under Section 23, Internal Revenue Code;

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

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

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

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

667 (i) for:

668 (A) the taxpayer;

669 (B) the taxpayer's spouse; and

670 (C) the taxpayer's dependents; and

671 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or
672 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

673 (h) (i) except as provided in this Subsection (2)(h), the amount of a contribution made
674 during the taxable year on behalf of the taxpayer to a medical care savings account and interest
675 earned on a contribution to a medical care savings account established pursuant to Title 31A,
676 Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is accepted by

677 the account administrator as provided in the Medical Care Savings Account Act, and if the
678 taxpayer did not deduct or include amounts on the taxpayer's federal individual income tax
679 return pursuant to Section 220, Internal Revenue Code; and

680 (ii) a contribution deductible under this Subsection (2)(h) may not exceed either of the
681 following:

682 (A) the maximum contribution allowed under the Medical Care Savings Account Act
683 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is
684 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that
685 covers the other spouse, and each spouse has a medical care savings account; or

686 (B) the maximum contribution allowed under the Medical Care Savings Account Act
687 for the tax year for taxpayers:

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

689 (II) who file a joint return, but do not qualify under Subsection (2)(h)(ii)(A);

690 ~~[(i) the amount included in federal taxable income that was derived from money paid
691 by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education
692 Savings Incentive Program, not to exceed amounts determined under Subsection
693 53B-8a-106(1)(d), and investment income earned on account agreements entered into under
694 Section 53B-8a-106 that is included in federal taxable income, but only when the funds are
695 used for qualified higher education costs of the beneficiary;]~~

696 (i) subject to Subsection (1)(f), the amount of a qualified investment as defined in
697 Section 53B-8a-102 that:

698 (i) a resident or nonresident individual who is an account owner as defined in Section
699 53B-8a-102 makes during the taxable year;

700 (ii) the resident or nonresident individual described in Subsection (2)(i)(i) does not
701 deduct on a federal individual income tax return; and

702 (iii) does not exceed the maximum amount of the qualified investment that may be
703 subtracted from federal taxable income for a taxable year in accordance with Subsections
704 53B-8a-106(1)(e) and (f);

705 (j) for taxable years beginning on or after January 1, 2000, any amounts paid for
706 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the
707 amounts paid for long-term care insurance were not deducted under Section 213, Internal

708 Revenue Code, in determining federal taxable income;

709 (k) for taxable years beginning on or after January 1, 2000, if the conditions of

710 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

711 (i) during a time period that the Ute tribal member resides on homesteaded land

712 diminished from the Uintah and Ouray Reservation; and

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

714 (l) (i) for taxable years beginning on or after January 1, 2003, the total amount of a

715 resident or nonresident individual's short-term capital gain or long-term capital gain on a

716 capital gain transaction:

717 (A) that occurs on or after January 1, 2003;

718 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

719 (I) to purchase qualifying stock in a Utah small business corporation; and

720 (II) within a 12-month period after the day on which the capital gain transaction occurs;

721 and

722 (C) if, prior to the purchase of the qualifying stock described in Subsection

723 (2)(l)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the

724 Utah small business corporation that issued the qualifying stock; and

725 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

726 commission may make rules:

727 (A) defining the term "gross proceeds"; and

728 (B) for purposes of Subsection (2)(l)(i)(C), prescribing the circumstances under which

729 a resident or nonresident individual has an ownership interest in a Utah small business

730 corporation;

731 (m) for the taxable year beginning on or after January 1, 2005, but beginning on or

732 before December 31, 2005, the first \$2,200 of income a qualifying military servicemember

733 receives:

734 (i) for service:

735 (A) as a qualifying military servicemember; or

736 (B) under an order into active service in accordance with Section 39-1-5; and

737 (ii) to the extent that income is included in adjusted gross income on that resident or

738 nonresident individual's federal individual income tax return for that taxable year;

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

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

742 (A) a state; or

743 (B) the District of Columbia; and

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

747 (o) the amount of a railroad retirement benefit:

748 (i) paid:

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

751 (B) to a resident or nonresident individual; and

752 (C) for the taxable year; and

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

756 (p) an amount:

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

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

760 (A) federal law;

761 (B) a treaty; or

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

763 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
764 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
765 \$4,800, except that:

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

769 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income

770 earned over \$16,000, the amount of the retirement income exemption that may be subtracted
771 shall be reduced by 50 cents; and

772 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
773 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
774 reduced by 50 cents.

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

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

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

783 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
784 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

785 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be
786 calculated by adding to adjusted gross income any interest income not otherwise included in
787 adjusted gross income.

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

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

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

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

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

- 801 (i) the taxpayer is a Ute tribal member; and
- 802 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
- 803 requirements of this Subsection (4).
- 804 (b) The agreement described in Subsection (4)(a):
- 805 (i) may not:
- 806 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 807 (B) provide a subtraction under this section greater than or different from the
- 808 subtraction described in Subsection (2)(k); or
- 809 (C) affect the power of the state to establish rates of taxation; and
- 810 (ii) shall:
- 811 (A) provide for the implementation of the subtraction described in Subsection (2)(k);
- 812 (B) be in writing;
- 813 (C) be signed by:
- 814 (I) the governor; and
- 815 (II) the chair of the Business Committee of the Ute tribe;
- 816 (D) be conditioned on obtaining any approval required by federal law; and
- 817 (E) state the effective date of the agreement.
- 818 (c) (i) The governor shall report to the commission by no later than February 1 of each
- 819 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
- 820 in effect.
- 821 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
- 822 subtraction permitted under Subsection (2)(k) is not allowed for taxable years beginning on or
- 823 after the January 1 following the termination of the agreement.
- 824 (d) For purposes of Subsection (2)(k) and in accordance with Title 63, Chapter 46a,
- 825 Utah Administrative Rulemaking Act, the commission may make rules:
- 826 (i) for determining whether income is derived from a source within the Uintah and
- 827 Ouray Reservation; and
- 828 (ii) that are substantially similar to how adjusted gross income derived from Utah
- 829 sources is determined under Section 59-10-117.
- 830 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
- 831 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

832 Interest and Dividends; or

833 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by
834 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to
835 2000 Form 8814 if for purposes of federal individual income taxes the information contained
836 on 2000 Form 8814 is reported on a form other than Form 8814; and

837 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter
838 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form
839 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income
840 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
841 8814.

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

844 (i) the lesser of:

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

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

847 (I) the child's taxable interest;

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

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

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

851 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences
852 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be
853 added to federal taxable income of a resident or nonresident individual if, as annually
854 determined by the commission:

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

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

861 (i) the entity; or

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

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

864 Section 15. Section **59-10-201** is amended to read:

865 **59-10-201. Taxation of resident trusts and estates.**

866 (1) A tax determined in accordance with the rates prescribed by Section 59-10-104 for
867 individuals filing separately is imposed for each taxable year on the state taxable income of
868 each resident estate or trust, except for trusts taxed as corporations.

869 (2) A resident estate or trust shall be allowed the credit provided in Section
870 59-10-1003, relating to an income tax imposed by another state, except that the limitation shall
871 be computed by reference to the taxable income of the estate or trust.

872 (3) The property of the Utah Educational Savings Plan trust established in Title 53B,
873 Chapter 8a, Higher Education Savings Incentive Program, and its income from operations and
874 investments are exempt from all taxation by the state under this chapter.

875 Section 16. Section **59-10-202** is amended to read:

876 **59-10-202. Additions to and subtractions from federal taxable income of a**
877 **resident or nonresident estate or trust.**

878 (1) There shall be added to federal taxable income of a resident or nonresident estate or
879 trust:

880 (a) the amount of any income tax imposed by this or any predecessor Utah individual
881 income tax law and the amount of any income tax imposed by the laws of another state, the
882 District of Columbia, or a possession of the United States, to the extent deducted from federal
883 adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal
884 taxable income;

885 (b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the
886 Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue
887 Code in determining adjusted gross income;

888 (c) except as provided in Subsection (3), for taxable years beginning on or after
889 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
890 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
891 one or more of the following entities:

892 (i) a state other than this state;

893 (ii) the District of Columbia;

894 (iii) a political subdivision of a state other than this state; or
895 (iv) an agency or instrumentality of an entity described in Subsections (1)(c)(i) through
896 (iii);
897 (d) any portion of federal taxable income for a taxable year if that federal taxable
898 income is derived from stock:
899 (i) in an S corporation; and
900 (ii) that is held by an electing small business trust; [~~and~~]
901 (e) (i) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings
902 Incentive Program, from the account of a resident or nonresident estate or trust that is an
903 account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is
904 withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or
905 trust that is the account owner:
906 (A) is not expended for higher education costs as defined in Section 53B-8a-102; and
907 (B) is subtracted by the resident or nonresident estate or trust:
908 (I) that is the account owner; and
909 (II) in accordance with Subsection (2)(j)(i); and
910 (ii) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings
911 Incentive Program, from the account of a resident or nonresident estate or trust that is an
912 account owner as defined in Section 53B-8a-102, for the taxable year beginning on or after
913 January 1, 2007, but beginning on or before December 31, 2007, if that amount withdrawn
914 from the account of the resident or nonresident estate or trust that is the account owner:
915 (A) is not expended for higher education costs as defined in Section 53B-8a-102; and
916 (B) is subtracted by the resident or nonresident estate or trust:
917 (I) that is the account owner; and
918 (II) in accordance with Subsection (2)(j)(ii); and
919 [~~e~~] (f) any fiduciary adjustments required by Section 59-10-210.
920 (2) There shall be subtracted from federal taxable income of a resident or nonresident
921 estate or trust:
922 (a) the interest or a dividend on obligations or securities of the United States and its
923 possessions or of any authority, commission, or instrumentality of the United States, to the
924 extent that interest or dividend is included in gross income for federal income tax purposes for

925 the taxable year but exempt from state income taxes under the laws of the United States, but
926 the amount subtracted under this Subsection (2) shall be reduced by any interest on
927 indebtedness incurred or continued to purchase or carry the obligations or securities described
928 in this Subsection (2), and by any expenses incurred in the production of interest or dividend
929 income described in this Subsection (2) to the extent that such expenses, including amortizable
930 bond premiums, are deductible in determining federal taxable income;

931 (b) 1/2 of the net amount of any income tax paid or payable to the United States after
932 all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the
933 same taxable year;

934 (c) income of an irrevocable resident trust if:

935 (i) the income would not be treated as state taxable income derived from Utah sources
936 under Section 59-10-204 if received by a nonresident trust;

937 (ii) the trust first became a resident trust on or after January 1, 2004;

938 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
939 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

940 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

941 (v) the amount subtracted under this Subsection (2) is reduced to the extent the settlor
942 or any other person is treated as an owner of any portion of the trust under Subtitle A,
943 Subchapter J, Subpart E of the Internal Revenue Code; and

944 (vi) the amount subtracted under this Subsection (2) is reduced by any interest on
945 indebtedness incurred or continued to purchase or carry the assets generating the income
946 described in this Subsection (2), and by any expenses incurred in the production of income
947 described in this Subsection (2), to the extent that those expenses, including amortizable bond
948 premiums, are deductible in determining federal taxable income;

949 (d) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or
950 nonresident estate or trust derived from a deceased Ute tribal member:

951 (i) during a time period that the Ute tribal member resided on homesteaded land
952 diminished from the Uintah and Ouray Reservation; and

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

954 (e) (i) for taxable years beginning on or after January 1, 2003, the total amount of a
955 resident or nonresident estate's or trust's short-term capital gain or long-term capital gain on a

956 capital gain transaction:

957 (A) that occurs on or after January 1, 2003;

958 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

959 (I) to purchase qualifying stock in a Utah small business corporation; and

960 (II) within a 12-month period after the day on which the capital gain transaction occurs;

961 and

962 (C) if, prior to the purchase of the qualifying stock described in Subsection

963 (2)(e)(i)(B)(I), the resident or nonresident estate or trust did not have an ownership interest in

964 the Utah small business corporation that issued the qualifying stock; and

965 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
966 commission may make rules:

967 (A) defining the term "gross proceeds"; and

968 (B) for purposes of Subsection (2)(e)(i)(C), prescribing the circumstances under which
969 a resident or nonresident estate or trust has an ownership interest in a Utah small business
970 corporation;

971 (f) for the taxable year beginning on or after January 1, 2005, but beginning on or
972 before December 31, 2005, the first \$2,200 of income of a resident or nonresident estate or
973 trust that is derived from a deceased qualifying military servicemember:

974 (i) for service:

975 (A) as a qualifying military servicemember; or

976 (B) under an order into active service in accordance with Section 39-1-5; and

977 (ii) to the extent that income is included in total income on that resident or nonresident
978 estate's or trust's federal income tax return for estates and trusts for that taxable year;

979 (g) any amount:

980 (i) received by a resident or nonresident estate or trust;

981 (ii) that constitutes a refund of taxes imposed by:

982 (A) a state; or

983 (B) the District of Columbia; and

984 (iii) to the extent that amount is included in total income on that resident or nonresident
985 estate's or trust's federal tax return for estates and trusts for that taxable year;

986 (h) the amount of a railroad retirement benefit:

987 (i) paid:

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

989 seq.;

990 (B) to a resident or nonresident estate or trust derived from a deceased resident or

991 nonresident individual; and

992 (C) for the taxable year; and

993 (ii) to the extent that railroad retirement benefit is included in total income on that

994 resident or nonresident estate's or trust's federal tax return for estates and trusts;

995 (i) an amount:

996 (i) received by a resident or nonresident estate or trust if that amount is derived from a

997 deceased enrolled member of an American Indian tribe; and

998 (ii) to the extent that the state is not authorized or permitted to impose a tax under this

999 part on that amount in accordance with:

1000 (A) federal law;

1001 (B) a treaty; or

1002 (C) a final decision issued by a court of competent jurisdiction; [~~and~~]

1003 (j) (i) subject to Subsection (1)(e)(i), for taxable years beginning on or after January 1,

1004 2007, the amount of a qualified investment as defined in Section 53B-8a-102 that:

1005 (A) a resident or nonresident estate or trust that is an account owner as defined in

1006 Section 53B-8a-102 makes during the taxable year;

1007 (B) the resident or nonresident estate or trust described in Subsection (2)(j)(i)(A) does

1008 not deduct on a federal tax return for estates and trusts; and

1009 (C) does not exceed the maximum amount of the qualified investment that may be

1010 subtracted from federal taxable income for a taxable year in accordance with Subsections

1011 53B-8a-106(1)(e) and (f); and

1012 (ii) subject to Subsection (1)(e)(ii), for the taxable year beginning on or after January 1,

1013 2007, but beginning on or before December 31, 2007 only, and in addition to any subtraction a

1014 resident or nonresident estate or trust that is an account owner as defined in Section

1015 53B-8a-102 makes in accordance with Subsection (2)(j)(i), the amount of a qualified

1016 investment as defined in Section 53B-8a-102 that:

1017 (A) a resident or nonresident estate or trust that is an account owner as defined in

1018 Section 53B-8a-102 could have subtracted under Subsection (2)(j)(i) for the taxable year
1019 beginning on or after January 1, 2006, but beginning on or before December 31, 2006, had the
1020 subtraction under Subsection (2)(j)(i) been in effect for the taxable year beginning on or after
1021 January 1, 2006, but beginning on or before December 31, 2006;

1022 (B) the resident or nonresident estate or trust described in Subsection (2)(j)(ii)(A)
1023 makes during the taxable year beginning on or after January 1, 2006, but beginning on or
1024 before December 31, 2006;

1025 (C) the resident or nonresident estate or trust described in Subsection (2)(j)(ii)(A) does
1026 not deduct on a federal tax return for estates and trusts; and

1027 (D) does not exceed the maximum amount of the qualified investment that may be
1028 subtracted from federal taxable income:

1029 (I) for the taxable year beginning on or after January 1, 2006, but beginning on or
1030 before December 31, 2006; and

1031 (II) in accordance with Subsections 53B-8a-106(1)(e) and (f); and

1032 [(j)] (k) any fiduciary adjustments required by Section 59-10-210.

1033 (3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences
1034 of indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be
1035 added to federal taxable income of a resident or nonresident estate or trust if, as annually
1036 determined by the commission:

1037 (a) for an entity described in Subsection (1)(c)(i) or (ii), the entity and all of the
1038 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
1039 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

1040 (b) for an entity described in Subsection (1)(c)(iii) or (iv), the following do not impose
1041 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
1042 this state:

1043 (i) the entity; or

1044 (ii) (A) the state in which the entity is located; or

1045 (B) the District of Columbia, if the entity is located within the District of Columbia.

1046 (4) (a) A subtraction for an amount described in Subsection (2)(d) is allowed only if:

1047 (i) the income is derived from a deceased Ute tribal member; and

1048 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

1049 requirements of this Subsection (4).

1050 (b) The agreement described in Subsection (4)(a):

1051 (i) may not:

1052 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1053 (B) provide a subtraction under this section greater than or different from the

1054 subtraction described in Subsection (2)(d); or

1055 (C) affect the power of the state to establish rates of taxation; and

1056 (ii) shall:

1057 (A) provide for the implementation of the subtraction described in Subsection (2)(d);

1058 (B) be in writing;

1059 (C) be signed by:

1060 (I) the governor; and

1061 (II) the chair of the Business Committee of the Ute tribe;

1062 (D) be conditioned on obtaining any approval required by federal law; and

1063 (E) state the effective date of the agreement.

1064 (c) (i) The governor shall report to the commission by no later than February 1 of each

1065 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is

1066 in effect.

1067 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the

1068 subtraction permitted under Subsection (2)(d) is not allowed for taxable years beginning on or

1069 after the January 1 following the termination of the agreement.

1070 (d) For purposes of Subsection (2)(d) and in accordance with Title 63, Chapter 46a,

1071 Utah Administrative Rulemaking Act, the commission may make rules:

1072 (i) for determining whether income is derived from a source within the Uintah and

1073 Ouray Reservation; and

1074 (ii) that are substantially similar to how adjusted gross income derived from Utah

1075 sources is determined under Section 59-10-117.

1076 Section 17. Section **59-10-1202** is amended to read:

1077 **59-10-1202. Definitions.**

1078 As used in this part:

1079 (1) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

1080 (2) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

1081 (3) "State income tax percentage for a nonresident individual" means a percentage
1082 equal to a nonresident individual's adjusted gross income for the taxable year received from
1083 Utah sources, as determined under Section 59-10-117, divided by the difference between:

1084 (a) the nonresident individual's total adjusted gross income for that taxable year; and

1085 (b) if the nonresident individual described in Subsection (3)(a) is a servicemember, the
1086 compensation the servicemember receives for military service if the servicemember is serving
1087 in compliance with military orders.

1088 (4) "State income tax percentage for a part-year resident individual" means, for a
1089 taxable year, a fraction:

1090 (a) the numerator of which is the sum of:

1091 (i) for the time period during the taxable year that the part-year resident individual is a
1092 resident, the part-year resident individual's total adjusted gross income for that time period; and

1093 (ii) for the time period during the taxable year that the part-year resident individual is a
1094 nonresident, the part-year resident individual's adjusted gross income for that time period
1095 received from Utah sources, as determined under Section 59-10-117; and

1096 (b) the denominator of which is the difference between:

1097 (i) the part-year resident individual's total adjusted gross income for that taxable year;
1098 and

1099 (ii) if the part-year resident individual is a servicemember, any compensation the
1100 servicemember receives for military service during the portion of the taxable year that the
1101 servicemember is a nonresident if the servicemember is serving in compliance with military
1102 orders.

1103 [~~4~~] (5) "State taxable income" means a resident or nonresident individual's adjusted
1104 gross income after making the:

1105 (a) additions and subtractions required by Section 59-10-1204; and

1106 (b) adjustments required by Section 59-10-1205.

1107 [~~5~~] (6) "Unapportioned state tax" means the product of the:

1108 (a) difference between:

1109 (i) a nonresident individual's state taxable income; and

1110 (ii) if the nonresident individual described in Subsection [~~5~~] (6)(a)(i) is a

1111 servicemember, compensation the servicemember receives for military service if the
1112 servicemember is serving in compliance with military orders; and

1113 (b) percentage listed in Subsection 59-10-1203(2)(a)(i)(B).

1114 Section 18. Section **59-10-1203** is amended to read:

1115 **59-10-1203. Single rate tax for resident or nonresident individual -- Tax rate --**
1116 **Contributions -- Exemption -- Amended returns.**

1117 (1) For taxable years beginning on or after January 1, 2007, a resident or nonresident
1118 individual may calculate and pay a tax under this section as provided in this part.

1119 (2) (a) A resident individual that calculates and pays a tax under this section:

1120 (i) shall pay for a taxable year an amount equal to the product of:

1121 (A) the resident individual's state taxable income for that taxable year; and

1122 (B) 5.35%; and

1123 (ii) is exempt from paying the tax imposed by Section 59-10-104.

1124 (b) A nonresident individual that calculates and pays a tax under this section:

1125 (i) shall pay for a taxable year an amount equal to the product of the nonresident
1126 individual's:

1127 (A) unapportioned state tax; and

1128 (B) state income tax percentage for the nonresident individual; and

1129 (ii) is exempt from paying the tax imposed by Section 59-10-116.

1130 (3) Except as required by Section 59-10-1204 or 59-10-1205, a resident or nonresident
1131 individual that calculates and pays a tax under this section may not make any addition or
1132 adjustment to or subtraction from adjusted gross income.

1133 (4) A resident or nonresident individual that calculates and pays a tax under this
1134 section may designate on the resident or nonresident individual's individual income tax return
1135 for a taxable year a contribution allowed by:

1136 (a) Section 59-10-530;

1137 (b) Section 59-10-530.5;

1138 (c) Section 59-10-547;

1139 (d) Section 59-10-549;

1140 (e) Section 59-10-550;

1141 (f) Section 59-10-550.1; or

1142 (g) Section 59-10-550.2.

1143 (5) This section does not apply to a resident or nonresident individual exempt from
1144 taxation under Section 59-10-104.1.

1145 (6) (a) A resident or nonresident individual may determine for each taxable year for
1146 which the resident or nonresident individual files an individual income tax return under this
1147 chapter whether to calculate and pay a tax under this section as provided in this part.

1148 (b) If a resident or nonresident individual files an amended return for a taxable year
1149 beginning on or after January 1, 2007, the resident or nonresident individual may determine
1150 whether to calculate and pay a tax under this section as provided in this part for that taxable
1151 year.

1152 Section 19. Section **59-10-1206.1** is enacted to read:

1153 **59-10-1206.1. Utah Educational Savings Plan tax credit.**

1154 (1) As used in this section:

1155 (a) "Account owner" is as defined in Section 53B-8a-102.

1156 (b) "Claimant" means a resident or nonresident individual that has state taxable income
1157 under this part.

1158 (c) "Higher education costs" is as defined in Section 53B-8a-102.

1159 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
1160 taxable year:

1161 (i) for a claimant that is an account owner, if that claimant is a person other than
1162 husband and wife account owners who file a single return jointly, the maximum amount of a
1163 qualified investment:

1164 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

1165 (B) increased or decreased for that taxable year in accordance with Subsection
1166 53B-8a-106(1)(f); or

1167 (ii) for claimants who are husband and wife account owners who file a single return
1168 jointly, the maximum amount of a qualified investment:

1169 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

1170 (B) increased or decreased for that taxable year in accordance with Subsection
1171 53B-8a-106(1)(f).

1172 (e) "Qualified investment" is as defined in Section 53B-8a-102.

1173 (2) For taxable years beginning on or after January 1, 2007, a claimant that is an
1174 account owner may claim a nonrefundable tax credit equal to the product of:

1175 (a) the lesser of:

1176 (i) the amount of a qualified investment the claimant:

1177 (A) makes during the taxable year; and

1178 (B) does not deduct on the claimant's federal individual income tax return; or

1179 (ii) the maximum amount of a qualified investment for the taxable year if the amount

1180 described in Subsection (2)(a)(i) is greater than the maximum amount of a qualified investment

1181 for the taxable year; and

1182 (b) 5.35%.

1183 (3) A tax credit under this section may not be carried forward or carried back.

1184 Section 20. Section **59-10-1206.9** is enacted to read:

1185 **59-10-1206.9. Apportionment of tax credit.**

1186 A nonresident individual or a part-year resident individual that claims a tax credit in

1187 accordance with Section 59-10-1206.1 may only claim an apportioned amount of the tax credit

1188 equal to:

1189 (1) for a nonresident individual, the product of:

1190 (a) the state income tax percentage for the nonresident individual; and

1191 (b) the amount of the tax credit that the nonresident individual would have been

1192 allowed to claim but for the apportionment requirements of this section; or

1193 (2) for a part-year resident individual, the product of:

1194 (a) the state income tax percentage for the part-year resident individual; and

1195 (b) the amount of the tax credit that the part-year resident individual would have been

1196 allowed to claim but for the apportionment requirements of this section.

1197 Section 21. **Retrospective operation.**

1198 This bill has retrospective operation for taxable years beginning on or after January 1,

1199 2007.

1200 Section 22. **Coordinating S.B. 242 with S.B. 223 -- Merging substantive**

1201 **amendments.**

1202 If this S.B. 242 and S.B. 223, Tax Amendments, both pass, it is the intent of the

1203 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah

1204 Code database for publication, modify Subsection 59-10-1206.1(2)(b) in this S.B. 242 to read:
1205 "(b) (i) for the taxable year beginning on or after January 1, 2007, but beginning on or
1206 before December 31, 2007, 5.35%; or
1207 (ii) for taxable years beginning on or after January 1, 2008, 5%."