

Representative David Clark proposes the following substitute bill:

HEALTH SYSTEM REFORM

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill requires the Department of Health, the Insurance Department, and the Governor's Office of Economic Development to work with the Legislature to develop and implement the state's strategic plan for health system reform.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Health to work with the Insurance Department, the Department of Workforce Services, the Governor's Office of Economic Development, and the Legislature to develop a state strategic plan for health system reform that includes the development of one or more new insurance products;
- ▶ requires the Insurance Department to participate in the development of the state's strategic plan for health system reform;
- ▶ requires the Insurance Department to:
 - work with insurers to develop standards for health insurance applications and standards for compatible systems of electronic submission of applications;
 - facilitate a private sector method of collection of premium payments from multiple sources; and
 - encourage health insurers to develop new health insurance products that meet



- 26 certain criteria;
- 27 ▶ changes the threshold at which an individual qualifies for the state's Comprehensive
28 Health Insurance Pool;
- 29 ▶ changes the eligibility for the individual market so that:
- 30 • if Utah's Premium Partnership for Health Insurance may be used to help
31 purchase an individual policy, an insurer may not deny coverage based on the
32 individual's use of a premium subsidy; and
- 33 • eligibility for Utah's Premium Partnership for Health Insurance is a qualifying
34 event for coverage under an employer plan;
- 35 ▶ requires the Department of Workforce Services to participate in the development of
36 the strategic plan for health system reform;
- 37 ▶ repeals an income tax subtraction for health care insurance;
- 38 ▶ enacts a non-refundable tax credit for health insurance premiums paid by an
39 individual;
- 40 ▶ enacts the "Health System Reform Act" which:
- 41 • requires the Governor's Office of Economic Development to serve as the
42 coordinating entity to work with the executive branch agencies, and to report to
43 and assist the Legislature with the state's strategic plan for health system reform;
44 and
- 45 • describes the state's strategic plan for health system reform and the time line for
46 implementing the strategic plan; and
- 47 ▶ establishes the Health System Reform Legislative Task Force to develop and
48 implement the state's strategic plan for health system reform.

49 **Monies Appropriated in this Bill:**

- 50 This bill appropriates:
- 51 ▶ as an ongoing appropriation, \$615,000, from the General Fund for fiscal year
52 2008-09 to the Department of Health to be used to fund health care cost and quality
53 data collection, analysis, and distribution;
- 54 ▶ \$500,000 from the General Fund for fiscal year 2008-09 only, to the Department of
55 Health to fund the department's implementation of the standards developed for the
56 electronic exchange of clinical health information;

- 57 ▶ \$32,000 from the General Fund for fiscal years 2008-09 only, to fund the Health
- 58 System Reform Task Force; and
- 59 ▶ \$350,000 from the General Fund for fiscal year 2008-09 only, to the Health System
- 60 Reform Task Force to fund professional and actuarial services for the task force.

61 **Other Special Clauses:**

62 This bill provides retrospective operation.

63 This bill repeals the Health System Reform Task Force on

63a November 30, ~~H→~~ [2010] 2008 ~~←H~~ .

64 This bill coordinates with H.B. 62, Recodification of Title 63, State Affairs in General,
65 providing for technical cross reference changes.

66 This bill coordinates with S.B. 31, Income Tax Amendments, to provide for
67 apportionment of a tax credit.

68 **Utah Code Sections Affected:**

69 AMENDS:

70 **31A-30-106**, as last amended by Laws of Utah 2004, Chapter 108

71 **31A-30-108**, as last amended by Laws of Utah 2004, Chapters 2 and 329

72 **59-10-103**, as last amended by Laws of Utah 2006, Fourth Special Session, Chapter 2

73 **59-10-114**, as last amended by Laws of Utah 2007, Chapter 100

74 **59-10-1204**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 2

75 ENACTS:

76 **26-18-12**, Utah Code Annotated 1953

77 **31A-2-218**, Utah Code Annotated 1953

78 **31A-22-610.6**, Utah Code Annotated 1953

79 **31A-22-635**, Utah Code Annotated 1953

80 **35A-1-104.5**, Utah Code Annotated 1953

81 **59-10-1017**, Utah Code Annotated 1953

82 **63-38f-2401**, Utah Code Annotated 1953

83 **63-38f-2402**, Utah Code Annotated 1953

84 **63-38f-2403**, Utah Code Annotated 1953

85 **63-38f-2404**, Utah Code Annotated 1953

86 **63-38f-2405**, Utah Code Annotated 1953

87 **Uncodified Material Affected:**

88 ENACTS UNCODIFIED MATERIAL

89

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

91 Section 1. Section **26-18-12** is enacted to read:

92 **26-18-12. Strategic plan for health system reform -- Medicaid program.**

93 The department, including the Division of Health Care Financing within the
94 department, shall:

95 (1) work with the Governor's Office of Economic Development, the Insurance
96 Department, the Department of Workforce Services, and the Legislature to develop health
97 system reform in accordance with the strategic plan described in Title 63, Chapter 38f, Part 24,
98 Health System Reform Act;

99 (2) develop and submit amendments and waivers for the state's Medicaid plan as
100 necessary to carry out the provisions of the Health System Reform Act;

101 (3) seek federal approval of an amendment to Utah's Premium Partnership for Health
102 Insurance that would allow the state's Medicaid program to subsidize the purchase of health
103 insurance by an individual who does not have access to employer sponsored health insurance;

104 (4) in coordination with the Department of Workforce Services:

105 (a) establish a Children's Health Insurance Program eligibility policy, consistent with
106 federal requirements and Subsection 26-40-105(1)(d), that prohibits enrollment of a child in the
107 program if the child's parent qualifies for assistance under Utah's Premium Partnership for
108 Health Insurance; and

109 (b) involve community partners, insurance agents and producers, community based
110 service organizations, and the education community to increase enrollment of eligible
111 employees and individuals in Utah's Premium Partnership for Health Insurance and the
112 Children's Health Insurance Program; and

113 (5) as funding permits, and in coordination with the department's adoption of standards
114 for the electronic exchange of clinical health data, help the private sector form an alliance of
115 employers, hospitals and other health care providers, patients, and health insurers to develop
116 and use evidence-based health care quality measures for the purpose of improving health care
117 decision making by health care providers, consumers, and third party payers.

118 Section 2. Section **31A-2-218** is enacted to read:

119 **31A-2-218. Strategic plan for health system reform.**120 The commissioner and the department shall:121 (1) work with the Governor's Office of Economic Development, the Department of
122 Health, the Department of Workforce Services, and the Legislature to develop health system
123 reform in accordance with the strategic plan described in Title 63, Chapter 38f, Part 24, Health
124 System Reform Act;125 (2) work with health insurers in accordance with Section 31A-22-635 to develop
126 standards for health insurance applications and compatible electronic systems;127 (3) facilitate a private sector method for the collection of health insurance premium
128 payments made for a single policy by multiple payers, including the policyholder, one or more
129 employers of one or more individuals covered by the policy, government programs, and others
130 by educating employers and insurers about collection services available through private
131 vendors, including financial institutions;132 (4) encourage health insurers to develop products that:133 (a) encourage health care providers to follow best practice protocols;134 (b) incorporate other health care quality improvement mechanisms; and135 (c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted
136 by the Health Insurance Portability and Accountability Act;137 (5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as
138 necessary, to accomplish the requirements of this section; and139 (6) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
140 make rules, as necessary, to implement Subsections (2), (3), and (4).141 Section 3. Section **31A-22-610.6** is enacted to read:142 **31A-22-610.6. Special enrollment for individuals receiving premium assistance.**143 (1) As used in this section:144 (a) "Premium assistance" means assistance under Title 26, Chapter 18, Medical
145 Assistance Act, in the payment of premium.146 (b) "Qualified beneficiary" means an individual who is approved to receive premium
147 assistance.148 (2) Subject to the other provisions in this section, an individual may enroll under this
149 section at a time outside of an employer health benefit plan open enrollment period, regardless

150 of previously waiving coverage, if the individual is:

151 (a) a qualified beneficiary who is eligible for coverage as an employee under the
152 employer health benefit plan; or

153 (b) a dependent of the qualified beneficiary who is eligible for coverage under the
154 employer health benefit plan.

155 (3) To be eligible to enroll outside of an open enrollment period, an individual
156 described in Subsection (2) shall enroll in the employer health benefit plan by no later than 30
157 days from the day on which the qualified beneficiary receives written notification that the
158 qualified beneficiary is eligible to receive premium assistance.

159 (4) An individual described in Subsection (2) may enroll under this section only in an
160 employer's health benefit plan that is available at the time of enrollment to similarly situated
161 eligible employees or dependents of eligible employees.

162 (5) Coverage under an employer health benefit plan for an individual described in
163 Subsection (2) may begin as soon as the first day of the month immediately following
164 enrollment of the individual in accordance with this section.

165 (6) This section does not modify any requirement related to premiums that applies
166 under an employer health benefit plan to a similarly situated eligible employee or dependent of
167 an eligible employee under the employer health benefit plan.

168 (7) An employer health benefit plan may require an individual described in Subsection
169 (2) to satisfy a preexisting condition waiting period that:

170 (a) is allowed under Health Insurance Portability and Accountability Act of 1996, Pub.
171 L. 104-191, 110 Stat. 1936; and

172 (b) is not longer than 12 months.

173 Section 4. Section **31A-22-635** is enacted to read:

174 **31A-22-635. Development of uniform health insurance applications.**

175 (1) For purposes of this section, "insurer":

176 (a) is defined in Subsection 31A-22-634(1); and

177 (b) includes the state employee's risk pool under Section 49-20-202.

178 (2) Beginning July 1, 2009, all insurers offering health insurance shall use a uniform
179 application form.

180 (3) The uniform application form shall be adopted and approved by the commissioner

181 in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act. The
182 commissioner shall consult with the health insurance industry when adopting the uniform
183 application form.

184 (4) (a) Beginning July 1, 2010, all insurers shall offer compatible systems of electronic
185 submission of application forms, approved by the commissioner in accordance with Title 63,
186 Chapter 46a, Utah Administrative Rulemaking Act. The systems approved by the
187 commissioner may include monitoring and disseminating information concerning eligibility
188 and coverage of individuals.

189 (b) The commissioner shall regulate any fees charged by insurers to an enrollee for a
190 uniform application form or electronic submission of the application forms.

191 Section 5. Section **31A-30-106** is amended to read:

192 **31A-30-106. Premiums -- Rating restrictions -- Disclosure.**

193 (1) Premium rates for health benefit plans under this chapter are subject to the
194 provisions of this Subsection (1).

195 (a) The index rate for a rating period for any class of business may not exceed the
196 index rate for any other class of business by more than 20%.

197 (b) (i) For a class of business, the premium rates charged during a rating period to
198 covered insureds with similar case characteristics for the same or similar coverage, or the rates
199 that could be charged to such employers under the rating system for that class of business, may
200 not vary from the index rate by more than 30% of the index rate, except as provided in Section
201 31A-22-625.

202 (ii) A covered carrier that offers individual and small employer health benefit plans
203 may use the small employer index rates to establish the rate limitations for individual policies,
204 even if some individual policies are rated below the small employer base rate.

205 (c) The percentage increase in the premium rate charged to a covered insured for a new
206 rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of
207 the following:

208 (i) the percentage change in the new business premium rate measured from the first day
209 of the prior rating period to the first day of the new rating period;

210 (ii) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods
211 of less than one year, due to the claim experience, health status, or duration of coverage of the

212 covered individuals as determined from the covered carrier's rate manual for the class of
213 business, except as provided in Section 31A-22-625; and

214 (iii) any adjustment due to change in coverage or change in the case characteristics of
215 the covered insured as determined from the covered carrier's rate manual for the class of
216 business.

217 (d) (i) Adjustments in rates for claims experience, health status, and duration from
218 issue may not be charged to individual employees or dependents.

219 (ii) Any adjustment described in Subsection (1)(d)(i) shall be applied uniformly to the
220 rates charged for all employees and dependents of the small employer.

221 (e) A covered carrier may use industry as a case characteristic in establishing premium
222 rates, provided that the highest rate factor associated with any industry classification does not
223 exceed the lowest rate factor associated with any industry classification by more than 15%.

224 (f) (i) Covered carriers shall apply rating factors, including case characteristics,
225 consistently with respect to all covered insureds in a class of business.

226 (ii) Rating factors shall produce premiums for identical groups that:

227 (A) differ only by the amounts attributable to plan design; and

228 (B) do not reflect differences due to the nature of the groups assumed to select
229 particular health benefit products.

230 (iii) A covered carrier shall treat all health benefit plans issued or renewed in the same
231 calendar month as having the same rating period.

232 (g) For the purposes of this Subsection (1), a health benefit plan that uses a restricted
233 network provision may not be considered similar coverage to a health benefit plan that does not
234 use [~~such~~] a restricted network provision, provided that use of the restricted network provision
235 results in substantial difference in claims costs.

236 (h) The covered carrier may not, without prior approval of the commissioner, use case
237 characteristics other than:

238 (i) age;

239 (ii) gender;

240 (iii) industry;

241 (iv) geographic area;

242 (v) family composition; and

243 (vi) group size.

244 (i) (i) The commissioner [~~may~~] shall establish rules in accordance with Title 63,
245 Chapter 46a, Utah Administrative Rulemaking Act, to:

246 (A) implement this chapter; and

247 (B) assure that rating practices used by covered carriers are consistent with the
248 purposes of this chapter.

249 (ii) The rules described in Subsection (1)(i)(i) may include rules that:

250 (A) assure that differences in rates charged for health benefit products by covered
251 carriers are reasonable and reflect objective differences in plan design, not including
252 differences due to the nature of the groups assumed to select particular health benefit products;

253 (B) prescribe the manner in which case characteristics may be used by covered carriers;

254 (C) implement the individual enrollment cap under Section 31A-30-110, including
255 specifying:

256 (I) the contents for certification;

257 (II) auditing standards;

258 (III) underwriting criteria for uninsurable classification; and

259 (IV) limitations on high risk enrollees under Section 31A-30-111; and

260 (D) establish the individual enrollment cap under Subsection 31A-30-110(1).

261 (j) Before implementing regulations for underwriting criteria for uninsurable
262 classification, the commissioner shall contract with an independent consulting organization to
263 develop industry-wide underwriting criteria for uninsurability based on an individual's expected
264 claims under open enrollment coverage exceeding [~~200%~~] 325% of that expected for a standard
265 insurable individual with the same case characteristics.

266 (k) The commissioner shall revise rules issued for Sections 31A-22-602 and
267 31A-22-605 regarding individual accident and health policy rates to allow rating in accordance
268 with this section.

269 (2) For purposes of Subsection (1)(c)(i), if a health benefit product is a health benefit
270 product into which the covered carrier is no longer enrolling new covered insureds, the covered
271 carrier shall use the percentage change in the base premium rate, provided that the change does
272 not exceed, on a percentage basis, the change in the new business premium rate for the most
273 similar health benefit product into which the covered carrier is actively enrolling new covered

274 insureds.

275 (3) (a) A covered carrier may not transfer a covered insured involuntarily into or out of
276 a class of business.

277 (b) A covered carrier may not offer to transfer a covered insured into or out of a class
278 of business unless the offer is made to transfer all covered insureds in the class of business
279 without regard:

- 280 (i) to case characteristics;
- 281 (ii) claim experience;
- 282 (iii) health status; or
- 283 (iv) duration of coverage since issue.

284 (4) (a) Each covered carrier shall maintain at the covered carrier's principal place of
285 business a complete and detailed description of its rating practices and renewal underwriting
286 practices, including information and documentation that demonstrate that the covered carrier's
287 rating methods and practices are:

- 288 (i) based upon commonly accepted actuarial assumptions; and
- 289 (ii) in accordance with sound actuarial principles.

290 (b) (i) Each covered carrier shall file with the commissioner, on or before April 1 of
291 each year, in a form, manner, and containing such information as prescribed by the
292 commissioner, an actuarial certification certifying that:

- 293 (A) the covered carrier is in compliance with this chapter; and
- 294 (B) the rating methods of the covered carrier are actuarially sound.

295 (ii) A copy of the certification required by Subsection (4)(b)(i) shall be retained by the
296 covered carrier at the covered carrier's principal place of business.

297 (c) A covered carrier shall make the information and documentation described in this
298 Subsection (4) available to the commissioner upon request.

299 (d) Records submitted to the commissioner under this section shall be maintained by
300 the commissioner as protected records under Title 63, Chapter 2, Government Records Access
301 and Management Act.

302 Section 6. Section **31A-30-108** is amended to read:

303 **31A-30-108. Eligibility for small employer and individual market.**

304 (1) (a) Small employer carriers shall accept residents for small group coverage as set

305 forth in the Health Insurance Portability and Accountability Act, P.L. 104-191, 110 Stat. 1962,
306 Sec. 2701(f) and 2711(a).

307 (b) Individual carriers shall accept residents for individual coverage pursuant:

308 (i) to P.L. 104-191, 110 Stat. 1979, Sec. 2741(a)-(b); and

309 (ii) Subsection (3).

310 (2) (a) Small employer carriers shall offer to accept all eligible employees and their
311 dependents at the same level of benefits under any health benefit plan provided to a small
312 employer.

313 (b) Small employer carriers may:

314 (i) request a small employer to submit a copy of the small employer's quarterly income
315 tax withholdings to determine whether the employees for whom coverage is provided or
316 requested are bona fide employees of the small employer; and

317 (ii) deny or terminate coverage if the small employer refuses to provide documentation
318 requested under Subsection (2)(b)(i).

319 (3) Except as provided in Subsections (5) and (6) and Section 31A-30-110, individual
320 carriers shall accept for coverage individuals to whom all of the following conditions apply:

321 (a) the individual is not covered or eligible for coverage:

322 (i) (A) as an employee of an employer;

323 (B) as a member of an association; or

324 (C) as a member of any other group; and

325 (ii) under:

326 (A) a health benefit plan; or

327 (B) a self-insured arrangement that provides coverage similar to that provided by a
328 health benefit plan as defined in Section 31A-1-301;

329 (b) the individual is not covered and is not eligible for coverage under any public
330 health benefits arrangement including:

331 (i) the Medicare program established under Title XVIII of the Social Security Act;

332 [~~(ii) the Medicaid program established under Title XIX of the Social Security Act;~~]

333 [~~(iii)~~] (ii) any act of Congress or law of this or any other state that provides benefits
334 comparable to the benefits provided under this chapter; or

335 [~~(iv)~~] (iii) coverage under the Comprehensive Health Insurance Pool Act created in

336 Chapter 29, Comprehensive Health Insurance Pool Act;

337 (c) unless the maximum benefit has been reached the individual is not covered or
338 eligible for coverage under any:

339 (i) Medicare supplement policy;

340 (ii) conversion option;

341 (iii) continuation or extension under COBRA; or

342 (iv) state extension;

343 (d) the individual has not terminated or declined coverage described in Subsection

344 (3)(a), (b), or (c) within 93 days of application for coverage, unless the individual is eligible for

345 individual coverage under P.L. 104-191, 110 Stat. 1979, Sec. 2741(b), in which case, the

346 requirement of this Subsection (3)(d) does not apply; and

347 (e) the individual is certified as ineligible for the Health Insurance Pool if:

348 (i) the individual applies for coverage with the Comprehensive Health Insurance Pool

349 within 30 days after being rejected or refused coverage by the covered carrier and reapplies for

350 coverage with that covered carrier within 30 days after the date of issuance of a certificate

351 under Subsection 31A-29-111 (5)(c); or

352 (ii) the individual applies for coverage with any individual carrier within 45 days after:

353 (A) notice of cancellation of coverage under Subsection 31A-29-115(1); or

354 (B) the date of issuance of a certificate under Subsection 31A-29-111 (5)(c) if the

355 individual applied first for coverage with the Comprehensive Health Insurance Pool.

356 (4) (a) If coverage is obtained under Subsection (3)(e)(i) and the required premium is

357 paid, the effective date of coverage shall be the first day of the month following the individual's

358 submission of a completed insurance application to that covered carrier.

359 (b) If coverage is obtained under Subsection (3)(e)(ii) and the required premium is

360 paid, the effective date of coverage shall be the day following the:

361 (i) cancellation of coverage under Subsection 31A-29-115(1); or

362 (ii) submission of a completed insurance application to the Comprehensive Health

363 Insurance Pool.

364 (5) (a) An individual carrier is not required to accept individuals for coverage under

365 Subsection (3) if the carrier issues no new individual policies in the state after July 1, 1997.

366 (b) A carrier described in Subsection (5)(a) may not issue new individual policies in

367 the state for five years from July 1, 1997.

368 (c) Notwithstanding Subsection (5)(b), a carrier may request permission to issue new
369 policies after July 1, 1999, which may only be granted if:

370 (i) the carrier accepts uninsurables as is required of a carrier entering the market under
371 Subsection 31A-30-110; and

372 (ii) the commissioner finds that the carrier's issuance of new individual policies:

373 (A) is in the best interests of the state; and

374 (B) does not provide an unfair advantage to the carrier.

375 (6) (a) If the Comprehensive Health Insurance Pool as set forth under Title 31A,
376 Chapter 29, is dissolved or discontinued, or if enrollment is capped or suspended, an individual
377 carrier may decline to accept individuals applying for individual enrollment, other than
378 individuals applying for coverage as set forth in P.L. 104-191, 110 Stat. 1979, Sec. 2741
379 (a)-(b).

380 (b) Within two calendar days of taking action under Subsection (6)(a), an individual
381 carrier will provide written notice to the Utah Insurance Department.

382 (7) (a) If a small employer carrier offers health benefit plans to small employers
383 through a network plan, the small employer carrier may:

384 (i) limit the employers that may apply for the coverage to those employers with eligible
385 employees who live, reside, or work in the service area for the network plan; and

386 (ii) within the service area of the network plan, deny coverage to an employer if the
387 small employer carrier has demonstrated to the commissioner that the small employer carrier:

388 (A) will not have the capacity to deliver services adequately to enrollees of any
389 additional groups because of the small employer carrier's obligations to existing group contract
390 holders and enrollees; and

391 (B) applies this section uniformly to all employers without regard to:

392 (I) the claims experience of an employer, an employer's employee, or a dependent of an
393 employee; or

394 (II) any health status-related factor relating to an employee or dependent of an
395 employee.

396 (b) (i) A small employer carrier that denies a health benefit product to an employer in
397 any service area in accordance with this section may not offer coverage in the small employer

398 market within the service area to any employer for a period of 180 days after the date the
399 coverage is denied.

400 (ii) This Subsection (7)(b) does not:

401 (A) limit the small employer carrier's ability to renew coverage that is in force; or

402 (B) relieve the small employer carrier of the responsibility to renew coverage that is in
403 force.

404 (c) Coverage offered within a service area after the 180-day period specified in
405 Subsection (7)(b) is subject to the requirements of this section.

406 Section 7. Section **35A-1-104.5** is enacted to read:

407 **35A-1-104.5. Strategic plan for health system reform.**

408 The department shall work with the Department of Health, the Insurance Department,
409 the Governor's Office of Economic Development, and the Legislature to develop ~~H~~→ [and
410 implement] ←~~H~~ the health system reform in accordance with Title 63, Chapter 38f, Part 24, Health
411 System Reform Act.

412 Section 8. Section **59-10-103** is amended to read:

413 **59-10-103. Definitions.**

414 (1) As used in this chapter:

415 (a) "Adjusted gross income":

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

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

420 (b) "Adoption expenses" means:

421 (i) any actual medical and hospital expenses of the mother of the adopted child which
422 are incident to the child's birth;

423 (ii) any welfare agency fees or costs;

424 (iii) any child placement service fees or costs;

425 (iv) any legal fees or costs; or

426 (v) any other fees or costs relating to an adoption.

427 (c) "Adult with a disability" means an individual who:

428 (i) is 18 years of age or older;

429 (ii) is eligible for services under Title 62A, Chapter 5, Services for People with
430 Disabilities; and

431 (iii) is not enrolled in:

432 (A) an education program for students with disabilities that is authorized under Section
433 53A-15-301; or

434 (B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.

435 (d) (i) For purposes of Subsection 59-10-114(2)[(†)] (k), "capital gain transaction"
436 means a transaction that results in a:

437 (A) short-term capital gain; or

438 (B) long-term capital gain.

439 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
440 the commission may by rule define the term "transaction."

441 (e) "Commercial domicile" means the principal place from which the trade or business
442 of a Utah small business corporation is directed or managed.

443 (f) "Corporation" includes:

444 (i) associations;

445 (ii) joint stock companies; and

446 (iii) insurance companies.

447 (g) "Dependent child with a disability" means an individual 21 years of age or younger
448 who:

449 (i) (A) is diagnosed by a school district representative under rules adopted by the State
450 Board of Education as having a disability classified as:

451 (I) autism;

452 (II) deafness;

453 (III) preschool developmental delay;

454 (IV) dual sensory impairment;

455 (V) hearing impairment;

456 (VI) intellectual disability;

457 (VII) multidisability;

458 (VIII) orthopedic impairment;

459 (IX) other health impairment;

- 460 (X) traumatic brain injury; or
- 461 (XI) visual impairment;
- 462 (B) is not receiving residential services from:
- 463 (I) the Division of Services for People with Disabilities created under Section
- 464 62A-5-102; or
- 465 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
- 466 and
- 467 (C) is enrolled in:
- 468 (I) an education program for students with disabilities that is authorized under Section
- 469 53A-15-301; or
- 470 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
- 471 or
- 472 (ii) is identified under guidelines of the Department of Health as qualified for:
- 473 (A) Early Intervention; or
- 474 (B) Infant Development Services.
- 475 (h) "Distributable net income" is as defined in Section 643, Internal Revenue Code.
- 476 (i) "Employee" is as defined in Section 59-10-401.
- 477 (j) "Employer" is as defined in Section 59-10-401.
- 478 (k) "Federal taxable income":
- 479 (i) for a resident or nonresident individual, means taxable income as defined by Section
- 480 63, Internal Revenue Code; or
- 481 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
- 482 (b), Internal Revenue Code.
- 483 (l) "Fiduciary" means:
- 484 (i) a guardian;
- 485 (ii) a trustee;
- 486 (iii) an executor;
- 487 (iv) an administrator;
- 488 (v) a receiver;
- 489 (vi) a conservator; or
- 490 (vii) any person acting in any fiduciary capacity for any individual.

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

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

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

499 (p) For purposes of Subsection 59-10-114(2)[(†)] (k), "long-term capital gain" is as
500 defined in Section 1222, Internal Revenue Code.

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

502 (r) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
503 resident estate or trust.

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

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

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

509 (I) a trust;

510 (II) an estate; or

511 (III) a corporation.

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

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

516 (t) "Qualifying military servicemember" means a member of:

517 (i) The Utah Army National Guard;

518 (ii) The Utah Air National Guard; or

519 (iii) the following if the member is assigned to a unit that is located in the state:

520 (A) The Army Reserve;

521 (B) The Naval Reserve;

- 522 (C) The Air Force Reserve;
- 523 (D) The Marine Corps Reserve; or
- 524 (E) The Coast Guard Reserve.
- 525 (u) "Qualifying stock" means stock that is:
- 526 (i) (A) common; or
- 527 (B) preferred;
- 528 (ii) as defined by the commission by rule, originally issued to:
- 529 (A) a resident or nonresident individual; or
- 530 (B) a partnership if the resident or nonresident individual making a subtraction from
- 531 federal taxable income in accordance with Subsection 59-10-114(2)[~~(f)~~] (k):
- 532 (I) was a partner when the stock was issued; and
- 533 (II) remains a partner until the last day of the taxable year for which the resident or
- 534 nonresident individual makes the subtraction from federal taxable income in accordance with
- 535 Subsection 59-10-114(2)[~~(f)~~] (k); and
- 536 (iii) issued:
- 537 (A) by a Utah small business corporation;
- 538 (B) on or after January 1, 2003; and
- 539 (C) for:
- 540 (I) money; or
- 541 (II) other property, except for stock or securities.
- 542 (v) (i) "Resident individual" means:
- 543 (A) an individual who is domiciled in this state for any period of time during the
- 544 taxable year, but only for the duration of the period during which the individual is domiciled in
- 545 this state; or
- 546 (B) an individual who is not domiciled in this state but:
- 547 (I) maintains a permanent place of abode in this state; and
- 548 (II) spends in the aggregate 183 or more days of the taxable year in this state.
- 549 (ii) For purposes of Subsection (1)(v)(i)(B), a fraction of a calendar day shall be
- 550 counted as a whole day.
- 551 (w) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
- 552 (x) For purposes of Subsection 59-10-114(2)[~~(f)~~] (k), "short-term capital gain" is as

553 defined in Section 1222, Internal Revenue Code.

554 (y) "Taxable income" or "state taxable income":

555 (i) subject to Subsection 59-10-302(2), for a resident individual other than a resident
556 individual described in Subsection (1)(y)(iii), means the resident individual's federal taxable
557 income after making the:

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

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

560 (ii) for a nonresident individual other than a nonresident individual described in

561 Subsection (1)(y)(iii), is as defined in Section 59-10-116;

562 (iii) for a resident or nonresident individual that collects and pays a tax described in
563 Part 12, Single Rate Individual Income Tax Act, is as defined in Section 59-10-1202;

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

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

566 (z) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or trust,
567 whose income is subject in whole or part to the tax imposed by this chapter.

568 (aa) "Uintah and Ouray Reservation" means the lands recognized as being included
569 within the Uintah and Ouray Reservation in:

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

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

572 (bb) (i) "Utah small business corporation" means a corporation that:

573 (A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue
574 Code;

575 (B) except as provided in Subsection (1)(bb)(ii), meets the requirements of Section
576 1244(c)(1)(C), Internal Revenue Code; and

577 (C) has its commercial domicile in this state.

578 (ii) Notwithstanding Subsection (1)(bb)(i)(B), the time period described in Section
579 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a
580 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the
581 resident or nonresident individual makes a subtraction from federal taxable income in
582 accordance with Subsection 59-10-114(2)[(†)] (k).

583 (cc) "Ute tribal member" means a person who is enrolled as a member of the Ute

584 Indian Tribe of the Uintah and Ouray Reservation.

585 (dd) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

586 (ee) "Wages" is as defined in Section 59-10-401.

587 (2) (a) Any term used in this chapter has the same meaning as when used in
588 comparable context in the laws of the United States relating to federal income taxes unless a
589 different meaning is clearly required.

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

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

597 Section 9. Section **59-10-114** is amended to read:

598 **59-10-114. Additions to and subtractions from federal taxable income of an**
599 **individual.**

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

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

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

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

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

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

614 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue

615 Code;

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

618 (i) the resident or nonresident individual did not deduct or include the amounts on the
619 resident or nonresident individual's federal individual income tax return pursuant to Section
620 220, Internal Revenue Code;

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

622 (iii) the withdrawal is deducted by the resident or nonresident individual under
623 Subsection (2)~~(f)~~ (g);

624 (f) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings
625 Incentive Program, from the account of a resident or nonresident individual who is an account
626 owner as defined in Section 53B-8a-102, for the taxable year for which the amount is
627 withdrawn, if that amount withdrawn from the account of the resident or nonresident individual
628 who is the account owner:

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

630 (ii) is:

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

632 (I) who is the account owner; and

633 (II) in accordance with Subsection (2)~~(f)~~ (h); or

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

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

640 (i) a state other than this state;

641 (ii) the District of Columbia;

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

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

645 (h) subject to Subsection (2)~~(f)~~ (m), any distribution received by a resident

646 beneficiary of a resident trust of income that was taxed at the trust level for federal tax
647 purposes, but was subtracted from state taxable income of the trust pursuant to Subsection
648 59-10-202(2)(c);

649 (i) any distribution received by a resident beneficiary of a nonresident trust of
650 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
651 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
652 was not taxed at the trust level by any state, with undistributed distributable net income
653 considered to be distributed from the most recently accumulated undistributed distributable net
654 income; and

655 (j) any adoption expense:

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

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

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

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

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

664 (a) the interest or a dividend on obligations or securities of the United States and its
665 possessions or of any authority, commission, or instrumentality of the United States, to the
666 extent that interest or dividend is included in gross income for federal income tax purposes for
667 the taxable year but exempt from state income taxes under the laws of the United States, but
668 the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on
669 indebtedness incurred or continued to purchase or carry the obligations or securities described
670 in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend
671 income described in this Subsection (2)(a) to the extent that such expenses, including
672 amortizable bond premiums, are deductible in determining federal taxable income;

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

676 (c) the amount of adoption expenses for one of the following taxable years as elected

677 by the resident or nonresident individual:

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

680 (A) paid; or

681 (B) incurred;

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

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

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

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

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

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

699 ~~[(i) for:]~~

700 ~~[(A) the taxpayer;]~~

701 ~~[(B) the taxpayer's spouse; and]~~

702 ~~[(C) the taxpayer's dependents; and]~~

703 ~~[(ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or~~
704 ~~213, Internal Revenue Code, in determining federal taxable income for the taxable year;]~~

705 ~~[(h)]~~ (g) (i) except as provided in this Subsection (2)~~[(h)]~~(g), the amount of a
706 contribution made during the taxable year on behalf of the taxpayer to a medical care savings
707 account and interest earned on a contribution to a medical care savings account established

708 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the
709 contribution is accepted by the account administrator as provided in the Medical Care Savings
710 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal
711 individual income tax return pursuant to Section 220, Internal Revenue Code; and

712 (ii) a contribution deductible under this Subsection (2)~~(f)~~(g) may not exceed either of
713 the following:

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

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

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

721 (II) who file a joint return, but do not qualify under Subsection (2)~~(f)~~(g)(ii)(A);

722 ~~(f)~~ (h) subject to Subsection (1)(f), the amount of a qualified investment as defined in
723 Section 53B-8a-102 that:

724 (i) a resident or nonresident individual who is an account owner as defined in Section
725 53B-8a-102 makes during the taxable year;

726 (ii) the resident or nonresident individual described in Subsection (2)~~(f)~~ (h)(i) does
727 not deduct on a federal individual income tax return; and

728 (iii) does not exceed the maximum amount of the qualified investment that may be
729 subtracted from federal taxable income for a taxable year in accordance with Subsections
730 53B-8a-106(1)(e) and (f);

731 ~~(f)~~ (i) for taxable years beginning on or after January 1, 2000, any amounts paid for
732 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the
733 amounts paid for long-term care insurance were not deducted under Section 213, Internal
734 Revenue Code, in determining federal taxable income;

735 ~~(f)~~ (j) for taxable years beginning on or after January 1, 2000, if the conditions of
736 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

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

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

740 ~~[(+) (k)~~ (i) for taxable years beginning on or after January 1, 2003, the total amount of

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

742 capital gain transaction:

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

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

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

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

747 and

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

749 ~~(2)[(+)](k)(i)(B)(I)~~, the resident or nonresident individual did not have an ownership interest in

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

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

752 commission may make rules:

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

754 (B) for purposes of Subsection ~~(2)[(+)](k)(i)(C)~~, prescribing the circumstances under

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

756 corporation;

757 ~~[(+)] (l)~~ (l) for the taxable year beginning on or after January 1, 2005, but beginning on or

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

759 receives:

760 (i) for service:

761 (A) as a qualifying military servicemember; or

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

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

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

765 ~~[(+)] (m)~~ (m) an amount received by a resident or nonresident individual or distribution

766 received by a resident or nonresident beneficiary of a resident trust:

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

768 (A) a state; or

769 (B) the District of Columbia; and

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

773 [~~(n)~~] (n) the amount of a railroad retirement benefit:

774 (i) paid:

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

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

778 (C) for the taxable year; and

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

782 [~~(o)~~] (o) an amount:

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

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

786 (A) federal law;

787 (B) a treaty; or

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

789 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
790 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
791 \$4,800, except that:

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

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

798 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
799 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
800 reduced by 50 cents.

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

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

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

809 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
810 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

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

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

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

821 ~~[(i) for an amount that is reimbursed or funded in whole or in part by the federal~~
822 ~~government, the state, or an agency or instrumentality of the federal government or the state;~~
823 ~~and]~~

824 ~~[(ii) for a taxpayer who is eligible to participate in a health plan maintained and funded~~
825 ~~in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.]~~

826 (4) (a) A subtraction for an amount described in Subsection (2)~~(k)~~(j) is allowed only
827 if:

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

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

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

832 (i) may not:

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

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

835 subtraction described in Subsection (2)~~(k)~~(j); or

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

837 (ii) shall:

838 (A) provide for the implementation of the subtraction described in Subsection

839 ~~(2)(k)~~(j);

840 (B) be in writing;

841 (C) be signed by:

842 (I) the governor; and

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

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

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

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

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

848 in effect.

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

850 subtraction permitted under Subsection ~~(2)(k)~~(j) is not allowed for taxable years beginning on

851 or after the January 1 following the termination of the agreement.

852 (d) For purposes of Subsection ~~(2)(k)~~(j) and in accordance with Title 63, Chapter 46a,

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

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

855 Ouray Reservation; and

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

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

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

859 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

860 Interest and Dividends; or

861 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by

862 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to

863 2000 Form 8814 if for purposes of federal individual income taxes the information contained
864 on 2000 Form 8814 is reported on a form other than Form 8814; and

865 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter
866 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form
867 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income
868 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
869 8814.

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

872 (i) the lesser of:

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

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

875 (I) the child's taxable interest;

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

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

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

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

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

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

889 (i) the entity; or

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

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

892 Section 10. Section **59-10-1017** is enacted to read:

893 **59-10-1017. Nonrefundable tax credit for amounts paid under a health benefit**

894 **plan.**

895 (1) As used in this section:

896 (a) "Claimant with dependents" means a claimant:

897 (i) regardless of the claimant's filing status for purposes of filing a federal individual

898 income tax return for the taxable year; and

899 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as

900 allowed on the claimant's federal individual income tax return for the taxable year.

901 (b) "Eligible insured individual" means:

902 (i) the claimant who is insured under a health benefit plan;

903 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

904 (A) the claimant files a single ~~return~~ **return jointly under**
 904a **this chapter** with the claimant's

905 spouse **for the taxable year** ; and

906 (B) the spouse is insured under the health benefit plan described in Subsection

907 (1)(b)(i); or

908 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

909 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as

910 allowed on the claimant's federal individual income tax return for the taxable year; and

911 (B) the dependent is insured under the health benefit plan described in Subsection

912 (1)(b)(i).

913 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
 914 a health benefit plan for a taxable year if:

915 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue

916 Code:

917 (A) on the claimant's federal individual income tax return for the taxable year; and

918 (B) with respect to an eligible insured individual;

919 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue

920 Code:

921 (A) on the claimant's federal individual income tax return for the taxable year; and

922 (B) with respect to an eligible insured individual; or

923 (iii) the claimant excludes that amount from gross income under Section 106 or 125,

924 Internal Revenue Code, with respect to an eligible insured individual.

925 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.
 926 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
 927 Insurance Department by rule made in accordance with Title 63, Chapter 46a, Utah
 928 Administrative Rulemaking Act.
 929 (e) "Joint claimant with no dependents" means ~~H→~~ [:
 930 —— ~~(i)~~ ~~←H~~ a husband and wife who:
 931 ~~H→~~ [~~A~~] (i) ~~←H~~ file a single ~~H→~~ [federal individual income tax] ~~←H~~ return jointly
 931a ~~H→~~ under this chapter ~~←H~~ for the taxable year; and
 932 ~~H→~~ [~~B~~] (ii) ~~←H~~ do not claim a dependent under Section 151, Internal Revenue Code,
 932a on the
 933 husband's and wife's federal individual income tax return for the taxable year ~~H→~~ [;or] .
 934 [~~(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who:~~
 935 —— ~~(A) files a single federal individual income tax return for the taxable year; and~~
 936 —— ~~(B) does not claim a dependent under Section 151, Internal Revenue Code, on the~~
 937 ~~surviving spouse's federal individual income tax return for the taxable year.] ~~←H~~~~
 938 (f) "Single claimant with no dependents" means:
 939 (i) a single individual who:
 940 (A) files a single federal individual income tax return for the taxable year; and
 941 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
 942 single individual's federal individual income tax return for the taxable year;
 943 (ii) a head of household:
 944 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
 945 individual income tax return for the taxable year; and
 946 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
 947 head of household's federal individual income tax return for the taxable year; or
 948 (iii) a married individual who:
 949 (A) does not file a single federal individual income tax return jointly with that married
 950 individual's spouse for the taxable year; and
 951 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
 952 married individual's federal individual income tax return for the taxable year.
 953 (2) Subject to Subsection (3), ~~H→~~ and except as provided in Subsection (4) ~~←H~~ for
 953a taxable years beginning on or after January 1, ~~S→~~ [2008] 2009 ~~←S~~ , a
 954 claimant may claim a nonrefundable tax credit equal to the product of:
 955 (a) the difference between:

956 (i) the total amount the claimant pays during the taxable year for:

957 (A) insurance offered under a health benefit plan; and

958 (B) an eligible insured individual; and

959 (ii) excluded expenses; and

960 (b) 5%.

961 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may

962 claim ~~H~~→ on a return ←~~H~~ for a taxable year is:

963 (a) for a single claimant with no dependents, \$300;

964 (b) for a joint claimant with no dependents, \$600; or

965 (c) for a claimant with dependents, \$900.

966 (4) ~~H~~→ **A claimant may not claim a tax credit under this section if the claimant is**

966a **eligible to participate in insurance offered under a health benefit plan maintained and funded**

966b **in whole or in part by:**

966c **(a) the claimant's employer; or**

966d **(b) another person's employer.**

966e **(5) ←~~H~~ A claimant may not carry forward or carry back a tax credit under this section.**

967 Section 11. Section **59-10-1204** is amended to read:

968 **59-10-1204. Additions to and subtractions from adjusted gross income of a**

969 **resident or nonresident individual.**

970 (1) In calculating state taxable income for purposes of this part, the following amounts
971 shall be added to the adjusted gross income of a resident or nonresident individual:

972 (a) the amount described in Subsection 59-10-114(1)(a), if that amount is deducted by
973 a resident or nonresident estate or trust in determining federal taxable income;

974 (b) the lump sum distribution described in Subsection 59-10-114(1)(b);

975 (c) subject to Subsection 59-10-114(5), the amount described in Subsection
976 59-10-114(1)(c);

977 (d) a withdrawal described in Subsection 59-10-114(1)(e);

978 (e) the amount described in Subsection 59-10-114(1)(f);

979 (f) subject to Subsection 59-10-114(6), the interest described in Subsection
980 59-10-114(1)(g);

981 (g) a distribution described in Subsection 59-10-114(1)(h);

982 (h) a distribution described in Subsection 59-10-114(1)(i); or

983 (i) an expense described in Subsection 59-10-114(1)(j).

984 (2) In calculating state taxable income for purposes of this part, the following amounts
985 shall be subtracted from the adjusted gross income of a resident or nonresident individual:

986 (a) the interest or dividends described in Subsection 59-10-114(2)(a);

987 (b) subject to Subsection 59-10-114(4), the amount described in Subsection
988 59-10-114(2)~~(k)~~(j);

989 (c) an amount described in Subsection 59-10-114(2)~~(n)~~(m);

990 (d) the amount described in Subsection 59-10-114(2)~~(o)~~(n); and

991 (e) an amount described in Subsection 59-10-114(2)~~(p)~~(o).

992 Section 12. Section **63-38f-2401** is enacted to read:

993 **Part 24. Health System Reform Act**

994 **63-38f-2401. Title.**

995 This part is known as the "Health System Reform Act."

996 Section 13. Section **63-38f-2402** is enacted to read:

997 **63-38f-2402. Definitions.**

998 As used in this part, "office" means the Office of Consumer Health Services created in
999 Section 63-38f-2404.

1000 Section 14. Section **63-38f-2403** is enacted to read:

1001 **63-38f-2403. Duties related to health system reform.**

1002 The Governor's Office of Economic Development shall coordinate the efforts of the
1003 Office of Consumer Health Services, the Department of Health, the Insurance Department, and
1004 the Department of Workforce Services to assist the Legislature with developing the state's
1005 strategic plan for health system reform described in Section 63-38f-2405.

1006 Section 15. Section **63-38f-2404** is enacted to read:

1007 **63-38f-2404. Creation of Office of Consumer Health Services -- Duties.**

1008 (1) There is created within the Governor's Office of Economic Development the Office
1009 of Consumer Health Services.

1010 (2) The office shall:

1011 (a) in cooperation with the Insurance Department, the Department of Health, and the
1012 Department of Workforce Services, and in accordance with the electronic standards developed
1013 under Section 31A-22-635, create an Internet portal that is capable of providing access to
1014 private and government health insurance websites and their electronic application forms and
1015 submission procedures;

1016 (b) facilitate a private sector method for the collection of health insurance premium
1017 payments made for a single policy by multiple payers, including the policyholder, one or more

1018 employers of one or more individuals covered by the policy, government programs, and others
1019 by educating employers and insurers about collection services available through private
1020 vendors, including financial institutions; and

1021 (c) assist employers with a free or low cost method for establishing mechanisms for the
1022 purchase of health insurance by employees using pre-tax dollars.

1023 (3) The office may not:

1024 (a) regulate health insurers, health insurance plans, or health insurance producers;

1025 (b) adopt administrative rules; or

1026 (c) act as an appeals entity for resolving disputes between a health insurer and an
1027 insured.

1028 Section 16. Section **63-38f-2405** is enacted to read:

1029 **63-38f-2405. Strategic plan for health system reform.**

1030 The state's strategic plan for health system reform shall include consideration of the
1031 following:

1032 (1) legislation necessary to allow a health insurer in the state to offer one or more
1033 health benefit plans that:

1034 (a) allow an individual to purchase a policy for individual or family coverage, with or
1035 without employer contributions, and keep the policy even if the individual changes
1036 employment;

1037 (b) incorporate rating practices and issue practices that will sustain a viable insurance
1038 market and provide affordable health insurance products for the most purchasers;

1039 (c) are based on minimum required coverages that result in a lower premium than most
1040 current health insurance products;

1041 (d) include coverage for immunizations, screenings, and other preventive health
1042 services;

1043 (e) encourage cost-effective use of health care systems;

1044 (f) minimize risk-skimming insurance benefit designs;

1045 (g) maximize the use of federal and state income tax policies to allow for payment of
1046 health insurance products with tax-exempt funds;

1047 (h) may include other innovative provisions that may lower the costs of health
1048 insurance products;

- 1049 (i) may incorporate innovative consumer-driven provisions, including:
 1050 (i) an exemption from selected state health insurance laws and regulations;
 1051 (ii) a range of benefit and cost sharing provisions tailored to the health status, financial
 1052 capacity, and preferences of individual consumers; and
 1053 (iii) varying the amount of cost sharing for a service based on where the service falls
 1054 along a continuum of care ranging from preventive care to purely elective care; and
 1055 (j) encourage employers to allow their employees greater control of the employee's
 1056 health care benefits by providing tax-exempt defined contributions for the purchase of health
 1057 insurance by either the employer or the employee;
 1058 (2) current rating and issue practices by health insurers and changes that may be
 1059 necessary to achieve the goals of Subsection (1)(b);
 1060 (3) methods to decrease cost shifting from the uninsured and under-insured to the
 1061 insured, health care providers and taxpayers, including:
 1062 (a) eligibility and benefit levels for entitlement programs; ~~H~~→ [and] ←~~H~~
 1063 (b) reimbursement rates for entitlement programs; ~~H~~→ and
 1063a (c) the Utah Premium Partnership for Health Insurance Program and the Children's
 1063b Health Insurance Program's enrollment and benefit policies, and whether those policies
 1063c provide appropriate and effective coverage for children; ←~~H~~
 1064 (4) providing public employees an option that gives them greater control of their health
 1065 care benefits through a system of defined contributions for insurance policies;
 1066 (5) giving public employees access to an option that provides individually selected and
 1067 owned policies;
 1068 (6) encouraging the use of health care quality measures and the adoption of best
 1069 practice protocols by health care providers for the benefit of consumers, health care providers,
 1070 and third party payers;
 1071 (7) providing some protection from liability for health care providers who follow best
 1072 practice protocols;
 1073 (8) promoting personal responsibility through:
 1074 (a) obtaining health insurance;
 1075 (b) achieving self reliance;
 1076 (c) making healthy choices; and
 1077 (d) encouraging healthy behaviors and lifestyles to the full extent allowed by the
 1078 Health Insurance Portability and Accountability Act;
 1079 (9) studying the costs and benefits associated with:

- 1080 (a) different forms of mandates for individual responsibility; and
1081 (b) potential enforcement mechanisms for individual responsibility;
1082 (10) (a) increasing the number of affordable health insurance policies available to a
1083 person responsible for obtaining health insurance under Subsection (8)(a) by creating a system
1084 of subsidies and Medicaid waivers that bring more people into the private insurance market;
1085 and
1086 (b) funding subsidies to support bringing more people into the private insurance
1087 market, which may include:
1088 (i) imposing assessments on:
1089 (A) health care facilities;
1090 (B) health care providers;
1091 (C) health care services; and
1092 (D) health insurance products; or
1093 (ii) relying on other funding sources;
1094 (11) investigating and applying for Medicaid waivers that will promote the use of
1095 private sector health insurance;
1096 (12) identifying federal barriers to state health system reform and seeking collaborative
1097 solutions to those barriers;
1098 (13) maximizing the use of pre-tax dollars for health insurance premium payments;
1099 (14) requiring employers in the state to adopt mechanisms that allow an employee to
1100 use tax-exempt earnings, other than pre-tax contributions by the employer, to purchase a health
1101 insurance product;
1102 (15) extending a preference under the state procurement code for bidders who offer
1103 goods or services to the state if the bidder provides health insurance benefits or a defined
1104 contribution for health insurance to the bidder's employees; and
1105 (16) requiring insurers to accept premium payments from multiple sources, including
1106 state-funded subsidies.

1107 Section 17. **Health System Reform Task Force -- Creation -- Membership --**
1108 **Interim rules followed -- Compensation -- Staff.**

- 1109 (1) There is created the Health System Reform Task Force consisting of the following
1110 11 members:

1111 (a) four members of the Senate appointed by the president of the Senate, no more than
 1112 three of whom may be from the same political party; and

1113 (b) seven members of the House of Representatives appointed by the speaker of the
 1114 House of Representatives, no more than five of whom may be from the same political party.

1115 (2) (a) The president of the Senate shall designate a member of the Senate appointed
 1116 under Subsection (1)(a) as a cochair of the task force.

1117 (b) The speaker of the House of Representatives shall designate a member of the House
 1118 of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

1119 (3) In conducting its business, the task force shall comply with the rules of legislative
 1120 interim committees.

1121 (4) Salaries and expenses of the members of the task force shall be paid in accordance
 1122 with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage
 1123 Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override
 1124 Sessions.

1125 (5) The Office of Legislative Research and General Counsel ~~H~~→ and the Governor's
 1125a Office of Economic Development ←~~H~~ shall provide staff support
 1126 to the task force.

1127 Section 18. **Duties -- Interim report.**

1128 (1) The task force shall review and make recommendations on the state's development
 1129 and implementation of the strategic plan for health system reform described in Section
 1130 63-38f-2405.

1131 (2) A report, including any proposed legislation, shall be presented to the Business and
 1132 Labor Interim Committee before November 30, 2008.

1133 Section 19. **Appropriation.**

1134 There is appropriated:

1135 (1) as an ongoing appropriation, \$615,000, from the General Fund for fiscal year
 1136 2008-09 to the Department of Health to be used to fund health care cost and quality data
 1137 collection, analysis, and distribution;

1138 (2) \$500,000 from the General Fund for fiscal year 2008-09 only, to the Department of
 1139 Health to fund the Department of Health's implementation of the standards developed for the
 1140 electronic exchange of clinical health information;

1141 (3) \$ 12,000 from the General Fund for fiscal years 2008-09 only, to the Senate to pay

1142 for the compensation and expenses of senators on the Health System Reform Task Force;

1143 (4) \$ 20,000 from the General Fund for fiscal years 2008-09 only, to the House of

1144 Representatives to pay for the compensation and expenses of representatives on the Health

1145 System Reform Task Force; and

1146 (5) \$350,000 from the General Fund for fiscal year 2008-09 only, to the Office of

1147 Legislative Research and General Counsel to fund professional and actuarial services for the

1148 Health System Reform Task Force.

1149 Section 20. **Retrospective operation.**

1150 Sections ~~§~~→ 59-10-103, ~~←~~§ 59-10-114, 59-10- ~~§~~→ ~~[H7]~~ 1017 ~~←~~§ , and 59-10-1204 of this bill

1150a ~~§~~→ [~~have~~

1150a ~~retrospective~~

1151 ~~operation]~~ **take effect** ~~←~~§ for taxable years beginning on or after January 1, §→ ~~[2008]~~ 2009 ~~←~~§ .

1152 Section 21. **Repeal date.**

1153 The Health System Reform Task Force created in Section 17 of this act is repealed

1154 November 30, 2008.

1155 Section 22. **Coordinating H.B. 133 with S.B. 31 -- Modifying substantive language.**

1156 If this H.B. 133 and S.B. 31, Income Tax Amendments, both pass, it is the intent of the

1157 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah

1158 Code database for publication, modify Section 59-10-1002.2, which is renumbered and

1159 amended in S.B. 31, so that a citation to the statutory section enacted in Section 10 in this H.B.

1160 133 is included in the list of sections in Subsection 59-10-1002.2(1).

1161 Section 23. **Coordinating H.B. 133 with H.B. 63 -- Changing technical cross**

1162 **references.**

1163 If this H.B. 133 and H.B. 63, Recodification of Title 63, State Affairs in General, both

1164 pass, it is the intent of the Legislature that the Office of Legislative Research and General

1165 Counsel, in preparing the Utah Code database for publication:

1166 (1) replace references to "Title 63, Chapter 38f, Part 24, Health System Reform Act"

1167 with "Title 63M, Chapter 1, Part 24, Health System Reform Act";

1168 (2) renumber Sections 63-38f-2401 through 63-38f-2405 to 63M-1-2401 through

1169 63M-1-2405; and

1170 (3) replace internal references in the bill to Sections 63-38f-2401 through 63-38f-2405

1171 with the appropriate corresponding renumbered Sections 63M-1-2401 through 63M-1-2405.

H.B. 133 1st Sub. (Buff) - Health System Reform - As Amended

Fiscal Note

2008 General Session
State of Utah

State Impact

This Legislation appropriates \$615,000 ongoing General Fund to the Department of Health and \$882,000 one-time General Fund to 2 agencies. The Department of Health receives \$500,000 and the Office of the Legislative Research and General Counsel receives \$382,000 for the Health System Reform Task Force. Additionally, this Legislation creates a tax credit that may generate up to a (\$18,000,000) loss of Education Fund revenues in FY 2009 and up to a (\$18,700,000) loss in FY 2010.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$615,000	\$615,000	\$0	\$0	\$0
General Fund, One-Time	\$0	\$882,000	\$0	\$0	\$0	\$0
Education Fund	\$0	\$0	\$0	\$0	(\$18,000,000)	(\$18,700,000)
Total	\$0	\$1,497,000	\$615,000	\$0	(\$18,000,000)	(\$18,700,000)

Individual, Business and/or Local Impact

The revenue loss to the Education Fund equates to less taxes paid by individuals. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments.