

Representative John Dougall proposes the following substitute bill:

**ALLOCATION AND APPORTIONMENT OF INCOME AND
DEDUCTION OF A NET LOSS**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title to address the allocation and apportionment of income and the deduction of a net loss by an acquired corporation.

Highlighted Provisions:

This bill:

- ▶ amends provisions in the Multistate Tax Compact governing allocation and apportionment of income;
- ▶ defines terms;
- ▶ addresses the apportionment of business income to the state;
- ▶ addresses the time period during which a taxpayer's determination to use a certain formula to apportion business income to the state is in effect;
- ▶ addresses the amount of net loss a corporation that is acquired by a unitary group may deduct; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 This bill has retrospective operation for a taxable year beginning on or after January 1,
27 2010.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-1-801**, as renumbered and amended by Laws of Utah 1987, Chapter 3

31 **59-7-110**, as last amended by Laws of Utah 2008, Chapter 105

32 **59-7-302**, as last amended by Laws of Utah 2008, Chapter 283

33 **59-7-311**, as last amended by Laws of Utah 2008, Chapter 382



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

36 Section 1. Section **59-1-801** is amended to read:

37 **59-1-801. Purpose of compact -- Definitions -- Elements of income tax laws --**
38 **Allocation and apportionment of income -- Elements of sales and use tax laws -- The**
39 **commission -- Uniform regulations and forms -- Interstate audits -- Arbitration -- Entry**
40 **into force and withdrawal -- Effect on other laws and jurisdiction -- Construction and**
41 **severability.**

42 The "Multistate Tax Compact" is hereby enacted into law and entered into with all
43 jurisdictions legally joining therein, in the form substantially as follows:

44 **ARTICLE I. PURPOSES**

45 The purposes of this compact are to:

- 46 1. Facilitate proper determination of state and local tax liability of multistate taxpayers,
- 47 including the equitable apportionment of tax bases and settlement of apportionment disputes.
- 48 2. Promote uniformity or compatibility in significant components of tax systems.
- 49 3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in
- 50 other phases of tax administration.
- 51 4. Avoid duplicative taxation.

52 **ARTICLE II. DEFINITIONS**

53 As used in this compact:

- 54 1. "State" means a state of the United States, the District of Columbia, the
- 55 Commonwealth of Puerto Rico, or any territory or possession of the United States.
- 56 2. "Subdivision" means any governmental unit or special district of a state.

57 3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit
58 or agency, or person acting as a business entity in more than one state.

59 4. "Income tax" means a tax imposed on or measured by net income including any tax
60 imposed on or measured by an amount arrived at by deducting expenses from gross income,
61 one or more forms of which expenses are not specifically and directly related to particular
62 transactions.

63 5. "Capital stock tax" means a tax measured in any way by the capital of a corporation
64 considered in its entirety.

65 6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or
66 measured by the gross volume of business, in terms of gross receipts or in other terms, and in
67 the determination of which no deduction is allowed which would constitute the tax an income
68 tax.

69 7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of
70 ownership, possession, or custody of tangible personal property or the rendering of services
71 measured by the price of the tangible personal property transferred or services rendered and
72 which is required by state or local law to be separately stated from the sales price by the seller,
73 or which is customarily separately stated from the sales price, but does not include a tax
74 imposed exclusively on the sale of a specifically identified commodity or article or class of
75 commodities or articles.

76 8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on
77 or with respect to the exercise or enjoyment of any right or power over tangible personal
78 property incident to the ownership, possession, or custody of that property or the leasing of that
79 property from another including any consumption, keeping, retention, or other use of tangible
80 personal property, and (b) is complementary to a sales tax.

81 9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax,
82 and any other tax which has a multistate impact, except that the provisions of Articles III, IV,
83 and V of this compact shall apply only to the taxes specifically designated therein and the
84 provisions of Article IX of this compact shall apply only in respect to determinations pursuant
85 to Article IV.

86 ARTICLE III. ELEMENTS OF INCOME TAX LAWS

87 Taxpayer Option, State

88 and Local Taxes

89 1. Any taxpayer subject to an income tax whose income is subject to apportionment
90 and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of
91 subdivisions in two or more party states may elect to apportion and allocate his income in the
92 manner provided by the laws of such state or by the laws of such states and subdivisions
93 without reference to this compact, or may elect to apportion and allocate in accordance with
94 Article IV. This election for any tax year may be made in all party states or subdivisions
95 thereof or in any one or more of the party states or subdivisions thereof without reference to the
96 election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions
97 shall be considered separately from state taxes and the apportionment and allocation also may
98 be applied to the entire tax base. In no instance wherein Article IV is employed for all
99 subdivisions of a state may the sum of all apportionments and allocations to subdivisions
100 within a state be greater than the apportionment and allocation that would be assignable to that
101 state if the apportionment or allocation were being made with respect to a state income tax.

102 Taxpayer Option, Short Form

103 2. Each party state or any subdivision thereof which imposes an income tax shall
104 provide by law that any taxpayer required to file a return, whose only activities within the
105 taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible
106 personal property, and whose dollar volume of gross sales made during the tax year within the
107 state or subdivision, as the case may be, is not in excess of \$100,000, may elect to report and
108 pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall
109 produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax
110 Commission, not more than once in five years, may adjust the \$100,000 figure in order to
111 reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon
112 the adoption by the commission, shall replace the \$100,000 figure specifically provided herein.
113 Each party state and subdivision thereof may make the same election available to taxpayers
114 additional to those specified in this paragraph.

115 Coverage

116 3. Nothing in this article relates to the reporting or payment of any tax other than an
117 income tax.

118 ARTICLE IV. DIVISION OF INCOME

119 1. As used in this article, unless the context otherwise requires:

120 (a) "Business income" means income arising from transactions and activity in the
121 regular course of the taxpayer's trade or business and includes income from tangible and
122 intangible property if the acquisition, management, and disposition of the property constitute
123 integral parts of the taxpayer's regular trade or business operations.

124 (b) "Commercial domicile" means the principal place from which the trade or business
125 of the taxpayer is directed or managed.

126 (c) "Compensation" means wages, salaries, commissions and any other form of
127 remuneration paid to employees for personal services.

128 (d) "Financial organization" means any bank, trust company, savings bank, industrial
129 bank, land bank, safe deposit company, private banker, savings and loan association, credit
130 union, cooperative bank, small loan company, sales finance company, investment company, or
131 any type of insurance company.

132 (e) "Nonbusiness income" means all income other than business income.

133 (f) "Public utility" means any business entity (1) which owns or operates any plant,
134 equipment, property, franchise, or license for the transmission of communications,
135 transportation of goods or persons, except by pipeline, or the production, transmission, sale,
136 delivery, or furnishing of electricity, water, or steam, and (2) whose rates of charges for goods
137 or services have been established or approved by a federal, state, or local government or
138 governmental agency.

139 (g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of
140 this article.

141 (h) "State" means any state of the United States, the District of Columbia, the
142 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
143 foreign country or political subdivision thereof.

144 (i) "This state" means the state in which the relevant tax return is filed or, in the case of
145 application of this article to the apportionment and allocation of income for local tax purposes,
146 the subdivision or local taxing district in which the relevant tax return is filed.

147 2. Any taxpayer having income from business activity which is taxable both within and
148 without this state, shall allocate and apportion his net income as provided in this article.

149 3. For purposes of allocation and apportionment of income under this article, a

150 taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a
151 franchise tax measured by net income, a franchise tax for the privilege of doing business, or a
152 corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax
153 regardless of whether, in fact, the state does or does not.

154 4. Rents and royalties from real or tangible personal property, capital gains, interests,
155 dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness
156 income, shall be allocated as provided in paragraphs 5 through 8 of this article.

157 5. (a) Net rents and royalties from real property located in this state are allocable to this
158 state.

159 (b) Net rents and royalties from tangible personal property are allocable to this state (1)
160 if and to the extent that the property is utilized in this state, or (2) in their entirety if the
161 taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws
162 of or taxable in the state in which the property is utilized.

163 (c) The extent of utilization of tangible personal property in a state is determined by
164 multiplying the rents and royalties by a fraction, the numerator of which is the number of days
165 of physical location of the property in the state during the rental or royalty period in the taxable
166 year and the denominator of which is the number of days of physical location of the property
167 everywhere during all rental or royalty periods in the taxable year. If the physical location of
168 the property during the rental or royalty period is unknown or unascertainable by the taxpayer,
169 tangible personal property is utilized in the state in which the property was located at the time
170 the rental or royalty payer obtained possession.

171 6. (a) Capital gains and losses from sales of real property located in this state are
172 allocable to this state.

173 (b) Capital gains and losses from sales of tangible personal property are allocable to
174 this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's
175 commercial domicile is in this state and the taxpayer is not taxable in the state in which the
176 property had a situs.

177 (c) Capital gains and losses from sales of intangible personal property are allocable to
178 this state if the taxpayer's commercial domicile is in this state.

179 7. Interest and dividends are allocable to this state if the taxpayer's commercial
180 domicile is in this state.

181 8. (a) Patent and copyright royalties are allocable to this state (1) if and to the extent
182 that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that
183 the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable
184 and the taxpayer's commercial domicile is in this state.

185 (b) A patent is utilized in a state to the extent that it is employed in production,
186 fabrication, manufacturing, or other processing in the state or to the extent that a patented
187 product is produced in the state. If the basis of receipts from patent royalties does not permit
188 allocation to states or if the accounting procedures do not reflect states of utilization, the patent
189 is utilized in the state in which the taxpayer's commercial domicile is located.

190 (c) A copyright is utilized in a state to the extent that printing or other publication
191 originates in the state. If the basis of receipts from copyright royalties does not permit
192 allocation to states or if the accounting procedures do not reflect states of utilization, the
193 copyright is utilized in the state in which the taxpayer's commercial domicile is located.

194 9. All business income shall be apportioned to this state by multiplying the income by a
195 fraction~~[, the numerator of which is the property factor plus the payroll factor plus the sales~~
196 ~~factor and the denominator of which is three]~~ determined in accordance with Section 59-7-311.

197 10. The property factor is a fraction, the numerator of which is the average value of the
198 taxpayer's real and tangible personal property owned or rented and used in this state during the
199 tax period and the denominator of which is the average value of all the taxpayer's real and
200 tangible personal property owned or rented and used during the tax period.

201 11. Property owned by the taxpayer is valued at its original cost. Property rented by the
202 taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual
203 rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from
204 subrentals.

205 12. The average value of property shall be determined by averaging the values at the
206 beginning and ending of the tax period but the tax administrator may require the averaging of
207 monthly values during the tax period if reasonably required to reflect properly the average
208 value of the taxpayer's property.

209 13. The payroll factor is a fraction, the numerator of which is the total amount paid in
210 this state during the tax period by the taxpayer for compensation and the denominator of which
211 is the total compensation paid everywhere during the tax period.

- 212 14. Compensation is paid in this state if:
- 213 (a) the individual's service is performed entirely within the state;
- 214 (b) the individual's service is performed both within and without the state, but the
- 215 service performed without the state is incidental to the individual's service within the state; or
- 216 (c) some of the service is performed in the state and (1) the base of operations or, if
- 217 there is no base of operations, the place from which the service is directed or controlled is in
- 218 the state, or (2) the base of operations or the place from which the service is directed or
- 219 controlled is not in any state in which some part of the service is performed, but the individual's
- 220 residence is in this state.
- 221 15. The sales factor is a fraction, the numerator of which is the total sales of the
- 222 taxpayer in this state during the tax period and the denominator of which is the total sales of the
- 223 taxpayer everywhere during the tax period.
- 224 16. Sales of tangible personal property are in this state if:
- 225 (a) the property is delivered or shipped to a purchaser, other than the United States
- 226 government, within this state regardless of the f.o.b. point or other conditions of the sale; or
- 227 (b) the property is shipped from an office, store, warehouse, factory, or other place of
- 228 storage in this state and (1) the purchaser is the United States government, or (2) the taxpayer is
- 229 not taxable in the state of the purchaser.
- 230 17. Sales, other than sales of tangible personal property, are in this state if:
- 231 (a) the income-producing activity is performed in this state; or
- 232 (b) the income-producing activity is performed both in and outside this state and a
- 233 greater proportion of the income-producing activity is performed in this state than in any other
- 234 state, based on costs of performance.
- 235 18. If the allocation and apportionment provisions of this article do not fairly represent
- 236 the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the
- 237 tax administrator may require, in respect to all or any part of the taxpayer's business activity, if
- 238 reasonable:
- 239 (a) separate accounting;
- 240 (b) the exclusion of any one or more of the factors;
- 241 (c) the inclusion of one or more additional factors which will fairly represent the
- 242 taxpayer's business activity in this state; or

243 (d) the employment of any other method to effectuate an equitable allocation and
244 apportionment of the taxpayer's income.

245 ARTICLE V. ELEMENTS OF SALES AND USE TAX LAWS

246 Tax Credit

247 1. Each purchaser liable for a use tax on tangible personal property shall be entitled to
248 full credit for the combined amount or amounts of legally imposed sales or use taxes paid by
249 him with respect to the same property to another state and any subdivision thereof. The credit
250 shall be applied first against the amount of any use tax due the state, and any unused portion of
251 the credit shall then be applied against the amount of any use tax due a subdivision.

252 Exemption Certificates, Vendors May Rely

253 2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or
254 other exemption certificate or other written evidence of exemption authorized by the
255 appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a
256 sales or use tax with respect to the transaction.

257 ARTICLE VI. THE COMMISSION

258 Organization and Management

259 1. (a) The Multistate Tax Commission is hereby established. It shall be composed of
260 one "member" from each party state who shall be the head of the state agency charged with the
261 administration of the types of taxes to which this compact applies. If there is more than one
262 such agency the state shall provide by law for the selection of the commission member from
263 the heads of the relevant agencies. State law may provide that a member of the commission be
264 represented by an alternate but only if there is on file with the commission written notification
265 of the designation and identity of the alternate. The attorney general of each party state or his
266 designee, or other counsel if the laws of the party state specifically provide, shall be entitled to
267 attend the meetings of the commission, but shall not vote. Such attorneys general, designees,
268 or other counsel shall receive all notices of meetings required under paragraph 1 (e) of this
269 article.

270 (b) Each party state shall provide by law for the selection of representatives from its
271 subdivisions affected by this compact to consult with the commission member from that state.

272 (c) Each member shall be entitled to one vote. The commission shall not act unless a
273 majority of the members are present, and no action shall be binding unless approved by a

274 majority of the total number of members.

275 (d) The commission shall adopt an official seal to be used as it may provide.

276 (e) The commission shall hold an annual meeting and such other regular meetings as
277 its bylaws may provide and such special meetings as its executive committee may determine.
278 The commission bylaws shall specify the dates of the annual and any other regular meetings,
279 and shall provide for the giving of notice of annual, regular, and special meetings. Notices of
280 special meetings shall include the reasons therefor and an agenda of the items to be considered.

281 (f) The commission shall elect annually, from among its members, a chairman, a
282 vice-chairman, and a treasurer. The commission shall appoint an executive director who shall
283 serve at its pleasure, and it shall fix his duties and compensation. The executive director shall
284 be secretary of the commission. The commission shall make provision for the bonding of such
285 of its officers and employees as it may deem appropriate.

286 (g) Irrespective of the civil service, personnel, or other merit system laws of any party
287 state, the executive director shall appoint or discharge such personnel as may be necessary for
288 the performance of the functions of the commission and shall fix their duties and
289 compensation. The commission bylaws shall provide for personnel policies and programs.

290 (h) The commission may borrow, accept, or contract for the services of personnel from
291 any state, the United States, or any other governmental entity.

292 (i) The commission may accept for any of its purposes and functions any and all
293 donations and grants of money, equipment, supplies, materials, and services, conditional or
294 otherwise, from any governmental entity, and may utilize and dispose of the same.

295 (j) The commission may establish one or more offices for the transacting of its
296 business.

297 (k) The commission shall adopt bylaws for the conduct of its business. The
298 commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and
299 any amendments thereto with the appropriate agency or officer in each of the party states.

300 (l) The commission annually shall make to the governor and legislature of each party
301 state a report covering its activities for the preceding year. Any donation or grant accepted by
302 the commission or services borrowed shall be reported in the annual report of the commission,
303 and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or
304 services borrowed and the identity of the donor or lender. The commission may make

305 additional reports as it may deem desirable.

306 Committees

307 2. (a) To assist in the conduct of its business when the full commission is not meeting,
308 the commission shall have an executive committee of seven members, including the chairman,
309 vice-chairman, treasurer, and four other members elected annually by the commission. The
310 executive committee, subject to the provisions of this compact and consistent with the policies
311 of the commission, shall function as provided in the bylaws of the commission.

312 (b) The commission may establish advisory and technical committees, membership on
313 which may include private persons and public officials, in furthering any of its activities. Such
314 committees may consider any matter of concern to the commission, including problems of
315 special interest to any party state and problems dealing with particular types of taxes.

316 (c) The commission may establish such additional committees as its bylaws may
317 provide.

318 Powers

319 3. In addition to powers conferred elsewhere in this compact, the commission shall
320 have power to:

321 (a) study state and local tax systems and particular types of state and local taxes;

322 (b) develop and recommend proposals for an increase in uniformity or compatibility of
323 state and local tax laws with a view toward encouraging the simplification and improvement of
324 state and local tax law and administration;

325 (c) compile and publish information as in its judgment would assist the party states in
326 implementation of the compact and taxpayers in complying with state and local tax laws; and

327 (d) do all things necessary and incidental to the administration of its functions pursuant
328 to this compact.

329 Finance

330 4. (a) The commission shall submit to the governor or designated officer or officers of
331 each party state a budget of its estimated expenditures for such period as may be required by
332 the laws of that state for presentation to the legislature thereof.

333 (b) Each of the commission's budgets of estimated expenditures shall contain specific
334 recommendations of the amounts to be appropriated by each of the party states. The total
335 amount of appropriations requested under any such budget shall be apportioned among the

336 party states as follows: one-tenth in equal shares; and the remainder in proportion to the
337 amount of revenue collected by each party state and its subdivisions from income taxes, capital
338 stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the
339 commission shall employ such available public sources of information as, in its judgment,
340 present the most equitable and accurate comparisons among the party states. Each of the
341 commission's budgets of estimated expenditures and requests for appropriations shall indicate
342 the sources used in obtaining information employed in applying the formula contained in this
343 paragraph.

344 (c) The commission shall not pledge the credit of any party state. The commission may
345 meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of
346 this article; provided that the commission takes specific action setting aside such funds prior to
347 incurring any obligation to be met in whole or in part in such manner. Except where the
348 commission makes use of funds available to it under paragraph 1 (i), the commission shall not
349 incur any obligation prior to the allotment of funds by the party states adequate to meet the
350 same.

351 (d) The commission shall keep accurate accounts of all receipts and disbursements.
352 The receipts and disbursements of the commission shall be subject to the audit and accounting
353 procedures established under its bylaws. All receipts and disbursements of funds handled by
354 the commission shall be audited yearly by a certified or licensed public accountant and the
355 report of the audit shall be included in and become part of the annual report of the commission.

356 (e) The accounts of the commission shall be open at any reasonable time for inspection
357 by duly constituted officers of the party states and by any persons authorized by the
358 commission.

359 (f) Nothing contained in this article shall be construed to prevent commission
360 compliance with laws relating to audit or inspection of accounts by or on behalf of any
361 government contributing to the support of the commission.

362 **ARTICLE VII. UNIFORM REGULATIONS AND FORMS**

363 1. Whenever any two or more party states, or subdivisions of party states, have uniform
364 or similar provisions of law relating to an income tax, the commission may adopt uniform
365 regulations for any phase of the administration of such law, including assertion of jurisdiction
366 to tax, or prescribing uniform tax forms. The commission may also act with respect to the

367 provisions of Article IV of this compact.

368 2. Prior to the adoption of any regulations, the commission shall:

369 (a) as provided in its bylaws, hold at least one public hearing on due notice to all
370 affected party states and subdivisions thereof and to all taxpayers and other persons who have
371 made timely request of the commission for advance notice of its regulation-making
372 proceedings; and

373 (b) afford all affected party states and subdivisions and interested persons an
374 opportunity to submit relevant written data and views, which shall be considered fully by the
375 commission.

376 3. The commission shall submit any regulations adopted by it to the appropriate
377 officials of all party states and subdivisions to which they might apply. Each such state and
378 subdivision shall consider any such regulation for adoption in accordance with its own laws
379 and procedures.

380 ARTICLE VIII. INTERSTATE AUDITS

381 1. This article shall be in force only in those party states that specifically provide
382 therefor by statute.

383 2. Any party state or subdivision thereof desiring to make or participate in an audit of
384 any accounts, books, papers, records, or other documents may request the commission to
385 perform the audit on its behalf. In responding to the request, the commission shall have access
386 to and may examine, at any reasonable time, such accounts, books, papers, records, and other
387 documents and any relevant property or stock of merchandise. The commission may enter into
388 agreements with party states or their subdivisions for assistance in performance of the audit.
389 The commission shall make charges, to be paid by the state or local government or
390 governments for which it performs the service, for any audits performed by it in order to
391 reimburse itself for the actual costs incurred in making the audit.

392 3. The commission may require the attendance of any person within the state where it
393 is conducting an audit or part thereof at a time and place fixed by it within such state for the
394 purpose of giving testimony with respect to any account, book, paper, document, other record,
395 property, or stock of merchandise being examined in connection with the audit. If the person is
396 not within the jurisdiction, he may be required to attend for such purpose at any time and place
397 fixed by the commission within the state of which he is a resident; provided that such state has

398 adopted this article.

399 4. The commission may apply to any court having power to issue compulsory process
400 for orders in aid of its powers and responsibilities pursuant to this article and any and all such
401 courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order
402 shall be punishable as contempt of the issuing court. If the party or subject matter on account
403 of which the commission seeks an order is within the jurisdiction of the court to which
404 application is made, such application may be to a court in the state or subdivision on behalf of
405 which the audit is being made or a court in the state in which the object of the order being
406 sought is situated. The provisions of this paragraph apply only to courts in a state that has
407 adopted this article.

408 5. The commission may decline to perform any audit requested if it finds that its
409 available personnel or other resources are insufficient for the purpose or that, in the terms
410 requested, the audit is impracticable of satisfactory performance. If the commission, on the
411 basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a
412 particular time or on a particular schedule, would be of interest to a number of party states or
413 their subdivisions, it may offer to make the audit or audits, the offer to be contingent on
414 sufficient participation therein as determined by the commission.

415 6. Information obtained by any audit pursuant to this article shall be confidential and
416 available only for tax purposes to party states, their subdivisions or the United States.
417 Availability of information shall be in accordance with the laws of the states or subdivisions on
418 whose account the commission performs the audit, and only through the appropriate agencies
419 or officers of such states or subdivisions. Nothing in this article shall be construed to require
420 any taxpayer to keep records for any period not otherwise required by law.

421 7. Other arrangements made or authorized pursuant to law for cooperative audit by or
422 on behalf of the party states or any of their subdivisions are not superseded or invalidated by
423 this article.

424 8. In no event shall the commission make any charge against a taxpayer for an audit.

425 9. As used in this article, "tax," in addition to the meaning ascribed to it in Article II,
426 means any tax or license fee imposed in whole or in part for revenue purposes.

427 **ARTICLE IX. ARBITRATION**

428 1. Whenever the commission finds a need for settling disputes concerning

429 apportionments and allocations by arbitration, it may adopt a regulation placing this article in
430 effect, notwithstanding the provisions of Article VII.

431 2. The commission shall select and maintain an arbitration panel composed of officers
432 and employees of state and local governments and private persons who shall be knowledgeable
433 and experienced in matters of tax law and administration.

434 3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of
435 the party state or subdivision thereof are substantially identical with the relevant provisions of
436 Article IV, the taxpayer, by written notice to the commission and to each party state or
437 subdivision thereof that would be affected, may secure arbitration of an apportionment or
438 allocation, if he is dissatisfied with the final administrative determination of the tax agency of
439 the state or subdivision with respect thereto on the ground that it would subject him to double
440 or multiple taxation by two or more party states or subdivisions thereof. Each party state and
441 subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be
442 bound thereby.

443 4. The arbitration board shall be composed of one person selected by the taxpayer, one
444 by the agency or agencies involved, and one member of the commission's arbitration panel. If
445 the agencies involved are unable to agree on the person to be selected by them, such person
446 shall be selected by lot from the total membership of the arbitration panel. The two persons
447 selected for the board in the manner provided by the foregoing provisions of this paragraph
448 shall jointly select the third member of the board. If they are unable to agree on the selection,
449 the third member shall be selected by lot from among the total membership of the arbitration
450 panel. No member of a board selected by lot shall be qualified to serve if he is an officer or
451 employee or is otherwise affiliated with any party to the arbitration proceeding. Residence
452 within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation
453 within the meaning of this paragraph.

454 5. The board may sit in any state or subdivision party to the proceeding, in the state of
455 the taxpayer's incorporation, residence, or domicile, in any state where the taxpayer does
456 business, or in any place that it finds most appropriate for gaining access to evidence relevant
457 to the matter before it.

458 6. The board shall give due notice of the times and places of its hearings. The parties
459 shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses.

460 The board shall act by majority vote.

461 7. The board shall have power to administer oaths, take testimony, subpoena and
462 require the attendance of witnesses and the production of accounts, books, papers, records, and
463 other documents, and issue commissions to take testimony. Subpoenas may be signed by any
464 member of the board. In case of failure to obey a subpoena, and upon application by the board,
465 any judge of a court of competent jurisdiction of the state in which the board is sitting or in
466 which the person to whom the subpoena is directed may be found may make an order requiring
467 compliance with the subpoena, and the court may punish failure to obey the order as a
468 contempt. The provisions of this paragraph apply only in states that have adopted this article.

469 8. Unless the parties otherwise agree the expenses and other costs of the arbitration
470 shall be assessed and allocated among the parties by the board in such manner as it may
471 determine. The commission shall fix a schedule of compensation for members of arbitration
472 boards and of other allowable expenses and costs. No officer or employee of a state or local
473 government who serves as a member of a board shall be entitled to compensation therefor
474 unless he is required on account of his service to forego the regular compensation attaching to
475 his public employment, but any such board members shall be entitled to expenses.

476 9. The board shall determine the disputed apportionment or allocation and any matters
477 necessary thereto. The determinations of the board shall be final for purposes of making the
478 apportionment or allocation, but for no other purpose.

479 10. The board shall file with the commission and with each tax agency represented in
480 the proceeding: the determination of the board; the board's written statement of its reason
481 therefor; the record of the board's proceedings; and any other documents required by the
482 arbitration rules of the commission to be filed.

483 11. The commission shall publish the determinations of boards together with the
484 statements of the reasons therefor.

485 12. The commission shall adopt and publish rules of procedure and practice and shall
486 file a copy of such rules and of any amendment thereto with the appropriate agency or officer in
487 each of the party states.

488 13. Nothing contained herein shall prevent at any time a written compromise of any
489 matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

490 **ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL**

491 1. This compact shall enter into force when enacted into law by any seven states.
492 Thereafter, this compact shall become effective as to any other state upon its enactment thereof.
493 The commission shall arrange for notification of all party states whenever there is a new
494 enactment of the compact.

495 2. Any party state may withdraw from this compact by enacting a statute repealing the
496 same. No withdrawal shall affect any liability already incurred by or chargeable to a party state
497 prior to the time of such withdrawal.

498 3. No proceeding commenced before an arbitration board prior to the withdrawal of a
499 state and to which the withdrawing state or any subdivision thereof is a party shall be
500 discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over
501 any of the parties to the proceeding necessary to make a binding determination therein.

502 ARTICLE XI. EFFECT ON OTHER LAWS AND JURISDICTION

503 Nothing in this compact shall be construed to:

504 (a) affect the power of any state or subdivision thereof to fix rates of taxation, except
505 that a party state shall be obligated to implement Article III 2 of this compact;

506 (b) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any
507 tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9
508 may apply for the purposes of that article and the commission's powers of study and
509 recommendation pursuant to Article VI 3 may apply;

510 (c) withdraw or limit the jurisdiction of any state or local court or administrative officer
511 or body with respect to any person, corporation or other entity or subject matter, except to the
512 extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another
513 agency or body; or

514 (d) supersede or limit the jurisdiction of any court of the United States.

515 ARTICLE XII. CONSTRUCTION AND SEVERABILITY

516 This compact shall be liberally construed so as to effectuate the purposes thereof. The
517 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision
518 of this compact is declared to be contrary to the constitution of any state or of the United States
519 or the applicability thereof to any government, agency, person, or circumstance is held invalid,
520 the validity of the remainder of this compact and the applicability thereof to any government,
521 agency, person, or circumstance shall not be affected thereby. If this compact shall be held

522 contrary to the constitution of any state participating therein, the compact shall remain in full
 523 force and effect as to the remaining party states and in full force and effect as to the state
 524 affected as to all severable matters.

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

526 **59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.**

527 (1) The amount of Utah net loss [~~which~~] that shall be carried back or forward to offset
 528 income of another taxable year [~~shall be~~] is determined as provided in this section.

529 (2) (a) [~~A~~] Subject to the other provisions of this section, a Utah net loss from a taxable
 530 year beginning before January 1, 1994, shall be carried back three taxable years preceding the
 531 taxable year of the loss and any remaining loss shall be carried forward five taxable years
 532 following the taxable year of the loss[~~, subject to the limitations of this section~~].

533 (b) [~~A~~] (i) Subject to the other provisions of this section, a Utah net loss from a
 534 taxable year beginning on or after January 1, 1994, may be carried back three taxable years
 535 preceding the taxable year of the loss and carried forward 15 taxable years following the
 536 taxable year of the loss[~~, subject to the limitations of this section~~].

537 (ii) If an election is made to forego the federal net operating loss carryback, [~~the~~] a
 538 Utah net loss is not eligible to be carried back unless an election is made for state purposes.

539 (3) [~~The~~] A Utah net loss shall be carried to the earliest eligible year for which the
 540 Utah taxable income before net loss deduction, minus Utah net losses from previous years
 541 [~~which~~] that were applied or required to be applied to offset income, is not less than zero.

542 (4) (a) Except as provided in Subsection (4)[~~(a)(iii)~~](b), the amount of Utah net loss
 543 [~~which~~] that shall be carried to the year identified in Subsection (3) [~~shall be~~] is the lesser of:

544 (i) the remaining Utah net loss after deduction of any amounts of [~~such~~] the Utah net
 545 loss [~~which~~] that were carried to previous years; or

546 (ii) the remaining Utah taxable income before net loss deduction of the year identified
 547 in Subsection (3) after deduction of Utah net losses from previous years [~~which~~] that were
 548 carried or required to be carried to [~~such~~] the year[~~, and~~] identified in Subsection (3).

549 [~~(iii)~~] (b) (i) [~~in any event, the amount~~] The amount of Utah net loss carried back from
 550 a taxable year [~~beginning on or after January 1, 1994,~~] may not exceed \$1,000,000 in Utah
 551 taxable income for each [~~corporate~~] return filed under this chapter in a taxable year[~~, any~~
 552 losses].

553 (ii) A Utah net loss in excess of \$1,000,000 may be carried forward~~[; and]~~.

554 ~~[(b) any]~~ (iii) A remaining Utah net loss shall be available to be carried to one or more
555 taxable years in accordance with this section.

556 (5) (a) ~~[Corporations]~~ (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the
557 assets or stock of another corporation may not deduct any net loss incurred by the acquired
558 corporation prior to the date of acquisition. ~~[This subsection]~~

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

561 (b) An acquired corporation may deduct ~~[its]~~ the acquired corporation's net losses
562 incurred before the date of acquisition against ~~[its]~~ the acquired corporation's separate income
563 as calculated under ~~[Subsection (6)]~~ Subsections (6) and (7) if the acquired corporation has
564 continued to carry on a trade or business substantially the same as that conducted before ~~[such]~~
565 the acquisition.

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

568 (a) subject to Subsection (7)~~[;]~~;

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

570 ~~[(i)]~~ (A) an amount determined by dividing the average value of the acquired
571 corporation's real and tangible personal property owned or rented and used in this state during
572 the taxable year by the average value of all of the unitary group's real and tangible personal
573 property owned or rented and used during the taxable year;

574 ~~[(ii)]~~ (B) an amount determined by dividing the total amount paid in this state during
575 the taxable year by the acquired corporation for compensation by the total compensation paid
576 everywhere by the unitary group during the taxable year; and

577 ~~[(iii)]~~ (C) an amount determined by:

578 ~~[(A)]~~ (I) dividing the total sales of the acquired corporation in this state during the
579 taxable year by the total sales of the unitary group everywhere during the taxable year; and

580 ~~[(B)]~~ (II) (Aa) if the unitary group elects to ~~[apportion]~~ calculate the fraction for
581 apportioning business income to this state using the method described in Subsection
582 59-7-311(2)~~[(b)]~~(d), multiplying the amount calculated under Subsection

583 (6)(a)~~[(iii)(A)]~~(i)(C)(I) by two;

584 (Bb) if the unitary group is required to calculate the fraction for apportioning business
585 income to this state using the method described in Subsection 59-7-311(3)(a), multiplying the
586 amount calculated under Subsection (6)(a)(i)(C)(I) by four; or

587 (Cc) if the unitary group is required to calculate the fraction for apportioning business
588 income to this state using the method described in Subsection 59-7-311(3)(b), multiplying the
589 amount calculated under Subsection (6)(a)(i)(C)(I) by 10; or

590 (ii) if the unitary group is required to calculate the fraction for apportioning business
591 income to this state using the method described in Subsection 59-7-311(3)(c), calculating an
592 amount determined by dividing the total sales of the acquired corporation in this state during
593 the taxable year by the total sales of the unitary group everywhere during the taxable year;

594 (b) dividing the amount calculated under Subsection (6)(a) by the same denominator of
595 the fraction [~~for~~] the unitary group uses to apportion business income to this state [~~using the~~
596 ~~same election for calculating that denominator that the unitary group uses~~]:

597 (i) for that taxable year; and

598 (ii) in accordance with Section 59-7-311;

599 (c) multiplying the amount calculated under Subsection (6)(b) by the business income
600 of the unitary group for the taxable year that is subject to apportionment under Section
601 59-7-311; and

602 (d) calculating the sum of:

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

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

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

606 (B) nonbusiness loss allocable to this state.

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

611 Section 3. Section **59-7-302** is amended to read:

612 **59-7-302. Definitions -- Determination of when a taxpayer is considered to be a**
613 **sales factor weighted taxpayer.**

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

615 ~~[(1)]~~ (a) "Aircraft type" means a particular model of aircraft as designated by the
616 manufacturer of the aircraft.

617 ~~[(2)]~~ (b) "Airline" is as defined in Section 59-2-102.

618 ~~[(3)]~~ (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles
619 during the airline's tax period.

620 ~~[(4)]~~ (d) "Business income" means income arising from transactions and activity in the
621 regular course of the taxpayer's trade or business and includes income from tangible and
622 intangible property if the acquisition, management, and disposition of the property constitutes
623 integral parts of the taxpayer's regular trade or business operations.

624 ~~[(5)]~~ (e) "Commercial domicile" means the principal place from which the trade or
625 business of the taxpayer is directed or managed.

626 ~~[(6)]~~ (f) "Compensation" means wages, salaries, commissions, and any other form of
627 remuneration paid to employees for personal services.

628 ~~[(7)(a)]~~ (g) (i) Except as provided in Subsection ~~[(7)(b)]~~ (1)(g)(ii), "mobile flight
629 equipment" is as defined in Section 59-2-102.

630 ~~[(b)]~~ (ii) "Mobile flight equipment" does not include:

631 ~~[(i)]~~ (A) a spare engine; or

632 ~~[(ii)]~~ (B) tangible personal property described in Subsection 59-2-102(25) owned by
633 an:

634 ~~[(A)]~~ (I) air charter service; or

635 ~~[(B)]~~ (II) air contract service.

636 ~~[(8)]~~ (h) "Nonbusiness income" means all income other than business income.

637 ~~[(9)]~~ (i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

638 ~~[(10)]~~ (j) "Sales" means all gross receipts of the taxpayer not allocated under Sections
639 59-7-306 through 59-7-310.

640 (k) Subject to Subsection (2), "sales factor weighted taxpayer" means:

641 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
642 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
643 everywhere generated by economic activities:

644 (A) performed by the taxpayer; and

645 (B) classified in a NAICS code of the 2002 or 2007 North American Industry

646 Classification System of the federal Executive Office of the President, Office of Management
647 and Budget, except for:

648 (I) a NAICS code within NAICS Sector 21, Mining;

649 (II) a NAICS code within NAICS Sector 31-33, Manufacturing;

650 (III) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

651 (IV) a NAICS code within NAICS Sector 51, Information, except for NAICS

652 Subsector 519, Other Information Services; or

653 (V) a NAICS code within NAICS Sector 52, Finance and Insurance; or

654 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
655 taxpayer's total sales everywhere generated by economic activities:

656 (A) performed by the unitary group; and

657 (B) classified in a NAICS code of the 2002 or 2007 North American Industry

658 Classification System of the federal Executive Office of the President, Office of Management
659 and Budget, except for:

660 (I) a NAICS code within NAICS Sector 21, Mining;

661 (II) a NAICS code within NAICS Sector 31-33, Manufacturing;

662 (III) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

663 (IV) a NAICS code within NAICS Sector 51, Information, except for NAICS

664 Subsector 519, Other Information Services; or

665 (V) a NAICS code within NAICS Sector 52, Finance and Insurance.

666 ~~[(H)]~~ (l) "State" means any state of the United States, the District of Columbia, the
667 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
668 foreign country or political subdivision thereof.

669 ~~[(I2)]~~ (m) "Transportation revenue" means revenue an airline earns from:

670 (a) transporting a passenger or cargo; or

671 (b) from miscellaneous sales of merchandise as part of providing transportation
672 services.

673 ~~[(I3)]~~ (n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles
674 within the borders of this state:

675 (a) during the airline's tax period; and

676 (b) from flight stages that originate or terminate in this state.

677 (2) The following apply to Subsection (1)(k):

678 (a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each
679 taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

680 (ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the
681 due date for filing the taxpayer's return under this chapter for the taxable year, including
682 extensions.

683 (iii) For purposes of making the determination required by Subsection (2)(a)(i), total
684 sales everywhere include only the total sales everywhere:

685 (A) as determined in accordance with this part; and

686 (B) made during the taxable year for which a taxpayer makes the determination
687 required by Subsection (2)(a)(i).

688 (b) A taxpayer that files a return as a unitary group for a taxable year is considered to
689 be a unitary group for that taxable year.

690 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
691 commission may define the term "economic activity" consistent with the use of the term
692 "activity" in the 2007 North American Industry Classification System of the federal Executive
693 Office of the President, Office of Management and Budget.

694 Section 4. Section **59-7-311** is amended to read:

695 **59-7-311. Method of apportionment of business income.**

696 (1) [AH] For a taxable year, all business income shall be apportioned to this state by
697 multiplying the business income by a fraction calculated as provided in [~~Subsection (2)~~] this
698 section.

699 [~~(2) The fraction described in Subsection (1) is calculated as follows:]~~

700 [~~(a) for a taxpayer that does not make an election authorized by Subsection (3):]~~

701 (2) (a) Subject to the other provisions of this part, for the taxable year that begins on or
702 after January 1, 2010, but begins on or before December 31, 2010, a taxpayer, including a sales
703 factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income
704 to this state under this section using:

705 (i) the method described in Subsection (2)(c); or

706 (ii) the method described in Subsection (2)(d).

707 (b) Subject to the other provisions of this part, for a taxable year that begins on or after

708 January 1, 2011, a taxpayer, except for a sales factor weighted taxpayer, shall elect to calculate
709 the fraction for apportioning business income to this state under this section using:

710 (i) the method described in Subsection (2)(c); or

711 (ii) the method described in Subsection (2)(d).

712 (c) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a)
713 or (b) may elect to calculate the fraction for apportioning business income as follows:

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

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

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

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

718 (ii) the denominator of the fraction is three~~;~~ and].

719 ~~[(b) for a taxpayer that makes an election authorized by Subsection (3):]~~

720 (d) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a)
721 or (b) may elect to calculate the fraction for apportioning business income as follows:

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

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

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

725 (C) the product of:

726 (I) the sales factor as calculated under Section 59-7-317; and

727 (II) two; and

728 (ii) the denominator of the fraction is four.

729 ~~[(3) (a) For purposes of Subsection (2) and subject to Subsection (3)(b), for taxable~~
730 ~~years beginning on or after January 1, 2006, a taxpayer may elect to calculate the fraction for~~
731 ~~apportioning business income under this section in accordance with Subsection (2)(b).]~~

732 ~~[(b) If a taxpayer makes the election described in Subsection (3)(a), the taxpayer may~~
733 ~~not revoke the election for a period of five taxable years.]~~

734 ~~[(c)]~~ (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
735 Act, the commission may make rules providing procedures for a taxpayer described in
736 Subsection (2)(a) or (b) to make the election [described in Subsection (3)(a)] required by this
737 Subsection (2).

738 (3) (a) Subject to the other provisions of this part, for the taxable year that begins on or

739 after January 1, 2011, but begins on or before December 31, 2011, a sales factor weighted
740 taxpayer shall calculate the fraction for apportioning business income to this state as follows:

- 741 (i) the numerator of the fraction is the sum of:
742 (A) the property factor as calculated under Section 59-7-312;
743 (B) the payroll factor as calculated under Section 59-7-315; and
744 (C) the product of:
745 (I) the sales factor as calculated under Section 59-7-317; and
746 (II) four; and

747 (ii) the denominator of the fraction is six.

748 (b) Subject to the other provisions of this part, for the taxable year that begins on or
749 after January 1, 2012, but begins on or before December 31, 2012, a sales factor weighted
750 taxpayer shall calculate the fraction for apportioning business income to this state as follows:

- 751 (i) the numerator of the fraction is the sum of:
752 (A) the property factor as calculated under Section 59-7-312;
753 (B) the payroll factor as calculated under Section 59-7-315; and
754 (C) the product of:
755 (I) the sales factor as calculated under Section 59-7-317; and
756 (II) 10; and

757 (ii) the denominator of the fraction is 12.

758 (c) Subject to the other provisions of this part, for a taxable year that begins on or after
759 January 1, 2013, a sales factor weighted taxpayer shall calculate the fraction for apportioning
760 business income to this state as follows:

761 (i) the numerator of the fraction is the sales factor as calculated under Section
762 59-7-317; and

763 (ii) the denominator of the fraction is one.

764 (4) If a taxpayer calculates the fraction for apportioning business income to this state
765 using a method described in this section:

766 (a) the taxpayer shall determine the method for calculating the fraction for apportioning
767 business income to this state under this section on or before the due date for filing the
768 taxpayer's return under this chapter for the taxable year, including extensions; and

769 (b) the method described in Subsection (4)(a) is in effect for the time period:

770 (i) beginning on the first day of the taxpayer's taxable year for which the taxpayer
771 makes the determination described in Subsection (4)(a); and

772 (ii) ends on the last day of the taxable year described in Subsection (4)(b)(i).

773 Section 5. **Retrospective operation.**

774 This bill has retrospective operation for a taxable year beginning on or after January 1,
775 2010.

Fiscal Note**S.B. 165 1st Sub. (Green) - Allocation and Apportionment of Income and Deduction of a Net Loss**

2010 General Session

State of Utah

State Impact

Enactment of this bill could increase revenue to the Education Fund by \$4,000 in FY 2011 and \$5,000 in FY 2012.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
Education Fund	\$0	\$0	\$0	\$0	\$4,000	\$5,000
Total	\$0	\$0	\$0	\$0	\$4,000	\$5,000

Individual, Business and/or Local Impact

This bill shifts \$7,700,000 of corporate income tax liability between industries and \$47,000,000 between corporate income tax payers. Individuals and local governments are unaffected.