

HB0293S04 compared with HB0293S03

~~text~~ shows text that was in HB0293S03 but was deleted in HB0293S04.

Inserted text shows text that was not in HB0293S03 but was inserted into HB0293S04.

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Representative Bradley G. Last proposes the following substitute bill:

TAX REBALANCING REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends and enacts provisions related to state and local taxes and revenues.

Highlighted Provisions:

This bill:

- ▶ amends and enacts defined terms for the Minimum School Program;
- ▶ amends for a five-year period the calculation of the minimum basic local amount and minimum basic tax rate;
- ▶ establishes the weighted pupil unit value tax rate;
- ▶ establishes the equity pupil tax rate;
- ▶ directs the Division of Finance to deposit an amount equal to the proceeds from:
 - the equity pupil tax rate into the Local Levy Growth Account; and
 - the weighted pupil unit value tax rate into the Teacher and Student Success

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Account;

- ▶ directs the Legislature to annually appropriate money from the Local Levy Growth Account to guarantee local levy increments;
- ▶ directs the State Board of Education to use the appropriation to increase:
 - the number of guaranteed local levy increments to 20, giving first priority to guaranteed voted local levy increments and second priority to guaranteed board local levy increments; and
 - the guaranteed amount for each local levy increment per weighted pupil unit after increasing the number of guaranteed local levy increments;
- ▶ directs a local school board to use funds received from the state local levy guarantee programs for public education purposes;
- ▶ creates the Local Levy Growth Account;
- ▶ creates the Teacher and Student Success Account;
- ▶ modifies the property tax rate cap for the school board local levy to subject all school districts to the same rate cap;
- ▶ repeals the following outdated levies prohibited since January 1, 2012:
 - the board-approved leeway;
 - the capital outlay levy;
 - the additional levy for debt service, school sites, buildings, buses, textbooks, and supplies; and
 - the board leeway for reading improvement;
- ▶ repeals outdated language, including language related to school capital outlay in counties of the first class repealed December 31, 2016;
- ▶ modifies the definition of "certified revenue levy" in the Property Tax Act;
- ▶ modifies the homeowner's and renter's credits;
- ▶ modifies provisions governing notice requirements for a proposed tax increase by the state;
- ▶ addresses the apportionment of business income for income tax purposes by:
 - phasing in a requirement that certain taxpayers use only the sales factor to calculate the fraction for apportioning business income to the state;
 - allowing an optional apportionment taxpayer to choose between a single sales

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factor and an equally weighted method to calculate the fraction for apportioning business income to the state; and

- requiring an optional apportionment taxpayer that chooses to apportion business income using the single sales factor method to continue using the single sales factor method of apportionment in subsequent taxable years;
- ▶ provides a method for a taxpayer to determine if the taxpayer is an optional apportionment taxpayer;
- ▶ reduces the state's corporate and individual income tax rates;
- ▶ modifies provisions relating to individuals who are exempt from taxation;
- ▶ addresses when an individual is considered to have domicile in this state for purposes of income tax;
- ▶ defines terms;
- ▶ modifies the calculation of the taxpayer tax credit;
- ▶ provides a repeal date; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Education Fund Restricted -- Teacher and Student Success Account
 - from the Education Fund, \$65,150,000;
- ▶ to the State Board of Education -- Minimum School Program - Basic School Program, as an ongoing appropriation:
 - from the Education Fund, (\$18,650,000); and
 - from Local Revenue, \$18,650,000;
- ▶ to the State Board of Education -- Minimum School Program - Related to Basic School Program:
 - from the Education Fund, (\$46,500,000); and
 - from the Education Fund Restricted -- Teacher and Student Success Account, as a one-time appropriation, \$65,150,000;
- ▶ to the Education Fund Restricted -- Local Levy Growth Account, as an ongoing appropriation:
 - from the Education Fund, \$36,117,300;

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- ▶ to the State Board of Education -- Minimum School Program -- Basic School Program, as an ongoing appropriation:
 - from the Education Fund, (\$36,117,300); and
 - from Local Revenue, \$36,117,300; and
- ▶ to the State Board of Education -- Minimum School Program -- Voted and Board Local Levy Programs, as an ongoing appropriation:
 - from the Education Fund Restricted -- Local Levy Growth Account, \$36,117,300.

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

11-13-302, as last amended by Laws of Utah 2015, Chapter 287

11-13-310, as last amended by Laws of Utah 2003, Chapter 21

53E-2-304, as renumbered and amended by Laws of Utah 2018, Chapter 1

53F-2-102, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-201, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-203, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-205, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-301, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-303, as enacted by Laws of Utah 2018, Chapter 2

53F-2-312, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-503, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-515, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-601, as enacted by Laws of Utah 2018, Chapter 2

53F-2-704, as enacted by Laws of Utah 2018, Chapter 2

53F-3-102, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-302, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-303, as renumbered and amended by Laws of Utah 2018, Chapter 2

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53F-8-402, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-9-302, as renumbered and amended by Laws of Utah 2018, Chapter 2
53G-3-304, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-6-705, as renumbered and amended by Laws of Utah 2018, Chapter 3
59-2-102, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
59-2-926, as last amended by Laws of Utah 2016, Chapter 367
59-2-1208, as last amended by Laws of Utah 2016, Chapter 375
59-2-1209, as last amended by Laws of Utah 2016, Chapter 375
59-7-104, as repealed and reenacted by Laws of Utah 1993, Chapter 169
59-7-110, as last amended by Laws of Utah 2016, Chapters 311 and 323
59-7-201, as last amended by Laws of Utah 1993, Chapter 169
59-7-302, as last amended by Laws of Utah 2017, Chapters 181 and 268
59-7-311, as last amended by Laws of Utah 2016, Chapters 311 and 323
59-7-312, as last amended by Laws of Utah 2008, Chapter 283
59-7-315, as last amended by Laws of Utah 2008, Chapter 283
59-10-104, as last amended by Laws of Utah 2008, Chapter 389
59-10-104.1, as last amended by Laws of Utah 2008, Chapter 389
59-10-136, as enacted by Laws of Utah 2011, Chapter 410
59-10-1018, as last amended by Laws of Utah 2012, Chapter 295
63I-2-211, as last amended by Laws of Utah 2017, Chapter 441
63I-2-253, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381, 386, and 468
63I-2-259, as last amended by Laws of Utah 2017, Chapter 181
63J-1-220, as last amended by Laws of Utah 2017, Chapter 173

ENACTS:

53F-2-301.5, Utah Code Annotated 1953
53F-9-305, Utah Code Annotated 1953
53F-9-306, Utah Code Annotated 1953

REPEALS:

53F-2-602, as enacted by Laws of Utah 2018, Chapter 2
53F-8-401, as renumbered and amended by Laws of Utah 2018, Chapter 2

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53F-8-404, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-405, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-406, as renumbered and amended by Laws of Utah 2018, Chapter 2

Utah Code Sections Affected by Coordination Clause:

53F-2-301, as renumbered and amended by Laws of Utah 2018, Chapter 2

59-7-302, as last amended by Laws of Utah 2017, Chapters 181 and 268

59-7-311, as last amended by Laws of Utah 2016, Chapters 311 and 323

59-7-312, as last amended by Laws of Utah 2008, Chapter 283

59-7-315, as last amended by Laws of Utah 2008, Chapter 283

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

Section 1. Section **11-13-302** is amended to read:

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in

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Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53A-17a-135 or 53F-2-301.5, as applicable; and

(ii) local levies for capital outlay and other purposes under Sections 53A-16-113, 53A-17a-133, and 53A-17a-164.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53A-17a-135 or 53F-2-301.5, as applicable; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds,

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the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that

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portion of the project for which there is not an agreement:

- (I) for that year; and
- (II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

- (i) the proceeds of bonds issued for the project; and
- (ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in

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accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

Section 2. Section **11-13-310** is amended to read:

11-13-310. Termination of impact alleviation contract.

If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate. In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section [~~53A-17a-135~~] 53F-2-301 or 53F-2-301.5, as applicable, for the state

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minimum school program. In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate. No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it. If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Section 3. Section **53E-2-304** is amended to read:

53E-2-304. School district and individual school powers -- Plan for college and career readiness definition.

(1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.

(2) (a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) provide for teacher and parent involvement in policymaking at the school site;

(iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

(iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

(v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

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(vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

(vii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.

(b) (i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers, and administrators that:

(A) is initiated at the beginning of grade 7;

(B) identifies a student's skills and objectives;

(C) maps out a strategy to guide a student's course selection; and

(D) links a student to post-secondary options, including higher education and careers.

(ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.

(iii) The policies shall include guidelines and expectations for:

(A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;

(B) planning, monitoring, and managing education and career development; and

(C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.

(iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.

(v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term [~~referred to in Subsection 53F-2-102(7)~~] described in Section 53F-2-102.

(3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.

(4) (a) Each school district and public school shall make an annual report to its patrons

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on its activities under this section.

(b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Section 4. Section **53F-2-102** is amended to read:

53F-2-102. Definitions.

As used in this chapter:

(1) "Basic state-supported school program," ~~or~~ "basic program," or "basic school program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in ~~[statute]~~ the enacted public education budget, except as otherwise provided in this chapter.

~~[(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:]~~

~~[(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Section 53F-2-301; and]~~

~~[(ii) the product of:]~~

~~[(A) eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission; and]~~

~~[(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.]~~

~~[(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not include property tax revenue received statewide from personal property that is:]~~

~~[(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and]~~

~~[(ii) semiconductor manufacturing equipment.]~~

~~[(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:]~~

~~[(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;]~~

~~[(ii) the taxable value of real and personal property assessed by the State Tax~~

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~~Commission, and]~~

~~[(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.]~~

~~[(3)]~~ (2) "Charter school governing board" means the governing board, as defined in Section 53G-5-102, that governs a charter school.

~~[(4)]~~ (3) "Local education board" means a local school board or charter school governing board.

~~[(5)]~~ (4) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

~~[(6)]~~ (5) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

~~[(7)]~~ (6) (a) "State-supported minimum school program" or "Minimum School Program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection ~~[(7)]~~ (6).

(b) The Minimum School Program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by a local education board, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local education board may reallocate up to 32 instructional hours or four school days established under Subsection ~~[(7)]~~ (6)(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection ~~[(7)]~~ (6)(d)(i) is subject to the approval of two-thirds of the members of a local education board voting in a regularly scheduled meeting:

(A) at which a quorum of the local education board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

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(iii) If a local education board reallocates instructional hours or school days as provided by this Subsection [(7)] (6)(d), the school district or charter school shall notify students' parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection [(7)] (6)(d) is considered part of a school term referred to in Subsection [(7)] (6)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

- (i) Basic School Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

[(8)] (7) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each school district or charter school.

Section 5. Section **53F-2-201** is amended to read:

**53F-2-201. Cost of operation and maintenance of Minimum School Program --
Division between state and school districts.**

(1) The total cost of operation and maintenance of the Minimum School Program in the state is divided between the state and school districts as follows:

(a) Each school district shall impose a minimum basic tax rate on all taxable, tangible property in the school district and shall contribute the tax proceeds toward the cost of the basic program as provided in this chapter.

(b) Each school district may also impose a levy under Section 53F-8-301 or 53F-8-302 for the purpose of participating in the respective local levy state guarantee programs [provided] described in Section 53F-2-601 [~~or 53F-2-602~~].

(c) The state shall contribute the balance of the total costs.

(2) The contributions by the school districts and by the state are computed separately for the purpose of determining their respective contributions to:

(a) the basic program; and [~~to the levy programs provided in Section 53F-2-601 or~~

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53F-2-602.]

(b) the local levy state guarantee programs described in Section 53F-2-601.

Section 6. Section **53F-2-203** is amended to read:

53F-2-203. Reduction of local education board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

~~[(a) the state-supported voted local levy program pursuant to Section 53F-2-601;]~~

~~[(b) the state-supported board local levy program pursuant to Section 53F-2-602; and]~~

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

~~[(c)]~~ (b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each local education board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a local education board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A local education board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) USTAR centers provided in Section 53F-2-505;

(e) the School LAND Trust Program created in Section 53F-2-404; or

(f) a special education program within the ~~[Basic School Program]~~ basic school

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program.

(6) A local education board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A local education board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Section 7. Section **53F-2-205** is amended to read:

53F-2-205. Powers and duties of State Board of Education to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) ~~[For purposes of]~~ As used in this section:

(a) "Board" means the State Board of Education.

(b) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(c) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state ~~[guarantee per weighted pupil unit provided under the voted local levy program established in Section 53F-2-601 or the board local levy program~~

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~~established in Section 53F-2-602]~~ guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704; or

(d) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are overestimated, the board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are underestimated, the board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the board shall reduce the state guarantee per weighted pupil unit provided under the [~~voted local levy program established~~] local levy state guarantee program described in Section 53F-2-601 [~~or board local levy program established in Section 53F-2-602~~], if:

(a) local contributions to the voted local levy program or board local levy program are

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overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the board is nonlapsing.

(8) The board shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 8. Section **53F-2-301** is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) The provisions of this section are not in effect for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

~~[(+)]~~ (2) As used in this section~~["basic"]~~:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

~~[(2)(a) To qualify for receipt of the state contribution toward the basic program and as a school district's contribution toward the school district's costs of the basic program, each local school board shall impose a minimum basic tax rate per dollar of taxable value that generates \$399,041,300 in revenues statewide.]~~

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that will generate an amount of revenue equal to the amount generated by the equity pupil tax rate as defined in Section 53F-2-301.5 in the fiscal year that begins July 1, 2022.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate;

(C) the amount generated by the equity pupil tax rate; and

(D) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax

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Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(h) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the total cost to the basic school program to increase the WPU value over the WPU value in the immediately preceding fiscal year; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2018, is \$408,073,800 in revenue statewide.

(b) The preliminary estimate [for the 2017-18 minimum basic tax rate is .001596.] of the minimum basic tax rate for a fiscal year that begins on July 1, 2018, is .001498.

~~[(c) The State Tax Commission shall certify on or before June 22 the rate that generates \$399,041,300 in revenues statewide.]~~

~~[(d) If the minimum basic tax rate exceeds the certified revenue levy, the state is subject to the notice requirements of Section 59-2-926.]~~

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2018, is \$18,650,000 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2018, is .000069.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

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(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) ~~The~~ (A) Except as provided in Subsection (6)(b)(ii)(B), the state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(B) For a calendar year that begins on January 1, 2018, the state is not subject to the notice and public hearing requirements of Section 59-2-926 if the state authorizes a combined basic rate that exceeds the tax rates authorized in this section.

~~(3)~~ (7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district [that portion that exceeds the proceeds of] an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

~~(a) the minimum basic tax rate to be imposed under Subsection (2); and~~

(i) the combined basic rate;

~~(b)~~ (ii) the basic levy increment rate[-]; and

(iii) the equity pupil tax rate.

~~(4)~~ (a) (b) (i) If the difference described in Subsection ~~(3)~~ (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

~~(b)~~ (ii) The proceeds of the difference described in Subsection ~~(3)~~ (7)(a) that exceed

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the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

~~[(5) The State Board of Education shall:]~~

~~[(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and]~~

~~[(b) deposit the money described in Subsection (5)(a)]~~

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302[-];

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 9. Section **53F-2-301.5** is enacted to read:

53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

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(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2018, is \$408,073,800 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, 2018, is .001498.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2018, is \$18,650,000 in revenue statewide.

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(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, 2018, is .000069.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost

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of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 10. Section **53F-2-303** is amended to read:

53F-2-303. Foreign exchange student weighted pupil units.

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through (4).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2) shall be the lesser of:

(i) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The State Board of Education shall make rules in accordance with Title 63G,

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Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding [~~Sections 53F-2-601 and 53F-2-602~~] Section 53F-2-601, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under [~~the voted or board local levies~~] Section 53F-2-601.

Section 11. Section **53F-2-312** is amended to read:

53F-2-312. Appropriation for class size reduction.

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.

(2) Each school district or charter school shall receive an allocation based upon the school district or charter school's prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection 53F-2-302(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).

(3) (a) A local education board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) Each local education board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 in grades kindergarten through grade 2, a local education board may petition the State Board of Education for, and the State Board of Education may grant, a waiver to use an allocation under Subsection (3)(b)(i) for class size reduction in the other grades.

(4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

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(5) (a) A local education board may use up to 20% of an allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the local education board may use up to 50% of any allocation received by the respective school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade eight.

(8) (a) For a school district or charter school to qualify for class size reduction money, a local education board shall submit:

(i) a plan for the use of the allocation of class size reduction money to the State Board of Education; and

(ii) beginning with the 2014-15 school year, a report on the local education board's use of class size reduction money in the prior school year.

(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:

(i) (A) the number of teachers employed using class size reduction money;

(B) the amount of class size reduction money expended for teachers; and

(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;

(ii) (A) the number of paraprofessionals employed using class size reduction money;

(B) the amount of class size reduction money expended for paraprofessionals; and

(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and

(iii) the amount of class size reduction money expended for capital facilities.

(c) In addition to submitting a plan and report on the use of class size reduction money, a local education board shall annually submit a report to the State Board of Education that

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includes the following information:

(i) the number of teachers employed using K-3 Reading Improvement Program money received pursuant to [Sections] Section 53F-2-503 [~~and 53F-8-406~~];

(ii) the amount of K-3 Reading Improvement Program money expended for teachers;

(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;

(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and

(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.

(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.

(e) The State Board of Education may make rules specifying procedures and standards for the submission of:

(i) a plan and a report on the use of class size reduction money as required by this section; and

(ii) a report required under Subsection (8)(c).

(f) Based on the data contained in the class size reduction plans and reports submitted by local education boards, and data on average class size, the State Board of Education shall annually report to the Public Education Appropriations Subcommittee on the impact of class size reduction, K-3 Reading Improvement Program, and Title I money on class size.

Section 12. Section **53F-2-503** is amended to read:

53F-2-503. K-3 Reading Improvement Program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.

(c) "Program" means the K-3 Reading Improvement Program.

(d) "Program money" means:

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(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The K-3 Reading Improvement Program consists of program money and is created to supplement other school resources to achieve the state's goal of having third graders reading at or above grade level.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the K-3 Reading Improvement Program.

(4) (a) For a school district or charter school to receive program money, a local education board shall submit a plan to the board for reading proficiency improvement that incorporates the following components:

(i) assessment;

(ii) intervention strategies;

(iii) professional development for classroom teachers in kindergarten through grade three;

(iv) reading performance standards; and

(v) specific measurable goals that include the following:

(A) a growth goal for each school within a school district and each charter school based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

(B) a growth goal for each school district and charter school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section 53E-4-302.

(b) The board shall provide model plans that a local education board may use, or the local education board may develop the local education board's own plan.

(c) Plans developed by a local education board shall be approved by the board.

(d) The board shall develop uniform standards for acceptable growth goals that a local education board adopts for a school district or charter school as described in this Subsection (4).

(5) (a) There is created within the K-3 Reading Achievement Program three funding

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programs:

- (i) the Base Level Program;
- (ii) the Guarantee Program; and
- (iii) the Low Income Students Program.

(b) The board may use no more than \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the board for the K-3 Reading Improvement Program and not used by the board for computer-assisted instructional learning and assessments as described in Subsection (5)(b), shall be allocated to the three funding programs as follows:

- (a) 8% to the Base Level Program;
- (b) 46% to the Guarantee Program; and
- (c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the local education board shall submit a reading proficiency improvement plan to the board as provided in Subsection (4) and must receive approval of the plan from the board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade three; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade three.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds shall choose to first participate in either the Guarantee Program or the Low Income Students Program.

(b) A school district must fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school

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board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the local school board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPUs.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been

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allocated if the school district had fully participated in the program.

(12) (a) A local education board shall use program money for reading proficiency improvement interventions in grades kindergarten through grade 3 that have proven to significantly increase the percentage of students reading at grade level, including:

- (i) reading assessments; and
- (ii) focused reading remediations that may include:
 - (A) the use of reading specialists;
 - (B) tutoring;
 - (C) before or after school programs;
 - (D) summer school programs; or
 - (E) the use of reading software; or
 - (F) the use of interactive computer software programs for literacy instruction and

assessments for students.

(b) A local education board may use program money for portable technology devices used to administer reading assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) Each local education board shall annually submit a report to the board accounting for the expenditure of program money in accordance with its plan for reading proficiency improvement.

(b) If a local education board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) The board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each local education board to annually report progress in meeting goals stated in the school district's or charter school's plan for student reading proficiency.

(ii) If a school does not meet or exceed the school's goals, the local education board shall prepare a new plan which corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board

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before the local education board receives an allocation for the next year.

(15) (a) If for two consecutive school years, a school district fails to meet the school district's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53E-4-302, the school district [~~shall terminate any levy imposed under Section 53F-8-406 and~~] may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(b) If for two consecutive school years, a charter school fails to meet the charter school's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53E-4-302, the charter school may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(16) The board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in reading for the past school year and the five-year trend;

(ii) the percentage of third grade students reading on grade level in the past school year and the five-year trend;

(iii) the progress of schools and school districts in meeting goals stated in a school district's or charter school's plan for student reading proficiency; and

(iv) the correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and

(b) may include recommendations on how to increase the percentage of third grade students who read on grade level.

Section 13. Section **53F-2-515** is amended to read:

53F-2-515. Federal Impact Aid Program -- Offset for underestimated allocations from the Federal Impact Aid Program.

(1) In addition to the revenues received from the levy imposed by a local school board and authorized by the Legislature under Section 53F-2-301 or 53F-2-301.5, as applicable, the Legislature shall provide an amount equal to the difference between the school district's anticipated receipts under the entitlement for the fiscal year from the Federal Impact Aid Program and the amount the school district actually received from this source for the next

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preceding fiscal year.

(2) If at the end of a fiscal year the sum of the receipts of a school district from a distribution from the Legislature pursuant to Subsection (1) plus the school district's allocations from the Federal Impact Aid Program for that fiscal year exceeds the amount allocated to the school district from the Federal Impact Aid Program for the next preceding fiscal year, the excess funds are carried into the next succeeding fiscal year and become in that year a part of the school district's contribution to the school district's basic program for operation and maintenance under the state minimum school finance law.

(3) During the next succeeding fiscal year described in Subsection (2), the school district's required tax rate for the basic program shall be reduced so that the yield from the reduced tax rate plus the carryover funds equal the school district's required contribution to the school district's basic program.

(4) For the school district of a local school board that is required to reduce the school district's basic tax rate under this section, the school district shall receive state minimum school program funds as though the reduction in the tax rate had not been made.

Section 14. Section **53F-2-601** is amended to read:

53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section[,"voted"]:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

[(~~a~~)] (A) the amount appropriated for the [~~voted and board local levy program~~]
guaranteed local levy increments in a fiscal year; and

[(~~b~~)] (B) the amount necessary to [~~provide the state guarantee per weighted pupil unit~~]

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fund in the same fiscal year the guaranteed local levy increments as determined under this section [and Section 53F-2-602 in the same fiscal year].

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a [levy pursuant to Section 53F-8-301] voted local levy or a board local levy, the state shall [contribute] guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee [\$35.55] for a fiscal year that begins on July 1, 2018, \$43.10 per weighted pupil unit [for each .0001 of the first .0016 per dollar of taxable value].

[(3) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (2) shall apply to the portion of the board local levy authorized in Section 53F-8-302, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a local school board levies a tax rate under both programs.]

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The State Board of Education shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

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(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

~~[(4) (a) Beginning July 1, 2015, the \$35.55 guarantee under Subsections (2) and (3) shall be]~~

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit [for the grades 1 through 12 program] by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit [for the grades 1 through 12 program].

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit [for the grades 1 through 12 program] for each [succeeding] year subject to the Legislature appropriating funds for an increase in the guarantee.

~~[(5)]~~ (4) (a) The amount of state guarantee money [to which] that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection ~~[(5)]~~ (4)(a) applies for a period of five years following ~~[any such]~~ a change in the certified tax rate as described in Subsection (4)(a).

~~[(6)]~~ (5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

~~[(7)]~~ (6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection ~~[(4)]~~ (3)(a) in the current fiscal year; and

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(ii) distribute [~~the state contribution to the voted and board local levy programs~~] guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection [~~(7)~~] (6)(a)(i).

(b) The State Board of Education shall report action taken under [~~this~~] Subsection [~~(7)~~] (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 15. Section **53F-2-704** is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

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(iv) a guarantee described in Section 53F-2-601, [~~53F-2-602,~~] 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

- (i) a school district's average daily membership; and
- (ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

- (i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and
- (ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(3)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

- (i) charter school students' average local revenues minus the charter school levy per pupil revenues; and
- (ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(3).

(d) (i) If the appropriation provided under this Subsection (2) is less than the amount prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter

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schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53F-2-205, the allocation provided in Subsection (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(3), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 16. Section **53F-3-102** is amended to read:

53F-3-102. Definitions.

As used in this chapter:

(1) "ADM" or "pupil in average daily membership" is as defined in Section 53F-2-102.

(2) "Base tax effort rate" means the average of:

(a) the highest combined capital levy rate; and

(b) the average combined capital levy rate for the school districts statewide.

(3) "Combined capital levy rate" means a rate that includes the sum of the following property tax levies:

~~[(a) (i) the capital outlay levy authorized in Section 53F-8-401;]~~

~~[(ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is budgeted for debt service or capital outlay;]~~

~~[(iii) (a) (i) the debt service levy authorized in Section 11-14-310; and~~

~~[(iv) (ii) the voted capital outlay leeway authorized in Section 53F-8-402; or~~

~~(b) (i) the capital local levy authorized in Section 53F-8-303; and~~

~~(ii) the debt service levy authorized in Section 11-14-310.~~

(4) "Derived net taxable value" means the quotient of:

(a) the total property tax collections from April 1 through the following March 31 for a school district for the calendar year preceding the March 31 date; divided by

(b) the school district's total tax rate for the calendar year preceding the March 31 referenced in Subsection (4)(a).

(5) "Highest combined capital levy rate" means the highest combined capital levy rate

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imposed by a school district within the state for a fiscal year.

(6) "Property tax base per ADM" means the quotient of:

- (a) a school district's derived net taxable value; divided by
- (b) the school district's ADM.

(7) "Property tax yield per ADM" means:

- (a) the product of:
 - (i) a school district's derived net taxable value; and
 - (ii) the base tax effort rate; divided by
- (b) the school district's ADM.

(8) "Statewide average property tax base per ADM" means the quotient of:

- (a) the sum of all school districts' derived net taxable value; divided by
- (b) the sum of all school districts' ADM.

Section 17. Section **53F-8-302** is amended to read:

53F-8-302. Board local levy.

(1) The terms defined in Section 53F-2-102 apply to this section.

(2) Subject to the other requirements of this section, [~~for a calendar year beginning on or after January 1, 2012,~~] a local school board may levy a tax to fund the school district's general fund.

(3) (a) For purposes of this Subsection (3), "combined rate" means the sum of:

- (i) the rate imposed by a local school board under Subsection (2); and
- (ii) the charter school levy rate, described in Section 53F-2-703, for the local school board's school district.

~~[(b) Except as provided in Subsection (3)(c), beginning on January 1, 2017, a school district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.]~~

~~[(c)]~~ (b) Beginning on January 1, [2017] 2018, a school district's combined rate may not exceed .0025 per dollar of taxable value in any calendar year [~~if, during the calendar year beginning on January 1, 2011, the school district's total tax rate for the following levies was greater than .0018 per dollar of taxable value:]~~].

~~[(i) a recreation levy imposed under Section 11-2-7;]~~

~~[(ii) a transportation levy imposed under Section 53F-8-403;]~~

~~[(iii) a board-authorized levy imposed under Section 53F-8-404;]~~

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~~[(iv) an impact aid levy imposed under Section 53F-2-515;]~~

~~[(v) the portion of a 10% of basic levy imposed under Section 53F-8-405 that is budgeted for purposes other than capital outlay or debt service;]~~

~~[(vi) a reading levy imposed under Section 53F-8-406; and]~~

~~[(vii) a tort liability levy imposed under Section 63G-7-704.]~~

(4) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount as described in Section ~~[53F-2-602]~~ 53F-2-601.

(5) (a) For a calendar year beginning on or after January 1, 2017, the State Tax Commission shall adjust a board local levy rate imposed by a local school board under this section by the amount necessary to offset the change in revenues from the charter school levy imposed under Section 53F-2-703.

(b) A local school board is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset described in Subsection (5)(a) to the change in revenues from the charter school levy imposed under Section 53F-2-703.

~~[(c) A local school board may not increase a board local levy rate under this section before December 31, 2016, if the local school board did not give public notice on or before March 4, 2016, of the local school board's intent to increase the board local levy rate.]~~

~~[(d)]~~ (c) So long as the charter school levy rate does not exceed 25% of the charter school levy per district revenues, a local school board may not increase a board local levy rate under this section if the purpose of increasing the board local levy rate is to capture the revenues assigned to the charter school levy through the adjustment in a board local levy rate under Subsection (5)(a).

~~[(e)]~~ (d) Before a local school board takes action to increase a board local levy rate under this section, the local school board shall:

(i) prepare a written statement that attests that the local school board is in compliance with Subsection (5)~~[(d)]~~(c);

(ii) read the statement described in Subsection (5)~~[(e)]~~(d)(i) during a local school board public meeting where the local school board discusses increasing the board local levy rate; and

(iii) send a copy of the statement described in Subsection (5)~~[(e)]~~(d)(i) to the State Tax Commission.

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Section 18. Section **53F-8-303** is amended to read:

53F-8-303. Capital local levy.

(1) ~~[(a)]~~ Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

~~[(b)]~~ (2) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

~~[(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:]~~

~~[(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:]~~

~~[(i) a capital outlay levy imposed under Section 53F-8-401; and]~~

~~[(ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is budgeted for debt service or capital outlay; and]~~

~~[(b) revenue from eligible new growth as defined in Section 59-2-924.]~~

~~[(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.]~~

~~[(b) If a local school board uses the proceeds described in Subsection (3)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:]~~

~~[(i) before the local school board's budget hearing in accordance with the notification requirements described in Section 53G-7-303; and]~~

~~[(ii) at a budget hearing required in Section 53G-7-303.]~~

~~[(c) A local school board may not use the proceeds described in Subsection (3)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:]~~

~~[(i) 2300 Support Services - General District Administration; or]~~

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~~[(ii) 2500 Support Services - Central Services.]~~

Section 19. Section **53F-8-402** is amended to read:

53F-8-402. Special tax to buy school building sites, build and furnish schoolhouses, or improve school property.

(1) (a) Except as provided in Subsection (6), a local school board may, by following the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a special election to determine whether a special property tax should be levied for one or more years to buy building sites, build and furnish schoolhouses, or improve the school property under its control.

(b) The tax may not exceed .2% of the taxable value of all taxable property in the district in any one year.

(2) The board shall give reasonable notice of the election and follow the same procedure used in elections for the issuance of bonds.

(3) If a majority of those voting on the proposition vote in favor of the tax, it is ~~levied in addition to a levy authorized under Section 53F-8-405 and~~ computed on the valuation of the county assessment roll for that year.

(4) (a) Within 20 days after the election, the board shall certify the amount of the approved tax to the governing body of the county in which the school district is located.

(b) The governing body shall acknowledge receipt of the certification and levy and collect the special tax.

(c) It shall then distribute the collected taxes to the business administrator of the school district at the end of each calendar month.

(5) The special tax becomes due and delinquent and attaches to and becomes a lien on real and personal property at the same time as state and county taxes.

(6) Notwithstanding Subsections (3) and (4), beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 20. Section **53F-9-302** is amended to read:

53F-9-302. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the

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"Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted local levy guarantee described in Section 53F-2-601;

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Section 53F-3-203; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Section 53F-3-203.

Section 21. Section **53F-9-305** is enacted to read:

53F-9-305. Local Levy Growth Account.

(1) As used in this section, "account" means the Local Levy Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Local Levy Growth Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the State Board of Education.

Section 22. Section **53F-9-306** is enacted to read:

53F-9-306. Teacher and Student Success Account.

(1) As used in this section, "account" means the Teacher and Student Success Account created in this section.

(2) There is created within the Education Fund a restricted account known as the

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"Teacher and Student Success Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the State Board of Education.

Section 23. Section **53G-3-304** is amended to read:

53G-3-304. Property tax levies in new district and remaining district --

Distribution of property tax revenue.

(1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section 53G-3-302 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable;

(ii) a debt service levy imposed under Section 11-14-310; or

(iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

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(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) ~~[(a) Except as provided in Subsection (4)(b), the]~~ The county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

~~[(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section 53F-8-303 in accordance with the distribution method specified in Section 53A-16-114.]~~

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

(i) the maximum rate, if any, allowed by law; or

(ii) the maximum rate authorized by voters for a voted local levy under Section 53F-8-301.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Section 24. Section **53G-6-705** is amended to read:

53G-6-705. Online students' participation in extracurricular activities.

(1) As used in this section:

(a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

(b) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the State

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Board of Education, a school district, or charter school; and

(ii) generates funding for the school district or school pursuant to Subsection 53F-2-102[(7)](6) and rules of the State Board of Education.

(2) An online student is eligible to participate in extracurricular activities at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(b) the public school from which the student withdrew for the purpose of participating in an online education program.

(3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in extracurricular activities;

(ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district

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or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Section 25. Section **59-2-102** is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as

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assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(8) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a [~~school minimum basic tax rate, as specified in Section 53A-17a-135, or~~] multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the [~~school minimum basic tax rate or~~] multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(9) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in

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furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:

(i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or

(ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

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(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(b) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(16) "Geothermal resource" means:

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(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(17) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).

(b) The following factors apply to Subsection (17)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (17)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (21)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property,

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including:

- (A) reputation of the designer, builder, or architect of the improvement;
- (B) a name given to, or associated with, the improvement; or
- (C) the historic significance of an improvement; or
- (iv) the enhancement or assemblage value specifically attributable to the interrelation

of the existing tangible property in place working together as a unit.

(18) "Governing body" means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district under Title 17B, Limited Purpose Local Government Entities -

Local Districts, the local district's board of trustees;

- (c) for a school district, the local board of education; or
- (d) for a special service district under Title 17D, Chapter 1, Special Service District

Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(19) (a) For purposes of Section 59-2-103:

(i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(20) (a) Except as provided in Subsection (20)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

- (i) (A) attachment to land is essential to the operation or use of the item; and
- (B) the manner of attachment to land suggests that the item will remain attached to the

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land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (20)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (20)(a); and

(B) installed solely to serve the operation of the item described in Subsection (20)(a);

and

(ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(21) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

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- (vi) franchises;
- (vii) licenses;
- (viii) trade names;
- (ix) copyrights; and
- (x) patents;
- (b) a low-income housing tax credit;
- (c) goodwill; or
- (d) a renewable energy tax credit or incentive, including:
 - (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
 - (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
 - (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - (iv) a tax credit under Subsection 59-7-614(5).
- (22) "Livestock" means:
 - (a) a domestic animal;
 - (b) a fish;
 - (c) a fur-bearing animal;
 - (d) a honeybee; or
 - (e) poultry.
- (23) "Low-income housing tax credit" means:
 - (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;or
 - (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.
- (26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
- (27) (a) "Mobile flight equipment" means tangible personal property that is owned or

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operated by an air charter service, air contract service, or airline and:

- (i) is capable of flight or is attached to an aircraft that is capable of flight; or
- (ii) is contained in an aircraft that is capable of flight if the tangible personal property

is intended to be used:

- (A) during multiple flights;
- (B) during a takeoff, flight, or landing; and
- (C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(30) "Personal property" includes:

(a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(31) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(32) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,

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telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (33) and Subsection (36).

(34) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(35) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential

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purposes as a primary residence.

(b) Subject to Subsection (36)(c), "residential property":

(i) except as provided in Subsection (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant;

and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and this Subsection (36).

(37) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(38) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (9)(c) as county-assessed commercial vehicles.

(39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

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(40) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(41) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(42) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(43) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

Section 26. Section **59-2-926** is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a [~~levy pursuant to Section 53A-17a-135~~] tax rate that exceeds the [~~certified revenue levy as defined in Section 53A-17a-103~~] applicable tax rate described in Section 53F-2-301 or 53F-2-301.5, or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(ii) may not be placed in that portion of the newspaper where legal notices and

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classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from \$ _____ to \$ _____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) \$ _____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) \$ _____ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.);

(c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, [~~levy~~] applicable tax rate for the Property Tax Valuation Agency Fund, or both) paid \$ _____ in property taxes would pay the following:

(i) \$ _____ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) \$ _____ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah."

Section 27. Section **59-2-1208** is amended to read:

**59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment --
Limitation -- General Fund as source of credit.**

(1) (a) Subject to [~~Subsection~~] Subsections (2) and (4), for a calendar year beginning on or after January 1, 2007, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$9,159	\$798
\$9,160 -- \$12,214	\$696
\$12,215 -- \$15,266	\$597

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\$15,267 -- \$18,319	\$447
\$18,320 -- \$21,374	\$348
\$21,375 -- \$24,246	\$199
\$24,247 -- \$26,941	\$98

(b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

~~[(2) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a homeowner's credit under this section may not receive the homeowner's credit.]~~

(2) An individual may not receive the homeowner's credit under this section if:

(a) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section; or

(b) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section.

(3) A payment for a homeowner's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(4) For a calendar year that begins on or after January 1, 2018, **after the commission has adjusted the homeowner credit amount under Subsection (1)(b)**, the commission shall increase each homeowner credit amount under Subsection (1) by the following amounts:

(a) for a calendar year that begins on January 1, 2018, \$14;

(b) for a calendar year that begins on January 1, 2019, \$22;

(c) for a calendar year that begins on January 1, 2020, \$31;

(d) for a calendar year that begins on January 1, 2021, \$40; and

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(e) for a calendar year that begins on or after January 1, 2022, \$49.

Section 28. Section **59-2-1209** is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, 2007, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
\$0 -- \$9,159	9.5%
\$9,160 -- \$12,214	8.5%
\$12,215 -- \$15,266	7.0%
\$15,267 -- \$18,319	5.5%
\$18,320 -- \$21,374	4.0%
\$21,375 -- \$24,246	3.0%
\$24,247 -- \$26,941	2.5%

(b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) A claimant may claim a renter's credit under this part only for rent that does not constitute a rental assistance payment.

~~[(3) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a renter's credit under this section may not receive a renter's credit.]~~

(3) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return

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during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(4) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(5) For calendar years beginning on or after January 1, 2007, a credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 29. Section **59-7-104** is amended to read:

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

(1) Each domestic and foreign corporation, except [~~those exempted~~] a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on [~~its~~] the corporation's Utah taxable income for the taxable year for the privilege of exercising [~~its~~] the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~5%~~] 4.95% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

Section 30. Section **59-7-110** is amended to read:

59-7-110. Utah net loss -- Carryforward and carryback -- Deduction.

(1) [~~The amount of Utah net loss that shall be carried~~] A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry back or forward to offset income of another taxable year [~~is determined~~] as provided in this section.

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

[~~(b) (i)~~] (2) (a) Subject to the other provisions of this section, a taxpayer may:

(i) carry back a Utah net loss from a taxable year [~~beginning on or after January 1, 1994, may be carried back~~] for three taxable years preceding the taxable year of the loss; and [~~carried~~]

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(ii) carry forward a Utah net loss from a taxable year for 15 taxable years following the taxable year of the loss.

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

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss ~~[shall be carried]~~ to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that ~~[were applied or required to be applied]~~ a taxpayer applied or was required to apply to offset income, is not less than zero.

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

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

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that ~~[were carried or required to be carried]~~ a taxpayer carried or was required to carry to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss ~~[carried]~~ that a taxpayer carries back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A taxpayer may carry forward a Utah net loss in excess of \$1,000,000 ~~[may be carried forward]~~.

(iii) A taxpayer may carry a remaining Utah net loss ~~[shall be available to be carried]~~ to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

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

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated

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under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

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

(a) subject to Subsection (7):

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

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

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) if the unitary group elects or is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311[(2)(b)](4) in taxable year 2019 or taxable year 2020, multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by ~~two~~, for the taxable year 2019, four, or, for the taxable year 2020, eight; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311[(3)](2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state~~[-(i)]~~ for that taxable year~~[-, and (ii)]~~ in accordance with Section 59-7-311;

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

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- (d) calculating the sum of:
 - (i) the amount calculated under Subsection (6)(c); and
 - (ii) the following amounts allocable to the acquired corporation for the taxable year:
 - (A) nonbusiness income allocable to this state; or
 - (B) nonbusiness loss allocable to this state.

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

Section 31. Section **59-7-201** is amended to read:

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

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

(2) The tax imposed by Subsection (1) shall be [~~5%~~] 4.95% of a corporation's Utah taxable income.

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

Section 32. Section **59-7-302** is amended to read:

59-7-302. Definitions -- Determination of taxpayer status.

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

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

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

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

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

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(i) NAICS Code 211120, Crude Petroleum Extraction;

(ii) NAICS Industry Group 2121, Coal Mining;

(iii) NAICS Industry Group 2212, Natural Gas Distribution;

(iv) NAICS Subsector 311, Food Manufacturing;

(v) NAICS Industry Group 3121, Beverage Manufacturing;

(vi) NAICS Code 327310, Cement Manufacturing;

(vii) NAICS Subsector 482, Rail Transportation; or

(viii) NAICS Code 522110, Commercial Banking.

~~[(g)]~~ (h) (i) Except as provided in Subsection (1)~~[(g)]~~(h)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(27) owned by an air charter service or an air contract service.

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

~~[(i) Subject to Subsection (2), "optional sales factor weighted taxpayer" means:]~~

~~[(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or]~~

~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if]~~

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~~the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.]~~

(j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

(k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

(i) is not a sales factor weighted taxpayer;

(ii) does not meet the definition of an optional apportionment taxpayer; or

(iii) for a taxable year beginning on or after January 1, 2020:

(A) meets the definition of an optional apportionment taxpayer; and

(B) apportioned business income using the method described in Subsection

59-7-311(4) during the previous taxable year.

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

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

~~[(t)] (n) [Subject to Subsection (2), "sales] "Sales factor weighted taxpayer" means[:]~~ a taxpayer described in Subsection (2).

~~[(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:]~~

~~[(A) a NAICS code within NAICS Sector 21, Mining;]~~

~~[(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]~~

~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS Code 336111, Automobile Manufacturing;]~~

~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~

~~[(E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector 519, Other Information Services; or]~~

~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or]~~

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~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F).]~~

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

~~[(n)]~~ (p) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

~~[(o)]~~ (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

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

~~[(2) The following apply to Subsections (1)(i) and (1):]~~

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

(2) (a) A taxpayer is a sales factor weighted taxpayer if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except NAICS Code 336111, Automobile Manufacturing;

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

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or

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

~~[(ii)]~~ (b) A taxpayer shall [make the determination required by Subsection (2)(a)(i)] determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

~~[(iii)]~~ (c) For purposes of making the determination required by Subsection (2)(a)[(†)], total sales everywhere include only the total sales everywhere:

~~[(A)]~~ (i) as determined in accordance with this part; and

~~[(B)]~~ (ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)[(†)].

(3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.

(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (3)(b)(i); and

(iii) divide the sum calculated in Subsection (3)(b)(ii):

(A) except as provided in Subsection (3)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

~~[(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an optional sales factor weighted taxpayer.]~~

~~[(B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the apportionment options described in Subsection 59-7-311(4).]~~

~~[(ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make the determination before the due date for filing the taxpayer's return under this chapter for the~~

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~~taxable year, including extensions.]~~

~~[(iii) For purposes of making the determination described in Subsection (2)(b)(i), total sales everywhere include only the total sales everywhere:]~~

~~[(A) as determined in accordance with this part; and]~~

~~[(B) made during the taxable year for which a taxpayer makes a determination described in Subsection (2)(b)(i).]~~

~~[(c)] (4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.~~

~~[(d)] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.~~

Section 33. Section **59-7-311** is amended to read:

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

(1) For a taxable year, a taxpayer shall apportion all business income [~~shall be apportioned~~] to this state by multiplying the business income by a fraction calculated as provided in this section.

~~[(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor weighted taxpayer and an optional sales factor weighted taxpayer, shall calculate the fraction for apportioning business income to this state using one of the following fractions:]~~

~~[(a) a fraction where:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

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

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

~~[(ii) the denominator of the fraction is three; or]~~

~~[(b) a fraction where:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

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

~~[(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and]~~

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~~[(ii) the denominator of the fraction is four.]~~

~~[(3)]~~ (2) Subject to the other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:

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

(b) the denominator of the fraction is one.

~~[(4)]~~ (3) Subject to the other provisions of this part, an optional ~~[sales factor weighted]~~ apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using ~~[a method described in Subsection (2)(a), (2)(b), or (3).]~~ one of the following fractions:

(a) the fraction described in Subsection (4); or

(b) the fraction where:

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

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

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

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

(ii) the denominator of the fraction is three.

(4) (a) Subject to other provisions of this part, a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as provided in Subsections (4)(b) through (d).

(b) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019:

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

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

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

(C) the sales factor as calculated under Subsection (4)(e)(i); and

(ii) the denominator of the fraction is six.

(c) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020:

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

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

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

(C) the sales factor as calculated under Subsection (4)(e)(ii); and

(ii) the denominator of the fraction is 10.

(d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor weighted taxpayer shall calculate the fraction as described in Subsection (2).

(e) (i) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019, the sales factor shall be:

(A) calculated as described in Section 59-7-317; and

(B) multiplied by four.

(ii) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020, the sales factor shall be:

(A) calculated as described in Section 59-7-317; and

(B) multiplied by eight.

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

(b) The method described in Subsection (5)(a) is in effect for the taxable year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by [~~Subsections (2) and (4)] Subsection (3).~~

Section 34. Section **59-7-312** is amended to read:

59-7-312. Property factor for apportionment of business income -- Mobile flight equipment of an airline.

(1) Except as provided in [~~Subsection (2)] Subsections (2) and (3), the property factor is a fraction[;]:~~

(a) the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and

(b) the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) The average value of an airline's real and tangible personal property owned or

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rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~[determining the product of]~~ multiplying:

(a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and

(b) a fraction^[7]:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection (3)(b), the property factor is a fraction:

(i) the numerator of which is the value of the property in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the value of all property in this state.

(b) A taxpayer shall exclude property from the calculation of the property factor fraction described in Subsection (3)(a) if the property may be attributed to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

Section 35. Section **59-7-315** is amended to read:

59-7-315. Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.

(1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the payroll factor is a fraction^[7]:

(a) the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation^[7]; and

(b) the denominator of which is the total compensation paid everywhere during the tax period.

(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~[determining the product of]~~ multiplying:

(a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and

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(b) a fraction^[5]:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection (3)(b), the payroll factor is a fraction:

(i) the numerator of which is the amount of the payroll in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the total amount of the payroll in this state.

(b) A taxpayer engaged in economic activities that are classified in an excluded NAICS code shall exclude an individual's payroll from the calculation of the payroll factor fraction described in Subsection (3)(a) if the individual's payroll may be attributed:

(i) to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes; or

(ii) to providing management, information technology, finance, accounting, legal, or human resource services.

Section 36. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) [~~For taxable years beginning on or after January 1, 2008, a~~] A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

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

(b) [~~5%~~] 4.95%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 37. Section **59-10-104.1** is amended to read:

59-10-104.1. Exemption from taxation.

(1) For purposes of this section:

~~[(a) "Personal exemptions" means the total exemption amount an individual is allowed to claim for the taxable year under Section 151, Internal Revenue Code, for:]~~

~~[(i) the individual;]~~

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~~[(ii) the individual's spouse; and]~~

~~[(iii) the individual's dependents.]~~

~~[(b)]~~ (a) "Standard deduction" ~~[-(i)]~~ means the standard deduction an individual is allowed to claim for the taxable year under Section 63, Internal Revenue Code ~~[-and]~~.

~~[(ii) notwithstanding Subsection (1)(b)(i);]~~

(b) "Standard deduction" does not include an additional amount allowed under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse who is:

~~[(A)]~~ (i) blind; or

~~[(B)]~~ (ii) 65 years of age or older.

(2) ~~[For taxable years beginning on or after January 1, 2002, an]~~ An individual is exempt from a tax imposed by Section 59-10-104 or 59-10-116 if the individual's adjusted gross income on the individual's federal individual income tax return for the taxable year is less than or equal to ~~[the sum of]~~ the individual's ~~[-(a) personal exemptions for that taxable year; and (b)]~~ standard deduction for that taxable year.

Section 38. Section **59-10-136** is amended to read:

59-10-136. Domicile -- Temporary absence from state.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

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(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education

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described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; or

(xii) whether the individual is an individual described in Subsection (1)(b).

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor

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the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection

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(4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) (a) If an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection (5)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

(6) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Section 39. Section **59-10-1018** is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

~~[(a) "Dependent adult with a disability" means an individual who:]~~

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~~[(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;]~~

~~[(ii) is not the claimant or the claimant's spouse; and]~~

~~[(iii) is:]~~

~~[(A) 18 years of age or older;]~~

~~[(B) eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and]~~

~~[(C) not enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301.]~~

~~[(b) "Dependent child with a disability" means an individual 21 years of age or younger who:]~~

~~[(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;]~~

~~[(ii) is not the claimant or the claimant's spouse; and]~~

~~[(iii) is:]~~

~~[(A) an eligible student with a disability; or]~~

~~[(B) identified under guidelines of the Department of Health as qualified for Early Intervention or Infant Development Services.]~~

~~[(c) "Eligible student with a disability" means an individual who is:]~~

~~[(i) diagnosed by a school district representative under rules the State Board of Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as having a disability classified as autism, deafness, preschool developmental delay, dual sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment;]~~

~~[(ii) not receiving residential services from the Division of Services for People with Disabilities created under Section 62A-5-102 or a school established under Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind; and]~~

~~[(iii) (A) enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301; or]~~

~~[(B) a recipient of a scholarship awarded under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.]~~

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~~[(d)]~~ (a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~[(e)]~~ (b) "Joint filing status" means:

(i) ~~[a husband and wife]~~ spouses who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~[(f)]~~ (c) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(d) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) \$10,000.

(e) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part

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equal to ~~[the sum of]:~~

(a) ~~[(i)]~~ for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

~~[(ii)]~~ (b) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, ~~[the product of:]~~ 6% of the amount of the claimant's Utah itemized deduction.

~~[(A) the difference between:]~~

~~[(f) the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and]~~

~~[(H) any amount of state or local income taxes the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and]~~

~~[(B) 6%; and]~~

~~[(b) the product of:]~~

~~[(i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year, plus an additional 75% of the amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year with respect to each dependent adult with a disability or dependent child with a disability; and]~~

~~[(ii) 6%.]~~

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For ~~[taxable years]~~ a taxable year beginning on or after January 1, 2009, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar

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year and the consumer price index for calendar year 2007:

- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 40. Section **63I-2-211** is amended to read:

63I-2-211. Repeal dates -- Title 11.

(1) Subsections 11-13-302(2)(a)(i) and (2)(b)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(2) Section 11-13-310, the language that states "or 53F-2-301.5, as applicable," is repealed July 1, 2023.

~~[(1)]~~ (3) (a) On July 1, 2019, Subsection 11-13a-102(4)(b) is repealed.

(b) When repealing Subsection 11-13a-102(4)(b), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(2)]~~ (4) Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January 1, 2020.

Section 41. Section **63I-2-253** is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

~~[(1) Section 53A-1-403.5 is repealed July 1, 2017.]~~

~~[(2) Section 53A-1-411 is repealed July 1, 2017.]~~

~~[(3) Section 53A-1-415 is repealed July 1, 2019.]~~

~~[(4) Section 53A-1-709 is repealed July 1, 2020.]~~

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~~[(5) Subsection 53A-1-1207(3)(b)(ii)(B) is repealed July 1, 2020.]~~

~~[(6) Section 53A-1-1208 is repealed July 1, 2020.]~~

~~[(7) Subsection 53A-1a-513(4) is repealed July 1, 2017.]~~

~~[(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.]~~

~~[(9) Section 53A-24-601 is repealed January 1, 2018.]~~

~~[(10)] (1) Section 53A-24-602 is repealed July 1, 2018.~~

~~[(11)] (2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.~~

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(12) Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]~~

~~[(13)] (3) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.~~

~~[(14)] (4) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.~~

~~[(15)] (5) (a) The following sections are repealed on July 1, 2023:~~

~~(i) Section 53B-8-202;~~

~~(ii) Section 53B-8-203;~~

~~(iii) Section 53B-8-204; and~~

~~(iv) Section 53B-8-205.~~

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(16)] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.~~

(7) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

(8) Section 53E-5-307 is repealed July 1, 2020.

(9) Subsections 53F-2-205(4) and (5), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(10) Subsection 53F-2-301(1) is repealed July 1, 2023.

(11) Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable"

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is repealed July 1, 2023.

(12) Section 53F-4-204 is repealed July 1, 2019.

(13) Section 53F-6-202 is repealed July 1, 2020.

(14) Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(15) Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(16) Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(17) Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 42. Section **63I-2-259** is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.

(2) Subsection 59-2-1007(14) is repealed on December 31, 2018.

Section 43. Section **63J-1-220** is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

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- (A) local government entities;
- (B) private organizations, including not-for-profit organizations; or
- (C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

- (A) general funds, dedicated credits, or any combination of state funding sources; and
- (B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

- (a) the state agency enters into a written agreement with the recipient entity; and
- (b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Management and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

- (a) under a competitive award process;
- (b) in accordance with a formula enacted in statute;

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(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the Minimum School Program, as defined in Subsection 53A-17a-103[(7)](6)(e).

Section 44. **Repealer.**

This bill repeals:

Section **53F-2-602, Board local levy state guarantee.**

Section **53F-8-401, Capital outlay levy -- Authority to use proceeds of .0002 tax rate for maintenance of school facilities -- Restrictions and procedure -- Limited authority to use proceeds for general fund purposes -- Notification required when using proceeds for general fund purposes -- Authority for small school districts to use levy proceeds for operation and maintenance of plant services.**

Section **53F-8-404, Board-approved leeway -- Purpose -- State support -- Disapproval.**

Section **53F-8-405, Additional levy by local school board for debt service, school sites, buildings, buses, textbooks, and supplies.**

Section **53F-8-406, Board leeway for reading improvement.**

Section 45. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 45(a). Operating and capital budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Minimum School Program -- Basic School Program

From Education Fund (\$36,117,300)

From Local Revenue \$36,117,300

ITEM 2

To State Board of Education -- Minimum School Program -- Voted and

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Board Local Levy Programs

From Education Fund Restricted -- Local Levy Growth Account \$36,117,300

Schedule of Programs:

Voted Local Levy Program \$18,050,600

Board Local Levy Program \$18,066,700

ITEM 3

To State Board of Education -- Minimum School Program -- Basic School Program

From Education Fund (\$18,650,000)

From Local Revenue \$18,650,000

ITEM 4

To State Board of Education -- Minimum School Program - Related to Basic School

Program

From Education Fund (\$46,500,000)

From Education Fund Restricted -- Teacher and

Student Success Account, One-time \$65,150,000

Schedule of Programs:

Flexible Allocation - WPU Distribution \$18,650,000

Subsection 45(b). Restricted fund and account transfers.

The Legislature authorizes the Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 5

To Education Fund Restricted -- Local Levy Growth Account

From Education Fund \$36,117,300

Schedule of Programs:

Education Fund Restricted -- Local Levy

Growth Account \$36,117,300

ITEM 6

To Education Fund Restricted -- Teacher and Student Success Account

From Education Fund \$65,150,000

Schedule of Programs:

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Education Fund Restricted -- Teacher and

Student Success Account

\$65,150,000

Section 46. **Retrospective operation and effective date.**

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

(2) The amendments to Sections 59-7-110, 59-7-302, 59-7-311, 59-7-312, and 59-7-315 take effect for a taxable year beginning on or after January 1, 2019.

Section 47. **Coordinating H.B. 293 with H.B. 1 -- Substantive amendments.**

If this H.B. 293 and H.B. 1, Public Education Base Budget Amendments, both pass and become law, the Legislature intends that the amendments to Section 53F-2-301 in this bill supersede the amendments to Section 53F-2-301 in H.B. 1.

Section 48. **Coordinating H.B. 293 with S.B. 72 -- Substantive and technical amendments.**

If this H.B. 293 and S.B. 72, Business Income Tax Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) on May 8, 2018, by:

(a) amending Subsection 59-7-302(1)(g)(ii) in S.B. 72 to read:

"(ii) "Excluded NAICS code" does not include a NAICS code of the 2017 North American Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing;

(D) NAICS Code 336111, Automobile Manufacturing; or

(E) NAICS Subsector 519, Other Information Services.";

(b) removing Subsection 59-7-302(1)(l) in S.B. 72 and renumbering the remaining subsections accordingly;

(c) amending Subsection 59-7-302(1)(o) in S.B. 72 to read:

"(o) "Sales factor weighted taxpayer" means a taxpayer that:

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(i) performs economic activities that are classified only in included NAICS codes; or

(ii) does not meet the definition of optional apportionment taxpayer.";

(d) amending Subsection 59-7-302(2) in S.B. 72 to read:

"(2)(a) For the taxable year beginning on or after January 1, 2018, but beginning on or before December 31, 2018, a taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (2)(b) is greater than .50.

(b) To calculate the average described in Subsection (2)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (2)(b)(i); and

(iii) divide the sum calculated in Subsection (2)(b)(ii):

(A) except as provided in Subsection (2)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date, including extensions, for filing the taxpayer's return under this chapter for the taxable year.";

(e) amending Subsection 59-7-311(3) in S.B. 72 to read:

"(3) Subject to other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:

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

(b) the denominator of the fraction is one.";

(f) changing the reference, in Subsection 59-7-312(3)(a) of S.B. 72, from "Subsection 59-7-302(2)(c)(i)(A)" to "Subsection 59-7-302(2)(b)(i)(A)"; and

(g) changing the reference, in Subsection 59-7-315(3)(a) of S.B. 72, from "Subsection 59-7-302(2)(c)(i)(B)" to "Subsection 59-7-302(2)(b)(i)(B)"; and

(2) on January 1, 2019, the amendments to Sections 59-7-302, 59-7-311, 59-7-312, and 59-7-315 in H.B. ~~355~~293 supersede the amendments to Sections 59-7-302, 59-7-311, 59-7-312, and 59-7-315 in S.B. 72, except that Subsection 59-7-302(2)(a) shall read:

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"(2)(a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery

Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and

(D) NAICS Code 336111, Automobile Manufacturing;

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

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector

519, Other Information Services; or

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance."