

**TAX CREDITS FOR SPECIAL NEEDS**

**ADOPTIONS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Carlene M. Walker**

**This act modifies provisions of the Revenue and Taxation Code and the Utah Human Services Code relating to Child and Family Services. The act provides a tax credit to any taxpayer who adopts a child who has a special need. This act has retrospective operation for taxable years beginning on or after January 1, 2001.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**62A-4a-607**, as last amended by Chapters 39 and 208, Laws of Utah 2000

ENACTS:

**59-10-133**, Utah Code Annotated 1953

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

Section 1. Section **59-10-133** is enacted to read:

**59-10-133. Tax credits for special needs adoptions.**

(1) For purposes of this section, a "child who has a special need" means a child for whom permanent custody has been awarded to the Utah Division of Child and Family Services, who cannot or should not be returned to the home of the child's biological parents, and who meets at least one of the following conditions:

- (a) the child is five years of age or older;
- (b) the child is under the age of 18 with a physical, emotional, or mental disability; or
- (c) the child is a member of a sibling group placed together for adoption.

(2) For taxable years beginning on or after January 1, 2001, a taxpayer who adopts a child who has a special need may claim on the taxpayer's individual income tax return for the taxable year a nonrefundable credit of \$3,000 against taxes otherwise due under this chapter for:

28 (a) adoptions for which a court issues an order granting the adoption on or after January  
29 1, 2001;

30 (b) each consecutive taxable year for a three-year period beginning with the taxable year  
31 during which a court issues an order granting the adoption; and

32 (c) each child who has a special need whom the taxpayer adopts.

33 (3) If the amount of tax credit claimed by a taxpayer under this section exceeds the  
34 taxpayer's tax liability under this chapter for a taxable year, the amount of the credit exceeding the  
35 liability may be carried forward for a period that does not exceed the next five consecutive taxable  
36 years.

37 (4) Nothing in this section shall affect the right of any taxpayer who adopts a child who  
38 has a special need to receive financial aid for adoption expenses under Section 62A-4a-108.

39 Section 2. Section **62A-4a-607** is amended to read:

40 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive parents.**

41 (1) (a) The division and all child placing agencies licensed under this part shall promote  
42 adoption when that is a possible and appropriate alternative for a child. Specifically, in accordance  
43 with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its  
44 custody who have a final plan for termination of parental rights pursuant to Section 78-3a-312 or  
45 a primary permanency goal of adoption.

46 (b) Beginning May 1, 2000, the division may not place a child for adoption, either  
47 temporarily or permanently, with any individual or individuals who do not qualify for adoptive  
48 placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

49 (2) The division shall obtain or conduct research of prior adoptive families to determine  
50 what families may do to be successful with their adoptive children and shall make this research  
51 available to potential adoptive parents.

52 (3) (a) A child placing agency licensed under this part shall inform each potential adoptive  
53 parent with whom it is working that:

54 (i) children in the custody of the state are available for adoption;

55 (ii) Medicaid coverage for medical, dental, and mental health services may be available  
56 for these children;

57 (iii) tax benefits, including the tax credit provided for in Section 59-10-133, and financial  
58 assistance may be available to defray the costs of adopting these children;

59 (iv) training and ongoing support may be available to the adoptive parents of these  
60 children; and

61 (v) information about individual children may be obtained by contacting the division's  
62 offices or its Internet site as explained by the child placing agency.

63 (b) A child placing agency shall:

64 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and

65 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in  
66 accordance with Subsection (3)(d).

67 (c) As a condition of licensure, the child placing agency shall certify to the Office of  
68 Licensing at the time of license renewal that it has complied with the provisions of this section.

69 (d) Before July 1, 2000, the division shall:

70 (i) prepare a pamphlet that explains the information that is required by Subsection (3)(a);  
71 and

72 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child  
73 placing agencies.

74 (e) The division shall respond to any inquiry made as a result of the notice provided in  
75 Subsection (3)(a).

76 Section 3. **Retrospective operation.**

77 This act has retrospective operation for taxable years beginning on or after January 1, 2001.

**Legislative Review Note**  
**as of 1-24-01 12:11 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**