

**EDUCATION FUND CONFORMING  
AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ron Bigelow**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill modifies sections of the Utah Code to reflect changes necessary because of the creation of the Education Fund.

**Highlighted Provisions:**

This bill:

- ▶ modifies sections to ensure the appropriate deposits and transfers into, and appropriations and transfers from, the Education Fund; and
- ▶ adjusts the definitions in the State Appropriations and Tax Limitation Act to ensure that the exemption for public education expenditures is preserved.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-16-101**, as last amended by Chapter 166, Laws of Utah 2005

**59-7-532**, as renumbered and amended by Chapter 169, Laws of Utah 1993

**59-7-614**, as last amended by Chapter 223, Laws of Utah 2006

**59-7-614.1**, as enacted by Chapter 312, Laws of Utah 2003



- 28           **59-10-544**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 29           **59-10-1005**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 30           **59-10-1014**, as renumbered and amended by Chapter 223, Laws of Utah 2006
- 31           **59-10-1105**, as renumbered and amended by Chapter 223, Laws of Utah 2006
- 32           **63-38-9**, as last amended by Chapter 16, Laws of Utah 2003
- 33           **63-38c-103**, as last amended by Chapter 1, Laws of Utah 2005, First Special Session

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

36           Section 1. Section **53A-16-101** is amended to read:

37           **53A-16-101. Uniform School Fund -- Contents -- Interest and Dividends Account.**

38           (1) The Uniform School Fund established by Utah Constitution, Article X, Section 5,  
39 consists of:

40           (a) interest and dividends derived from the investment of monies in the permanent  
41 State School Fund established by Utah Constitution, Article X, Section 5;

42           (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed Property  
43 Act;

44           (c) revenue from the sale of forfeited property as provided by [~~Title 24, Chapter 1,~~  
45 ~~Utah Uniform Forfeiture Procedures Act~~] Sections 76-10-1107, 76-10-1108, and 76-10-1603.5;  
46 and

47           (d) all other constitutional or legislative allocations to the fund, including revenues  
48 received [~~under Utah Constitution, Article XIII, Section 5, from taxes on income or intangible~~  
49 ~~property, except for those income tax revenues appropriated to the state's higher education~~  
50 ~~system] by donation.~~

51           (2) (a) There is created within the Uniform School Fund a restricted account known as  
52 the Interest and Dividends Account.

53           (b) The Interest and Dividends Account consists of:

54           (i) interest and dividends derived from the investment of monies in the permanent State  
55 School Fund referred to in Subsection (1)(a); and

56           (ii) interest on account monies.

57           (3) (a) Upon appropriation by the Legislature, monies from the Interest and Dividends  
58 Account shall be used for the School LAND Trust Program as provided in Section

59 53A-16-101.5.

60 (b) The Legislature may appropriate any remaining balance for the support of the  
61 public education system.

62 Section 2. Section **59-7-532** is amended to read:

63 **59-7-532. Revenue received by commission -- Deposit with state treasurer --**  
64 **Distribution or crediting to Education Fund -- Refund claim payments.**

65 (1) All revenue collected or received by the commission under this chapter shall be  
66 deposited daily with the state treasurer. Such revenue, subject to the refund provisions of this  
67 section, shall be periodically distributed or credited to the [~~Uniform School~~] Education Fund.

68 (2) The commission shall from time to time certify to the state auditor the amount of  
69 any refund authorized by it, the amount of interest computed on it under the provisions of  
70 Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid,  
71 and such refund claims shall be paid in order out of the funds first accruing to the [~~Uniform~~  
72 ~~School~~] Education Fund from the provisions of this section.

73 Section 3. Section **59-7-614** is amended to read:

74 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**  
75 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**  
76 **authority -- Reimbursement of Education Fund.**

77 (1) As used in this section:

78 (a) "Active solar system":

79 (i) means a system of equipment capable of collecting and converting incident solar  
80 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy  
81 by a separate apparatus to storage or to the point of use; and

82 (ii) includes water heating, space heating or cooling, and electrical or mechanical  
83 energy generation.

84 (b) "Biomass system" means any system of apparatus and equipment capable of  
85 converting organic plant, wood, or waste products into electrical and thermal energy and  
86 transferring these forms of energy by a separate apparatus to the point of use or storage.

87 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,  
88 association, corporation, cooperative, or other entity under which business is conducted or  
89 transacted.

90 (d) "Commercial energy system" means any active solar, passive solar, wind,  
91 hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial  
92 enterprise.

93 (e) "Commercial enterprise" means a business entity whose purpose is to produce  
94 electrical, mechanical, or thermal energy for sale from a commercial energy system.

95 (f) (i) "Commercial unit" means any building or structure which a business entity uses  
96 to transact its business except as provided in Subsection (1)(f)(ii); and

97 (ii) (A) in the case of an active solar system used for agricultural water pumping or a  
98 wind system, each individual energy generating device shall be a commercial unit; and

99 (B) if an energy system is the building or structure which a business entity uses to  
100 transact its business, a commercial unit is the complete energy system itself.

101 (g) "Hydroenergy system" means a system of apparatus and equipment capable of  
102 intercepting and converting kinetic water energy into electrical or mechanical energy and  
103 transferring this form of energy by separate apparatus to the point of use or storage.

104 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
105 59-10-103 and an individual as defined in Section 59-10-103.

106 (i) "Passive solar system":

107 (i) means a direct thermal system which utilizes the structure of a building and its  
108 operable components to provide for collection, storage, and distribution of heating or cooling  
109 during the appropriate times of the year by utilizing the climate resources available at the site;  
110 and

111 (ii) includes those portions and components of a building that are expressly designed  
112 and required for the collection, storage, and distribution of solar energy.

113 (j) "Residential energy system" means any active solar, passive solar, wind, or  
114 hydroenergy system used to supply energy to or for any residential unit.

115 (k) "Residential unit" means any house, condominium, apartment, or similar dwelling  
116 unit which serves as a dwelling for a person, group of persons, or a family but does not include  
117 property subject to a fee under:

118 (i) Section 59-2-404;

119 (ii) Section 59-2-405;

120 (iii) Section 59-2-405.1;

121 (iv) Section 59-2-405.2; or

122 (v) Section 59-2-405.3.

123 (l) "Utah Geological Survey" means the Utah Geological Survey established in Section  
124 63-73-5.

125 (m) "Wind system" means a system of apparatus and equipment capable of intercepting  
126 and converting wind energy into mechanical or electrical energy and transferring these forms of  
127 energy by a separate apparatus to the point of use or storage.

128 (2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or  
129 before December 31, 2006, a business entity that purchases and completes or participates in the  
130 financing of a residential energy system to supply all or part of the energy required for a  
131 residential unit owned or used by the business entity and situated in Utah is entitled to a tax  
132 credit as provided in this Subsection (2)(a).

133 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a  
134 residential energy system installed with respect to each residential unit it owns or uses,  
135 including installation costs, against any tax due under this chapter for the taxable year in which  
136 the energy system is completed and placed in service.

137 (B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000  
138 per residential unit.

139 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system  
140 completed and placed in service on or after January 1, 2001, but on or before December 31,  
141 2006.

142 (iii) If a business entity sells a residential unit to an individual taxpayer prior to making  
143 a claim for the tax credit under this Subsection (2)(a), the business entity may:

144 (A) assign its right to this tax credit to the individual taxpayer; and

145 (B) if the business entity assigns its right to the tax credit to an individual taxpayer  
146 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the  
147 individual taxpayer had completed or participated in the costs of the residential energy system  
148 under Section 59-10-1014.

149 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or  
150 before December 31, 2006, a business entity that purchases or participates in the financing of a  
151 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

152 (A) the commercial energy system supplies all or part of the energy required by  
153 commercial units owned or used by the business entity; or

154 (B) the business entity sells all or part of the energy produced by the commercial  
155 energy system as a commercial enterprise.

156 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any  
157 commercial energy system installed, including installation costs, against any tax due under this  
158 chapter for the taxable year in which the commercial energy system is completed and placed in  
159 service.

160 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000  
161 per commercial unit.

162 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy  
163 system completed and placed in service on or after January 1, 2001, but on or before December  
164 31, 2006.

165 (iii) A business entity that leases a commercial energy system installed on a  
166 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can  
167 confirm that the lessor irrevocably elects not to claim the credit.

168 (iv) Only the principal recovery portion of the lease payments, which is the cost  
169 incurred by a business entity in acquiring a commercial energy system, excluding interest  
170 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

171 (v) A business entity that leases a commercial energy system is eligible to use the tax  
172 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation  
173 of the lease.

174 (c) (i) A tax credit under this section may be claimed for the taxable year in which the  
175 energy system is completed and placed in service.

176 (ii) Additional energy systems or parts of energy systems may be claimed for  
177 subsequent years.

178 (iii) If the amount of a tax credit under this section exceeds a business entity's tax  
179 liability under this chapter for a taxable year, the amount of the credit exceeding the liability  
180 may be carried over for a period which does not exceed the next four taxable years.

181 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax  
182 credits provided under the laws or rules and regulations of the United States.

183 (b) (i) The Utah Geological Survey may set standards for residential and commercial  
184 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of  
185 the systems to ensure that the systems eligible for the tax credit use the state's renewable and  
186 nonrenewable energy resources in an appropriate and economic manner.

187 (ii) A tax credit may not be taken under Subsection (2) until the Utah Geological  
188 Survey has certified that the energy system has been completely installed and is a viable system  
189 for saving or production of energy from renewable resources.

190 (c) The Utah Geological Survey and the commission are authorized to promulgate rules  
191 in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are  
192 necessary to implement this section.

193 (d) The [~~Uniform School~~] Education Fund shall be reimbursed by transfers from the  
194 General Fund for any credits taken under this section.

195 Section 4. Section **59-7-614.1** is amended to read:

196 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**  
197 **Procedures for refund -- Transfers from General Fund to Uniform School Fund --**  
198 **Rulemaking authority.**

199 (1) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a  
200 refundable tax credit:

201 (a) as provided in this section;

202 (b) against taxes otherwise due under this chapter; and

203 (c) in an amount equal to the amount of tax the taxpayer pays:

204 (i) on a purchase of a hand tool:

205 (A) if the purchase is made on or after July 1, 2004;

206 (B) if the hand tool is used or consumed primarily and directly in a farming operation  
207 in the state; and

208 (C) if the unit purchase price of the hand tool is more than \$250; and

209 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection  
210 (1)(c)(i).

211 (2) A taxpayer:

212 (a) shall retain the following to establish the amount of tax the resident or nonresident  
213 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in

214 Subsection (1)(c)(i):

215 (i) a receipt;

216 (ii) an invoice; or

217 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

218 (b) may not carry forward or carry back a tax credit under this section.

219 (3) (a) In accordance with any rules prescribed by the commission under Subsection  
220 (3)(b), the commission shall:

221 (i) make a refund to a taxpayer that claims a tax credit under this section if the amount  
222 of the tax credit exceeds the taxpayer's tax liability under this chapter; and

223 (ii) transfer at least annually from the General Fund into the [~~Uniform School~~  
224 Education Fund an amount equal to the amount of tax credit claimed under this section.

225 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
226 commission may make rules providing procedures for making:

227 (i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

228 (ii) transfers from the General Fund into the [~~Uniform School~~] Education Fund as  
229 required by Subsection (3)(a)(ii).

230 Section 5. Section **59-10-544** is amended to read:

231 **59-10-544. General powers and duties of the commission.**

232 (1) The commission shall administer and enforce the tax herein imposed for which  
233 purpose it may divide the state into districts in each of which a branch office of the commission  
234 may be maintained. A county may not be divided in forming a district.

235 (2) The commission may designate agents for the purpose of collecting income taxes  
236 and shall require from each of them an adequate bond.

237 (3) The commission, for the purpose of ascertaining the correctness of any return or for  
238 the purpose of making an estimate of taxable income of any person where information has been  
239 obtained, may examine or cause to have examined, by any agent or representative designated  
240 by it for that purpose, any books, papers, records, or memoranda bearing upon the matters  
241 required to be included in the return, and may require the attendance of the person rendering  
242 the return or any officer or employee of such person, or the attendance of any other person  
243 having knowledge in the premises, and may take testimony and require proof material for its  
244 information.



245 (4) All revenue collected or received by the commission under this chapter shall be  
246 deposited daily with the state treasurer. The balance of such revenue, subject to the provisions  
247 of Sections 59-10-529 and 59-10-531 (relating to refunds), shall be periodically distributed and  
248 credited to the [~~Uniform School~~] Education Fund. Refunds shall be made by the commission,  
249 and if not claimed within two years from the date of issuance shall revert to the state to be  
250 credited to the [~~Uniform School~~] Education Fund, and no further claims may be made upon the  
251 commission for the amounts of such refunds.

252 Section 6. Section **59-10-1005** is amended to read:

253 **59-10-1005. Tax credit for at-home parent.**

254 (1) As used in this section:

255 (a) "At-home parent" means a parent:

256 (i) who provides full-time care at the parent's residence for one or more of the parent's  
257 own qualifying children;

258 (ii) who claims the qualifying child as a dependent on the parent's individual income  
259 tax return for the taxable year for which the parent claims the credit; and

260 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for  
261 which the parent claims the credit:

262 (A) the total wages, tips, and other compensation listed on all of the parent's federal  
263 Forms W-2; and

264 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or  
265 Loss From Business.

266 (b) "Parent" means an individual who:

267 (i) is the biological mother or father of a qualifying child;

268 (ii) is the stepfather or stepmother of a qualifying child;

269 (iii) (A) legally adopts a qualifying child; or

270 (B) has a qualifying child placed in the individual's home:

271 (I) by a child placing agency as defined in Section 62A-4a-601; and

272 (II) for the purpose of legally adopting the child;

273 (iv) is a foster parent of a qualifying child; or

274 (v) is a legal guardian of a qualifying child.

275 (c) "Qualifying child" means a child who is no more than 12 months of age on the last

276 day of the taxable year for which the tax credit is claimed.

277 (2) For taxable years beginning on or after January 1, 2000, a claimant may claim on  
278 the claimant's individual income tax return a nonrefundable tax credit of \$100 for each  
279 qualifying child if:

280 (a) the claimant or another claimant filing a joint individual income tax return with the  
281 claimant is an at-home parent; and

282 (b) the adjusted gross income of all of the claimants filing the individual income tax  
283 return is less than or equal to \$50,000.

284 (3) A claimant may not carry forward or carry back a tax credit authorized by this  
285 section.

286 (4) It is the intent of the Legislature that for fiscal years beginning on or after fiscal  
287 year 2000-01, the Legislature appropriate from the General Fund a sufficient amount to replace  
288 [~~Uniform School~~] Education Fund revenues expended to provide for the tax credit under this  
289 section.

290 Section 7. Section **59-10-1014** is amended to read:

291 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**  
292 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**  
293 **authority -- Reimbursement of Education Fund.**

294 (1) As used in this part:

295 (a) "Active solar system":

296 (i) means a system of equipment capable of collecting and converting incident solar  
297 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy  
298 by a separate apparatus to storage or to the point of use; and

299 (ii) includes water heating, space heating or cooling, and electrical or mechanical  
300 energy generation.

301 (b) "Biomass system" means any system of apparatus and equipment capable of  
302 converting organic plant, wood, or waste products into electrical and thermal energy and  
303 transferring these forms of energy by a separate apparatus to the point of use or storage.

304 (c) "Business entity" means any entity under which business is conducted or transacted.

305 (d) "Commercial energy system" means any active solar, passive solar, wind,  
306 hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial

307 enterprise.

308 (e) "Commercial enterprise" means a business entity whose purpose is to produce  
309 electrical, mechanical, or thermal energy for sale from a commercial energy system.

310 (f) (i) "Commercial unit" means any building or structure which a business entity uses  
311 to transact its business, except as provided in Subsection (1)(f)(ii); and

312 (ii) (A) in the case of an active solar system used for agricultural water pumping or a  
313 wind system, each individual energy generating device shall be a commercial unit; and

314 (B) if an energy system is the building or structure which a business entity uses to  
315 transact its business, a commercial unit is the complete energy system itself.

316 (g) "Hydroenergy system" means a system of apparatus and equipment capable of  
317 intercepting and converting kinetic water energy into electrical or mechanical energy and  
318 transferring this form of energy by separate apparatus to the point of use or storage.

319 (h) "Passive solar system":

320 (i) means a direct thermal system which utilizes the structure of a building and its  
321 operable components to provide for collection, storage, and distribution of heating or cooling  
322 during the appropriate times of the year by utilizing the climate resources available at the site;  
323 and

324 (ii) includes those portions and components of a building that are expressly designed  
325 and required for the collection, storage, and distribution of solar energy.

326 (i) "Residential energy system" means any active solar, passive solar, wind, or  
327 hydroenergy system used to supply energy to or for any residential unit.

328 (j) "Residential unit" means any house, condominium, apartment, or similar dwelling  
329 unit which serves as a dwelling for a person, group of persons, or a family but does not include  
330 property subject to a fee under:

331 (i) Section 59-2-404;

332 (ii) Section 59-2-405;

333 (iii) Section 59-2-405.1;

334 (iv) Section 59-2-405.2; or

335 (v) Section 59-2-405.3.

336 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section  
337 63-73-5.

338 (1) "Wind system" means a system of apparatus and equipment capable of intercepting  
339 and converting wind energy into mechanical or electrical energy and transferring these forms of  
340 energy by a separate apparatus to the point of use or storage.

341 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before  
342 December 31, 2006, a claimant, estate, or trust may claim a nonrefundable tax credit as  
343 provided in this section if:

344 (a) a claimant, estate, or trust that is not a business entity purchases and completes or  
345 participates in the financing of a residential energy system to supply all or part of the energy for  
346 the claimant's, estate's, or trust's residential unit in the state; or

347 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to  
348 another claimant, estate, or trust that is not a business entity prior to making a claim for a tax  
349 credit under Subsection (6) or Section 59-7-614; and

350 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit  
351 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or  
352 Subsection 59-7-614(2)(a)(iii).

353 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the costs of the  
354 energy system, including installation costs, against any income tax liability of the claimant,  
355 estate, or trust under this chapter for the taxable year in which the residential energy system is  
356 completed and placed in service.

357 (b) The total amount of the tax credit under this section may not exceed \$2,000 per  
358 residential unit.

359 (c) The tax credit under this section is allowed for any residential energy system  
360 completed and placed in service on or after January 1, 2001, but on or before December 31,  
361 2006.

362 (4) (a) The tax credit provided for in this section shall be claimed in the return for the  
363 taxable year in which the energy system is completed and placed in service.

364 (b) Additional residential energy systems or parts of residential energy systems may be  
365 similarly claimed in returns for subsequent taxable years as long as the total amount claimed  
366 does not exceed \$2,000 per residential unit.

367 (c) If the amount of the tax credit under this section exceeds the income tax liability of  
368 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then

369 the amount not used may be carried over for a period which does not exceed the next four  
370 taxable years.

371 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential  
372 energy system installed on a residential unit is eligible for the residential energy tax credits if  
373 that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax  
374 credit.

375 (b) Only the principal recovery portion of the lease payments, which is the cost  
376 incurred by the claimant, estate, or trust in acquiring the residential energy system excluding  
377 interest charges and maintenance expenses, is eligible for the tax credits.

378 (c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits  
379 for a period that does not exceed seven years from the initiation of the lease.

380 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes  
381 or participates in the financing of a residential energy system to supply all or part of the energy  
382 required for a residential unit owned or used by the claimant, estate, or trust that is a business  
383 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this  
384 Subsection (6).

385 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or  
386 before December 31, 2006, a claimant, estate, or trust that is a business entity is entitled to a  
387 tax credit equal to 25% of the costs of a residential energy system installed with respect to each  
388 residential unit it owns or uses, including installation costs, against any tax due under this  
389 chapter for the taxable year in which the energy system is completed and placed in service.

390 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000  
391 per residential unit.

392 (iii) The tax credit under this Subsection (6) is allowed for any residential energy  
393 system completed and placed in service on or after January 1, 2001, but on or before December  
394 31, 2006.

395 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a  
396 claimant, estate, or trust that is not a business entity prior to making a claim for the tax credit  
397 under this Subsection (6), the claimant, estate, or trust that is a business entity may:

398 (i) assign its right to this tax credit to the claimant, estate, or trust that is not a business  
399 entity; and

400 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax  
401 credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the  
402 claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,  
403 estate, or trust that is not a business entity had completed or participated in the costs of the  
404 residential energy system under this section.

405 (7) (a) A claimant, estate, or trust that is a business entity that purchases or participates  
406 in the financing of a commercial energy system is entitled to a nonrefundable tax credit as  
407 provided in this Subsection (7) if:

408 (i) the commercial energy system supplies all or part of the energy required by  
409 commercial units owned or used by the claimant, estate, or trust that is a business entity; or

410 (ii) the claimant, estate, or trust that is a business entity sells all or part of the energy  
411 produced by the commercial energy system as a commercial enterprise.

412 (b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit equal  
413 to 10% of the costs of any commercial energy system installed, including installation costs,  
414 against any tax due under this chapter for the taxable year in which the commercial energy  
415 system is completed and placed in service.

416 (ii) The total amount of the tax credit under this Subsection (7) may not exceed  
417 \$50,000 per commercial unit.

418 (iii) The tax credit under this Subsection (7) is allowed for any commercial energy  
419 system completed and placed in service on or after January 1, 2001, but on or before December  
420 31, 2006.

421 (c) A claimant, estate, or trust that is a business entity that leases a commercial energy  
422 system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if  
423 the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax  
424 credit.

425 (d) Only the principal recovery portion of the lease payments, which is the cost  
426 incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial  
427 energy system, excluding interest charges and maintenance expenses, is eligible for the tax  
428 credit under this Subsection (7).

429 (e) A claimant, estate, or trust that is a business entity that leases a commercial energy  
430 system is eligible to use the tax credit under this Subsection (7) for a period that does not

431 exceed seven years from the initiation of the lease.

432 (8) (a) A tax credit under this section may be claimed for the taxable year in which the  
433 energy system is completed and placed in service.

434 (b) Additional energy systems or parts of energy systems may be claimed for  
435 subsequent years.

436 (c) If the amount of a tax credit under this section exceeds the tax liability of the  
437 claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount  
438 of the tax credit exceeding the tax liability may be carried over for a period which does not  
439 exceed the next four taxable years.

440 (9) The tax credits provided for under this section are in addition to any tax credits  
441 provided under the laws or rules and regulations of the United States.

442 (10) (a) The Utah Geological Survey may set standards for residential and commercial  
443 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of  
444 the systems to ensure that the systems eligible for the tax credit use the state's renewable and  
445 nonrenewable energy resources in an appropriate and economic manner.

446 (b) A tax credit may not be taken under this section until the Utah Geological Survey  
447 has certified that the energy system has been completely installed and is a viable system for  
448 saving or production of energy from renewable resources.

449 (11) The Utah Geological Survey and the commission are authorized to promulgate  
450 rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which  
451 are necessary to implement this section.

452 (12) The [~~Uniform School~~] Education Fund shall be reimbursed by transfers from the  
453 General Fund for any tax credits taken under this section.

454 Section 8. Section **59-10-1105** is amended to read:

455 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**  
456 **for refund -- Transfers from General Fund to Uniform School Fund -- Rulemaking**  
457 **authority.**

458 (1) For taxable years beginning on or after January 1, 2004, a claimant, estate, or trust  
459 may claim a refundable tax credit:

460 (a) as provided in this section;

461 (b) against taxes otherwise due under this chapter; and

462 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:  
463 (i) on a purchase of a hand tool:  
464 (A) if the purchase is made on or after July 1, 2004;  
465 (B) if the hand tool is used or consumed primarily and directly in a farming operation  
466 in the state; and  
467 (C) if the unit purchase price of the hand tool is more than \$250; and  
468 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection  
469 (1)(c)(i).

470 (2) A claimant, estate, or trust:  
471 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust  
472 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection  
473 (1)(c)(i):

474 (i) a receipt;  
475 (ii) an invoice; or  
476 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and  
477 (b) may not carry forward or carry back a tax credit under this section.

478 (3) (a) In accordance with any rules prescribed by the commission under Subsection  
479 (3)(b), the commission shall:

480 (i) make a refund to a claimant, estate, or trust that claims a tax credit under this  
481 section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability  
482 under this chapter; and

483 (ii) transfer at least annually from the General Fund into the [~~Uniform School~~]  
484 Education Fund an amount equal to the amount of tax credit claimed under this section.

485 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
486 commission may make rules providing procedures for making:

487 (i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or  
488 (ii) transfers from the General Fund into the [~~Uniform School~~] Education Fund as  
489 required by Subsection (3)(a)(ii).

490 Section 9. Section **63-38-9** is amended to read:

491 **63-38-9. Revenue types -- Disposition of funds collected or credited by a state**  
492 **agency.**



- 493 (1) (a) The revenues enumerated in this section are established as major revenue types.  
494 (b) The Division of Finance shall:  
495 (i) account for revenues in accordance with generally accepted accounting principles;  
496 and  
497 (ii) use the major revenue types in internal accounting.  
498 (c) Each agency shall:  
499 (i) use the major revenue types enumerated in this section to account for revenues;  
500 (ii) deposit revenues and other public funds received by them by following the  
501 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and  
502 (iii) expend revenues and public funds as required by this chapter.  
503 (2) The major revenue types are:  
504 (a) free revenue;  
505 (b) restricted revenue;  
506 (c) dedicated credits; and  
507 (d) fixed collections.  
508 (3) (a) Free revenue includes:  
509 (i) collections that are required by law to be deposited in the General Fund, the  
510 Education Fund, the Uniform School Fund, or the Transportation Fund;  
511 (ii) collections that are not otherwise designated by law;  
512 (iii) collections that are not externally restricted; and  
513 (iv) collections that are not included in an approved work program.  
514 (b) Each agency shall deposit its free revenues into the appropriate fund.  
515 (c) An agency may expend free revenues up to the amount specifically appropriated by  
516 the Legislature.  
517 (d) Any free revenue funds appropriated by the Legislature to an agency that remain  
518 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides  
519 by law that those funds are nonlapsing.  
520 (4) (a) Restricted revenues are collections deposited by law into a separate fund or  
521 subfund that are designated for a specific program or purpose.  
522 (b) Each agency shall deposit its restricted revenues into a restricted fund.  
523 (c) The Legislature may appropriate restricted revenues from a restricted fund for the

524 specific purpose or program designated by law.

525 (d) If the fund equity of a restricted fund is insufficient to provide the funds  
526 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation  
527 to a level that ensures that the fund equity is not less than zero.

528 (e) Any restricted revenue funds appropriated by the Legislature to an agency that  
529 remain unexpended at the end of the fiscal year lapse to the restricted fund unless the  
530 Legislature provides by law that those funds, or the program or line item financed by those  
531 funds, are nonlapsing.

532 (5) (a) Dedicated credits and federal revenues are collections by an agency that are  
533 deposited directly into an account for expenditure on a separate line item and program.

534 (b) An agency may expend dedicated credits for any purpose within the program or line  
535 item.

536 (c) (i) An agency may expend dedicated credits in excess of the amount appropriated as  
537 dedicated credits by the Legislature by following the procedures contained in this Subsection  
538 (5)(c).

539 (ii) The agency shall develop a new work program and the justification for the work  
540 program and submit it to the Division of Finance and the director of the Governor's Office of  
541 Planning and Budget. Except for monies deposited as dedicated credits in the Drug Stamp Tax  
542 Fund under Section 59-19-105 or line items covering tuition and federal vocational funds at  
543 institutions of higher learning, any expenditure of dedicated credits in excess of amounts  
544 appropriated as dedicated credits by the Legislature may not be used to permanently increase  
545 personnel within the agency unless approved by the Legislature.

546 (iii) The Division of Finance and the director of the Governor's Office of Planning and  
547 Budget shall review the program and submit their findings and recommendations to the  
548 governor.

549 (iv) The governor may authorize the agency to expend its excess dedicated credits by  
550 approving the submitted work program.

551 (v) The state's fiscal officer shall notify the Legislature by providing notice of the  
552 governor's action to the Office of Legislative Fiscal Analyst.

553 (d) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal  
554 year unless the Legislature has designated the entire program or line item that is partially or

555 fully funded from dedicated credits as nonlapsing.

556 (ii) The Division of Finance shall determine the appropriate fund into which the  
557 dedicated credits lapse.

558 (6) (a) Fixed collections are collections:

559 (i) fixed by law or by the appropriation act at a specific amount; and

560 (ii) required by law to be deposited into a separate line item and program.

561 (b) The Legislature may establish by law the maximum amount of fixed collections  
562 that an agency may expend.

563 (c) If an agency receives less than the maximum amount of expendable fixed  
564 collections established by law, the agency's authority to expend is limited to the amount of  
565 fixed collections that it receives.

566 (d) If an agency receives fixed collections greater than the maximum amount of  
567 expendable fixed collections established by law, those excess amounts lapse to the General  
568 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as designated  
569 by the director of the Division of Finance at the end of the fiscal year.

570 (7) (a) Unless otherwise specifically provided by law, when an agency has a program  
571 or line item that is funded by more than one major revenue type, the agency shall expend its  
572 dedicated credits and fixed collections first.

573 (b) Unless otherwise specifically provided by law, when programs or line items are  
574 funded by more than one major revenue type and include both free revenue and restricted  
575 revenue, an agency shall expend those sources based upon a proration of the amounts  
576 appropriated from each of those major revenue types.

577 Section 10. Section **63-38c-103** is amended to read:

578 **63-38c-103. Definitions.**

579 As used in this chapter:

580 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations  
581 from unrestricted General Fund sources and from non-Uniform School Fund income tax  
582 revenues as presented in the governor's executive budgets.

583 (b) "Appropriation" includes appropriations that are contingent upon available  
584 surpluses in the General Fund.

585 (c) "Appropriations" does not mean:

- 586 (i) debt service expenditures;
- 587 (ii) emergency expenditures;
- 588 (iii) expenditures from all other fund or subfund sources presented in the executive
- 589 budgets;
- 590 (iv) transfers or appropriations from the Education Fund to the Uniform School Fund;
- 591 [~~(iv)~~] (v) transfers into, or appropriations made to, the General Fund Budget Reserve
- 592 Account established in Section 63-38-2.5;
- 593 [~~(v)~~] (vi) transfers into, or appropriations made to, the Education Budget Reserve
- 594 Account established in Section 63-38-2.6;
- 595 [~~(vi)~~] (vii) monies appropriated to fund the total one-time project costs for the
- 596 construction of capital developments as defined in Section 63A-5-104;
- 597 [~~(vii)~~] (viii) appropriations made to the Centennial Highway Fund Restricted Account
- 598 created by Section 72-2-118; or
- 599 [~~(viii)~~] (ix) appropriations made to the Transportation Investment Fund of 2005 created
- 600 by Section 72-2-124.
- 601 (2) "Base year real per capita appropriations" means the result obtained for the state by
- 602 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:
- 603 (a) the state's July 1, 1983 population; and
- 604 (b) the fiscal year 1983 inflation index divided by 100.
- 605 (3) "Calendar year" means the time period beginning on January 1 of any given year
- 606 and ending on December 31 of the same year.
- 607 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
- 608 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special
- 609 Session.
- 610 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
- 611 ending on June 30 of the subsequent year.
- 612 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
- 613 capital and operations appropriations from General Fund and non-Uniform School Fund
- 614 income tax revenue sources, less debt monies.
- 615 (7) "Inflation index" means the change in the general price level of goods and services
- 616 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic

617 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

618 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
619 be, or could have been, spent in any given year under the limitations of this chapter.

620 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
621 spent or actual expenditures.

622 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two  
623 fiscal years previous to the fiscal year for which the maximum allowable inflation and  
624 population appropriations limit is being computed under this chapter.

625 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal  
626 years previous to the fiscal year for which the maximum allowable inflation and population  
627 appropriations limit is being computed under this chapter.

628 (11) "Population" means the number of residents of the state as of July 1 of each year  
629 as calculated by the Governor's Office of Planning and Budget according to the procedures and  
630 requirements of Section 63-38c-202.

631 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and  
632 other monetary exaction and interest connected with it that are recorded as unrestricted revenue  
633 of the General Fund and from non-Uniform School Fund income tax revenues, except as  
634 specifically exempted by this chapter.

635 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,  
636 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an  
637 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

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**Legislative Review Note**  
as of 1-17-07 11:55 AM

**Office of Legislative Research and General Counsel**

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**H.B. 323 - Education Fund Conforming Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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*1/25/2007, 4:53:31 PM, Lead Analyst: Ball, J.*

**Office of the Legislative Fiscal Analyst**