

**Senator Lyle W. Hillyard** proposes the following substitute bill:

**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



- 26 59-7-614, as last amended by Chapter 223, Laws of Utah 2006
- 27 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 63-38-2.6, as enacted by Chapter 88, Laws of Utah 2003
- 33 63-38-9, as last amended by Chapter 16, Laws of Utah 2003
- 34 63-38c-103, as last amended by Chapter 1, Laws of Utah 2005, First Special Session

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

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

38 **53A-16-101. Uniform School Fund -- Contents -- Interest and Dividends Account.**

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

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

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

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

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

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

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

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

57 (ii) interest on account monies.

58 (3) (a) Upon appropriation by the Legislature, monies from the Interest and Dividends  
59 Account shall be used for the School LAND Trust Program as provided in Section  
60 53A-16-101.5.

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

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

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

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

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

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

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

78 (1) As used in this section:

79 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

105 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
106 59-10-103 and an individual as defined in Section 59-10-103.

107 (i) "Passive solar system":

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

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

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

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

119 (i) Section 59-2-404;

120 (ii) Section 59-2-405;

121 (iii) Section 59-2-405.1;

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

123 (v) Section 59-2-405.3.

124 (l) "Utah Geological Survey" means the Utah Geological Survey established in Section  
125 63-73-5.

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

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

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

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

140 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system  
141 completed and placed in service on or after January 1, 2001, but on or before December 31,  
142 2006.

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

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

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

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

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

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

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

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

163 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy  
164 system completed and placed in service on or after January 1, 2001, but on or before December  
165 31, 2006.

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

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

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

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

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

179 (iii) If the amount of a tax credit under this section exceeds a business entity's tax  
180 liability under this chapter for a taxable year, the amount of the credit exceeding the liability

181 may be carried over for a period which does not exceed the next four taxable years.

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

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

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

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

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

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

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

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

202 (a) as provided in this section;

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

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

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

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

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

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

210 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

211 (1)(c)(i).

212 (2) A taxpayer:  
213 (a) shall retain the following to establish the amount of tax the resident or nonresident  
214 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in  
215 Subsection (1)(c)(i):  
216 (i) a receipt;  
217 (ii) an invoice; or  
218 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and  
219 (b) may not carry forward or carry back a tax credit under this section.  
220 (3) (a) In accordance with any rules prescribed by the commission under Subsection  
221 (3)(b), the commission shall:  
222 (i) make a refund to a taxpayer that claims a tax credit under this section if the amount  
223 of the tax credit exceeds the taxpayer's tax liability under this chapter; and  
224 (ii) transfer at least annually from the General Fund into the [~~Uniform School~~  
225 Education Fund an amount equal to the amount of tax credit claimed under this section.  
226 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
227 commission may make rules providing procedures for making:  
228 (i) a refund to a taxpayer as required by Subsection (3)(a)(i); or  
229 (ii) transfers from the General Fund into the [~~Uniform School~~] Education Fund as  
230 required by Subsection (3)(a)(ii).  
231 Section 5. Section **59-10-544** is amended to read:  
232 **59-10-544. General powers and duties of the commission.**  
233 (1) The commission shall administer and enforce the tax herein imposed for which  
234 purpose it may divide the state into districts in each of which a branch office of the commission  
235 may be maintained. A county may not be divided in forming a district.  
236 (2) The commission may designate agents for the purpose of collecting income taxes  
237 and shall require from each of them an adequate bond.  
238 (3) The commission, for the purpose of ascertaining the correctness of any return or for  
239 the purpose of making an estimate of taxable income of any person where information has been  
240 obtained, may examine or cause to have examined, by any agent or representative designated  
241 by it for that purpose, any books, papers, records, or memoranda bearing upon the matters  
242 required to be included in the return, and may require the attendance of the person rendering



243 the return or any officer or employee of such person, or the attendance of any other person  
244 having knowledge in the premises, and may take testimony and require proof material for its  
245 information.

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

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

254 **59-10-1005. Tax credit for at-home parent.**

255 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

276 (c) "Qualifying child" means a child who is no more than 12 months of age on the last  
277 day of the taxable year for which the tax credit is claimed.

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

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

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

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

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

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

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

295 (1) As used in this part:

296 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

320 (h) "Passive solar system":

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

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

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

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

332 (i) Section 59-2-404;

333 (ii) Section 59-2-405;

334 (iii) Section 59-2-405.1;

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

336 (v) Section 59-2-405.3.

337 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section  
338 63-73-5.

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

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

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

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

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

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

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

360 (c) The tax credit under this section is allowed for any residential energy system  
361 completed and placed in service on or after January 1, 2001, but on or before December 31,  
362 2006.

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

365 (b) Additional residential energy systems or parts of residential energy systems may be  
366 similarly claimed in returns for subsequent taxable years as long as the total amount claimed

367 does not exceed \$2,000 per residential unit.

368 (c) If the amount of the tax credit under this section exceeds the income tax liability of  
369 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then  
370 the amount not used may be carried over for a period which does not exceed the next four  
371 taxable years.

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

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

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

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

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

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

393 (iii) The tax credit under this Subsection (6) is allowed for any residential energy  
394 system completed and placed in service on or after January 1, 2001, but on or before December  
395 31, 2006.

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

398 under this Subsection (6), the claimant, estate, or trust that is a business entity may:

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

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

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

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

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

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

417 (ii) The total amount of the tax credit under this Subsection (7) may not exceed  
418 \$50,000 per commercial unit.

419 (iii) The tax credit under this Subsection (7) is allowed for any commercial energy  
420 system completed and placed in service on or after January 1, 2001, but on or before December  
421 31, 2006.

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

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

429 credit under this Subsection (7).

430 (e) A claimant, estate, or trust that is a business entity that leases a commercial energy  
431 system is eligible to use the tax credit under this Subsection (7) for a period that does not  
432 exceed seven years from the initiation of the lease.

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

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

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

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

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

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

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

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

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

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

459 (1) For taxable years beginning on or after January 1, 2004, a claimant, estate, or trust

460 may claim a refundable tax credit:

461 (a) as provided in this section;

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

463 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

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

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

466 (B) if the hand tool is used or consumed primarily and directly in a farming operation

467 in the state; and

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

469 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

470 (1)(c)(i).

471 (2) A claimant, estate, or trust:

472 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust

473 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

474 (1)(c)(i):

475 (i) a receipt;

476 (ii) an invoice; or

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

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

479 (3) (a) In accordance with any rules prescribed by the commission under Subsection

480 (3)(b), the commission shall:

481 (i) make a refund to a claimant, estate, or trust that claims a tax credit under this

482 section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability

483 under this chapter; and

484 (ii) transfer at least annually from the General Fund into the [~~Uniform School~~]

485 Education Fund an amount equal to the amount of tax credit claimed under this section.

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

488 (i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

489 (ii) transfers from the General Fund into the [~~Uniform School~~] Education Fund as

490 required by Subsection (3)(a)(ii).



491 Section 9. Section **63-38-2.6** is amended to read:

492 **63-38-2.6. Establishing an Education Budget Reserve Account -- Providing for**  
493 **deposits and expenditures from the account.**

494 (1) There is created within the [~~Uniform School~~] Education Fund a restricted account  
495 to be known as the Education Budget Reserve Account, which is designated to receive the  
496 surplus revenue required by this section.

497 (2) (a) (i) At the end of any fiscal year in which the Division of Finance, in conjunction  
498 with the completion of the annual audit by the state auditor, determines that there is a surplus in  
499 the Education Fund, the Uniform School Fund [~~surplus~~] or both, 25% of the cumulative surplus  
500 shall be transferred to the Education Budget Reserve Account, except that the amount in the  
501 combined totals of the Education Budget Reserve Account and the General Fund Budget  
502 Reserve Account created in Section 63-38-2.5 may not exceed 6% of the total [~~of the Uniform~~  
503 ~~School Fund appropriation amount and the General Fund appropriation amount~~] combined  
504 appropriations from the Education Fund and the General Fund for the fiscal year in which the  
505 surplus occurred.

506 (ii) In addition to Subsection (2)(a)(i), if a surplus exists and if, within the last ten  
507 years, the Legislature has appropriated any money from the Education Budget Reserve Account  
508 that has not been replaced by appropriation or as provided in this Subsection (2)(a)(ii), the  
509 Division of Finance shall, before any contingent appropriations or other transfers required by  
510 law are made, transfer up to 25% more of the surplus to the Education Budget Reserve Account  
511 to replace the amounts appropriated until transfers of the surplus under this Subsection  
512 (2)(a)(ii) have replaced the appropriations from the fund.

513 (b) The amount to be transferred to the Education Budget Reserve Account shall be  
514 determined before any other contingency appropriation using surplus funds.

515 (3) Any appropriation made by the Legislature from the Education Budget Reserve  
516 Account may only be used to cover operating deficits in the state's public and higher education  
517 system.

518 (4) All interest generated from investments of money in the Education Budget Reserve  
519 Account shall be deposited into the account.

520 Section 10. Section **63-38-9** is amended to read:

521 **63-38-9. Revenue types -- Disposition of funds collected or credited by a state**

522 agency.

523 (1) (a) The revenues enumerated in this section are established as major revenue types.

524 (b) The Division of Finance shall:

525 (i) account for revenues in accordance with generally accepted accounting principles;

526 and

527 (ii) use the major revenue types in internal accounting.

528 (c) Each agency shall:

529 (i) use the major revenue types enumerated in this section to account for revenues;

530 (ii) deposit revenues and other public funds received by them by following the  
531 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

532 (iii) expend revenues and public funds as required by this chapter.

533 (2) The major revenue types are:

534 (a) free revenue;

535 (b) restricted revenue;

536 (c) dedicated credits; and

537 (d) fixed collections.

538 (3) (a) Free revenue includes:

539 (i) collections that are required by law to be deposited in the General Fund, the  
540 Education Fund, the Uniform School Fund, or the Transportation Fund;

541 (ii) collections that are not otherwise designated by law;

542 (iii) collections that are not externally restricted; and

543 (iv) collections that are not included in an approved work program.

544 (b) Each agency shall deposit its free revenues into the appropriate fund.

545 (c) An agency may expend free revenues up to the amount specifically appropriated by  
546 the Legislature.

547 (d) Any free revenue funds appropriated by the Legislature to an agency that remain  
548 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides  
549 by law that those funds are nonlapsing.

550 (4) (a) Restricted revenues are collections deposited by law into a separate fund or  
551 subfund that are designated for a specific program or purpose.

552 (b) Each agency shall deposit its restricted revenues into a restricted fund.

553 (c) The Legislature may appropriate restricted revenues from a restricted fund for the  
554 specific purpose or program designated by law.

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

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

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

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

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

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

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

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

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

583 (d) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal

584 year unless the Legislature has designated the entire program or line item that is partially or  
585 fully funded from dedicated credits as nonlapsing.

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

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

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

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

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

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

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

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

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

607 Section 11. Section **63-38c-103** is amended to read:

608 **63-38c-103. Definitions.**

609 As used in this chapter:

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

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

- 615 (c) "Appropriations" does not mean:
- 616 (i) debt service expenditures;
- 617 (ii) emergency expenditures;
- 618 (iii) expenditures from all other fund or subfund sources presented in the executive
- 619 budgets;
- 620 (iv) transfers or appropriations from the Education Fund to the Uniform School Fund;
- 621 [~~(iv)~~] (v) transfers into, or appropriations made to, the General Fund Budget Reserve
- 622 Account established in Section 63-38-2.5;
- 623 [~~(v)~~] (vi) transfers into, or appropriations made to, the Education Budget Reserve
- 624 Account established in Section 63-38-2.6;
- 625 [~~(vi)~~] (vii) monies appropriated to fund the total one-time project costs for the
- 626 construction of capital developments as defined in Section 63A-5-104;
- 627 [~~(vii)~~] (viii) appropriations made to the Centennial Highway Fund Restricted Account
- 628 created by Section 72-2-118; or
- 629 [~~(viii)~~] (ix) appropriations made to the Transportation Investment Fund of 2005 created
- 630 by Section 72-2-124.
- 631 (2) "Base year real per capita appropriations" means the result obtained for the state by
- 632 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:
- 633 (a) the state's July 1, 1983 population; and
- 634 (b) the fiscal year 1983 inflation index divided by 100.
- 635 (3) "Calendar year" means the time period beginning on January 1 of any given year
- 636 and ending on December 31 of the same year.
- 637 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
- 638 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special
- 639 Session.
- 640 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
- 641 ending on June 30 of the subsequent year.
- 642 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
- 643 capital and operations appropriations from General Fund and non-Uniform School Fund
- 644 income tax revenue sources, less debt monies.
- 645 (7) "Inflation index" means the change in the general price level of goods and services

646 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
647 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

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

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

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

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

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

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

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

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**H.B. 323 2nd Sub. (Gray) - 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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