

1 **INDIVIDUAL INCOME TAX -**
2 **CONTRIBUTIONS FOR EDUCATION**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Sheryl L. Allen**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Individual Income Tax Act relating to individual income tax
10 contributions for education.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ repeals language designating certain individual income tax contributions to higher
14 education because the contributions failed to generate \$30,000 per year for three
15 consecutive taxable years and the State Tax Commission was required by statute to
16 remove the designation for the contribution from tax returns and not collect the
17 contribution from individuals;

18 ▶ repeals language designating certain individual income tax contributions to a
19 chapter of the Utah Public Education Foundation because the Utah Public Education
20 Foundation is no longer in existence;

21 ▶ authorizes an individual income tax contribution to be made to a school district if
22 the school district has not established a foundation;

23 ▶ provides that if a person making a contribution to a school district foundation does
24 not designate a particular school district foundation to receive the contribution, the
25 contribution shall be made to the Utah State Office of Education to be distributed to
26 one or more associations of foundations;

27 ▶ provides that if a person making a contribution to a school district does not



28 designate a particular school district to receive the contribution, the contribution shall be made
29 to the Utah State Office of Education; and

30 ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill has retrospective operation for taxable years beginning on or after January 1,
35 2005.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **59-10-549**, as last amended by Chapter 234, Laws of Utah 2004

39 **59-10-551**, as last amended by Chapter 162, Laws of Utah 2003



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

42 Section 1. Section **59-10-549** is amended to read:

43 **59-10-549. Contributions for education.**

44 (1) Except as provided in Section 59-10-551, a taxpayer that files a return pursuant to
45 Section 59-10-502 may designate on the return a contribution as provided in this section to:

46 ~~[(a) the State Board of Regents created by Section 53B-1-103 for:]~~

47 ~~[(i) libraries; or]~~

48 ~~[(ii) library equipment;]~~

49 ~~[(b) an institution of higher education created by Section 53B-2-101 for:]~~

50 ~~[(i) libraries; or]~~

51 ~~[(ii) library equipment;]~~

52 ~~[(c)]~~ (a) (i) the foundation of any school district if that foundation is exempt from
53 federal income taxation under Section 501(c)(3), Internal Revenue Code; or

54 (ii) a school district described in Title 53A, Chapter 2, School Districts, if the school
55 district has not established a foundation;

56 ~~[(d) a chapter of the Utah Public Education Foundation;]~~

57 ~~[(e)]~~ (b) a college campus of the Utah College of Applied Technology listed in Section
58 53B-2a-105; or

59 ~~[(f)]~~ (c) for taxable years beginning on or after January 1, 2004, but beginning on or
60 before December 31, 2006, the Uniform School Fund.

61 (2) (a) A taxpayer may designate as a contribution under this section any whole dollar
62 amount of \$1 or more.

63 (b) (i) If the taxpayer is owed an individual income tax refund for the taxable year, the
64 amount of a contribution under this section shall be deducted from the taxpayer's individual
65 income tax refund.

66 (ii) If the taxpayer is not owed an individual income tax refund for the taxable year, the
67 taxpayer may remit a contribution under this section with the taxpayer's individual income tax
68 return.

69 (c) If a taxpayer files a joint return, the contribution under this section shall be a joint
70 contribution.

71 (d) A contribution under this section is irrevocable during the taxable year for which
72 the taxpayer makes the contribution.

73 ~~[(3) If a taxpayer designates an amount as a contribution under Subsection (1)(b), but
74 does not designate a particular institution of higher education to receive the contribution, the
75 contribution shall be made to the State Board of Regents for the purposes described in
76 Subsection (1)(a):]~~

77 ~~[(4)]~~ (3) If a taxpayer designates an amount as a contribution under:

78 ~~(a) Subsection (1)~~~~[(e)]~~ (a) (i), but does not designate a particular school district
79 foundation to receive the contribution, the contribution shall be made to ~~[the Utah Public
80 Education Foundation:]~~ the Utah State Office of Education to be distributed to one or more
81 associations of foundations:

82 (i) if those foundations that are members of the association are established in
83 accordance with Section 53A-4-205; and

84 (ii) as determined by the Utah State Office of Education; or

85 (b) Subsection (1)(a)(ii), but does not designate a particular school district to receive
86 the contribution, the contribution shall be made to the Utah State Office of Education.

87 ~~[(5)]~~ (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
88 Act, the commission may make rules to implement this section.

89 ~~[(6)]~~ (5) The commission shall:

90 (a) determine annually the total amount of contributions designated in accordance with
91 this section; and

92 (b) report this amount to the state treasurer.

93 ~~[(7)]~~ (6) The state treasurer shall credit any contributions reported to the state treasurer
94 in accordance with Subsection ~~[(6)]~~ (5):

95 (a) subject to ~~[Subsections]~~ Subsection (3) ~~[and (4)]~~, if a taxpayer designates a
96 contribution to an entity listed in ~~[Subsections]~~ Subsection (1)(a) ~~[through (e)]~~ or (b) in
97 accordance with this section, to the entity that is designated by the taxpayer; or

98 (b) if a taxpayer designates a contribution to the Uniform School Fund under
99 Subsection (1)~~[(f)]~~(c) in accordance with this section, to the Uniform School Fund.

100 Section 2. Section **59-10-551** is amended to read:

101 **59-10-551. Removal of designation and prohibitions on collection for certain**
102 **contributions on income tax form -- Conditions for removal and prohibitions on**
103 **collection -- Commission reporting requirements.**

104 (1) (a) Beginning on January 1, 1998, if a contribution or combination of contributions
105 described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years,
106 the commission shall remove the designation for the contribution from the income tax return
107 and may not collect the contribution from a resident or nonresident individual beginning two
108 taxable years after the three-year period for which the contribution generates less than \$30,000
109 per year.

110 (b) The following contributions apply to Subsection (1)(a):

111 (i) the contribution provided for in Section 59-10-530;

112 (ii) the contribution provided for in Section 59-10-530.5;

113 ~~[(iii) the sum of the contributions provided for in:]~~

114 ~~[(A) Subsection 59-10-549(1)(a); and]~~

115 ~~[(B) Subsection 59-10-549(1)(b);]~~

116 ~~[(iv)]~~ (iii) the sum of the contributions provided for in ~~[(A)]~~ Subsection
117 59-10-549(1)~~[(c)]~~ (a); ~~[and]~~

118 ~~[(B) Subsection 59-10-549(1)(d);]~~

119 ~~[(v)]~~ (iv) the contribution provided for in Subsection 59-10-549(1)~~[(c)]~~(b);

120 ~~[(vi)]~~ (v) the contribution provided for in Section 59-10-550; or

121 [~~(vii)~~] (vi) the contribution provided for in Section 59-10-550.1.

122 (2) If the commission removes the designation for a contribution under Subsection (1),
123 the commission shall report to the Revenue and Taxation Interim Committee that the
124 commission removed the designation on or before the November interim meeting of the year in
125 which the commission determines to remove the designation.

126 Section 3. **Retrospective operation.**

127 This bill has retrospective operation for taxable years beginning on or after January 1,
128 2005.

Legislative Review Note
as of 12-7-04 8:41 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-08-04 11:44 AM

The Revenue and Taxation Interim Committee recommended this bill.