

**INDIVIDUAL INCOME TAX -
CONTRIBUTIONS FOR EDUCATION**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Sheryl L. Allen

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

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

- ▶ provides that if a person making a contribution to a school district does not designate a particular school district to receive the contribution, the contribution shall be made to the Utah State Office of Education; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

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

Utah Code Sections Affected:

AMENDS:

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

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

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

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

59-10-549. Contributions for education.

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

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

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

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

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

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

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

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

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

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

~~[(e)]~~ (b) a college campus of the Utah College of Applied Technology listed in Section

53B-2a-105; or

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

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

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

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

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

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

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

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

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

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

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

(b) Subsection (1)(a)(ii), but does not designate a particular school district to receive the

contribution, the contribution shall be made to the Utah State Office of Education.

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

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

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

(b) report this amount to the state treasurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Retrospective operation.

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