

Representative Patricia W. Jones proposes the following substitute bill:

INDIVIDUAL INCOME TAX AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Patricia W. Jones

Steven R. Mascaro

This act amends the Individual Income Tax Act to modify the state taxable income brackets and amounts of tax. The act modifies the personal exemption amount that a taxpayer is required to add to federal taxable income. The act repeals a subtraction for federal income tax made in calculating state individual income tax liability. The act allows certain taxpayers to claim a nonrefundable state earned income tax credit that is equal to a certain percentage of the federal earned income tax credit. The act makes technical changes. This act takes effect for taxable years beginning on or after January 1, 2004.

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

AMENDS:

59-10-104, as last amended by Chapters 323 and 324, Laws of Utah 2001

59-10-114, as last amended by Chapter 211, Laws of Utah 2002

ENACTS:

59-10-136, Utah Code Annotated 1953

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

Section 1. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Rates -- Exemption.

(1) Except as provided in Subsection (4), for taxable years beginning on or after January 1, ~~[2001]~~ 2004, a tax is imposed on the state taxable income, as defined in Section 59-10-112, of every resident individual as provided in this section.



(2) For an individual, other than a husband and wife or head of household required to use the tax table under Subsection (3), the tax under this section is imposed in accordance with the following table:

If the state taxable income is:	The tax is:
Less than or equal to \$[863] <u>1,640</u>	[2.3] <u>2.15%</u> of the state taxable income
Greater than \$[863] <u>1,640</u> but less than or equal to \$[1,726] <u>3,280</u>	\$[20] <u>35</u> , plus [3.3] <u>3.15%</u> of state taxable income greater than \$[863] <u>1,640</u>
Greater than \$[1,726] <u>3,280</u> but less than or equal to \$[2,588] <u>4,920</u>	\$[48] <u>87</u> , plus [4.2] <u>4.05%</u> of state taxable income greater than \$[1,726] <u>3,280</u>
Greater than \$[2,588] <u>4,920</u> but less than or equal to \$[3,450] <u>6,560</u>	\$[85] <u>153</u> , plus [5.2] <u>5.05%</u> of state taxable income greater than \$[2,588] <u>4,920</u>
Greater than \$[3,450] <u>6,560</u> but less than or equal to \$[4,313] <u>8,200</u>	\$[129] <u>236</u> , plus [6] <u>5.85%</u> of state taxable income greater than \$[3,450] <u>6,560</u>
Greater than \$[4,313] <u>8,200</u>	\$[181] <u>332</u> , plus [7] <u>6.85%</u> of state taxable income greater than \$[4,313] <u>8,200</u>

(3) For a husband and wife filing a single return jointly, or a head of household as defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed in accordance with the following table:

If the state taxable income is:	The tax is:
Less than or equal to \$[1,726] <u>3,280</u>	[2.3] <u>2.15%</u> of the state taxable income
Greater than \$[1,726] <u>3,280</u> but less than or equal to \$[3,450] <u>6,560</u>	\$[40] <u>71</u> , plus [3.3] <u>3.15%</u> of state taxable income greater than \$[1,726] <u>3,280</u>
Greater than \$[3,450] <u>6,560</u> but less than or equal to \$[5,176] <u>9,840</u>	\$[97] <u>174</u> , plus [4.2] <u>4.05%</u> of state taxable income greater than \$[3,450] <u>6,560</u>
Greater than \$[5,176] <u>9,840</u> but less than or equal to \$[6,900] <u>13,120</u>	\$[169] <u>307</u> , plus [5.2] <u>5.05%</u> of state taxable income greater than \$[5,176] <u>9,840</u>
Greater than \$[6,900] <u>13,120</u> but less than or equal to \$[8,626] <u>16,400</u>	\$[259] <u>472</u> , plus [6] <u>5.85%</u> of state taxable income greater than \$[6,900] <u>13,120</u>
Greater than \$[8,626] <u>16,400</u>	\$[362] <u>664</u> , plus [7] <u>6.85%</u> of state taxable income greater than \$[8,626] <u>16,400</u>

(4) This section does not apply to a resident individual exempt from taxation under

Section 59-10-104.1.

Section 2. Section **59-10-114** is amended to read:

59-10-114. Additions to and subtractions from federal taxable income of an individual.

(1) There shall be added to federal taxable income of a resident or nonresident individual:

(a) the amount of any income tax imposed by this or any predecessor Utah individual income tax law and the amount of any income tax imposed by the laws of another state, the District of Columbia, or a possession of the United States, to the extent deducted from federal adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal taxable income;

(b) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(c) for taxable years beginning on or after January 1, 2002, the amount of a child's income calculated under Subsection (5) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(d) ~~[25% of the]~~ for taxable years beginning on or after January 1, 2004, the personal [exemptions, as defined and] exemption amounts calculated [in the Internal Revenue Code] under Subsection (7);

(e) a withdrawal from a medical care savings account and any penalty imposed in the taxable year if:

(i) the taxpayer did not deduct or include the amounts on ~~[his]~~ the taxpayer's federal individual income tax return pursuant to Section 220, Internal Revenue Code; and

(ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);

(f) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education Savings Incentive Program, in the year in which the amount is refunded; and

(g) except as provided in Subsection (6), for taxable years beginning on or after January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after

January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

- (i) a state other than this state;
- (ii) the District of Columbia;
- (iii) a political subdivision of a state other than this state; or
- (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through (iii).

(2) There shall be subtracted from federal taxable income of a resident or nonresident individual:

(a) the interest or dividends on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

~~[(b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income tax paid or payable to the United States after all allowable credits, as reported on the United States individual income tax return of the taxpayer for the same taxable year; and]~~

~~[(ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or nonresident individual's United States individual income tax return allowed as a result of the acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101, Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be used in calculating the amount described in Subsection (2)(b)(i);]~~

~~[(c)]~~ (b) the amount of adoption expenses which, for purposes of this Subsection (2)~~[(c)]~~ (b), means any actual medical and hospital expenses of the mother of the adopted child which are incident to the child's birth and any welfare agency, child placement service, legal, and other fees or costs relating to the adoption;

119 ~~[(d)]~~ (c) amounts received by taxpayers under age 65 as retirement income which, for
120 purposes of this section, means pensions and annuities, paid from an annuity contract
121 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),
122 Internal Revenue Code, or purchased by an employee under a plan which meets the
123 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or
124 political subdivision thereof, or the District of Columbia, to the employee involved or the
125 surviving spouse;

126 ~~[(e)]~~ (d) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500
127 personal retirement exemption;

128 ~~[(f)]~~ (e) 75% of the amount of the personal exemption, as defined and calculated in the
129 Internal Revenue Code, for each dependent child with a disability and adult with a disability
130 who is claimed as a dependent on a taxpayer's return;

131 ~~[(g)]~~ (f) any amount included in federal taxable income that was received pursuant to
132 any federal law enacted in 1988 to provide reparation payments, as damages for human
133 suffering, to United States citizens and resident aliens of Japanese ancestry who were interned
134 during World War II;

135 ~~[(h)]~~ (g) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during
136 the taxable year for health care insurance, as defined in Title 31A, Chapter 1, General
137 Provisions:

138 (i) for:

139 (A) the taxpayer;

140 (B) the taxpayer's spouse; and

141 (C) the taxpayer's dependents; and

142 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or
143 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

144 ~~[(i)]~~ (h) (i) except as otherwise provided in this Subsection (2)~~[(i)]~~ (h), the amount of a
145 contribution made during the taxable year on behalf of the taxpayer to a medical care savings
146 account and interest earned on a contribution to a medical care savings account established
147 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the
148 contribution is accepted by the account administrator as provided in the Medical Care Savings
149 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal

individual income tax return pursuant to Section 220, Internal Revenue Code; and

(ii) a contribution deductible under this Subsection (2)(~~(f)~~) (h) may not exceed either of the following:

(A) the maximum contribution allowed under the Medical Care Savings Account Act for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other spouse, and each spouse has a medical care savings account; or

(B) the maximum contribution allowed under the Medical Care Savings Account Act for the tax year for taxpayers:

(I) who do not file a joint return; or

(II) who file a joint return, but do not qualify under Subsection (2)(~~(f)~~) (h)(i)(A); ~~and~~

~~(f)~~ (i) the amount included in federal taxable income that was derived from money paid by the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings Incentive Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d), and investment income earned on participation agreements under Subsection 53B-8a-106(1) that is included in federal taxable income, but only when the funds are used for qualified higher education costs of the beneficiary;

~~(k)~~ (j) for taxable years beginning on or after January 1, 2000, any amounts paid for premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the amounts paid for long-term care insurance were not deducted under Section 213, Internal Revenue Code, in determining federal taxable income; and

~~(f)~~ (k) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation.

(3) (a) For purposes of Subsection (2)(~~(d)~~) (c), the amount of retirement income subtracted for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or \$4,800, except that:

(i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned over \$32,000, the amount of the retirement income exemption that may be subtracted

181 shall be reduced by 50 cents;

182 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
183 earned over \$16,000, the amount of the retirement income exemption that may be subtracted
184 shall be reduced by 50 cents; and

185 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
186 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
187 reduced by 50 cents.

188 (b) For purposes of Subsection (2)~~(c)~~ (d), the amount of the personal retirement
189 exemption shall be further reduced according to the following schedule:

190 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income
191 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50
192 cents;

193 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
194 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
195 cents; and

196 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
197 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

198 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be
199 calculated by adding to federal adjusted gross income any interest income not otherwise
200 included in federal adjusted gross income.

201 (d) For purposes of determining ownership of items of retirement income common law
202 doctrine will be applied in all cases even though some items may have originated from service
203 or investments in a community property state. Amounts received by the spouse of a living
204 retiree because of the retiree's having been employed in a community property state are not
205 deductible as retirement income of such spouse.

206 (e) For purposes of Subsection (2)~~(f)~~ (g), a subtraction for an amount paid for health
207 care insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

208 (i) for an amount that is reimbursed or funded in whole or in part by the federal
209 government, the state, or an agency or instrumentality of the federal government or the state;
210 and

211 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded

in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

(4) (a) A subtraction for an amount described in Subsection (2)(~~†~~) (k) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).

(b) The agreement described in Subsection (4)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(~~†~~) (k); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(~~†~~) (k);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(~~†~~) (k) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(~~†~~) (k) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how federal adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(5) (a) For purposes of this Subsection (5), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(c) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be added to federal taxable income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose

a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

(7) (a) For purposes of Subsection (1)(d) and this Subsection (7):

(i) "disabled person" means:

(A) a dependent child with a disability; or

(B) an adult with a disability;

(ii) "personal exemption amount for persons who are not disabled" means the dollar amount a resident or nonresident individual is allowed for each personal exemption the resident or nonresident individual claimed:

(A) on a resident or nonresident federal individual income tax return;

(B) for a taxable year;

(C) under Section 151, Internal Revenue Code; and

(D) for:

(I) the individual if the individual is not a disabled person;

(II) the individual's spouse if the individual's spouse is not a disabled person; and

(III) a dependent of the individual if the dependent is not a disabled person;

(iii) "personal exemption amount for disabled persons" means the dollar amount a resident or nonresident individual is allowed for each personal exemption the resident or nonresident individual claimed:

(A) on a resident or nonresident federal individual income tax return;

(B) for a taxable year;

(C) under Section 151, Internal Revenue Code; and

(D) for:

(I) the individual if the individual is a disabled person;

(II) the individual's spouse if the individual's spouse is a disabled person; and

(III) a dependent of the individual if the dependent is a disabled person; and

(iv) "personal exemptions claimed" means the total number of personal exemptions a resident or nonresident individual claimed:

(A) on a resident or nonresident federal individual income tax return;

(B) for a taxable year;

(C) under Section 151, Internal Revenue Code; and

(D) for:

(I) the individual;

(II) the individual's spouse; and

(III) the individual's dependents.

(b) For purposes of Subsection (1)(d), a resident or nonresident individual shall add the following amounts to the resident or nonresident individual's federal taxable income for a taxable year:

(i) if the personal exemptions claimed by the resident or nonresident individual for the taxable year are two or fewer:

(A) 25% of the sum of the personal exemption amounts for disabled persons for that taxable year; and

(B) 25% of the sum of the personal exemption amounts for persons who are not disabled for that taxable year; or

(ii) if the personal exemptions claimed by the resident or nonresident individual for the taxable year are three or more:

(A) 25% of the sum of the personal exemption amounts for disabled persons; and

(B) for any personal exemptions claimed by the resident or nonresident individual that remain after making the addition required by Subsection (7)(b)(ii)(A):

(I) for the first two personal exemptions that remain after making the addition required by Subsection (7)(b)(ii)(A), 25% of the sum of the personal exemption amounts for persons who are not disabled for that taxable year; and

(II) for any personal exemptions exceeding the first two personal exemptions that remain after making the addition required by Subsection (7)(b)(ii)(A), 100% of the sum of the personal exemption amounts for persons who are not disabled for that taxable year.

Section 3. Section **59-10-136** is enacted to read:

59-10-136. Nonrefundable earned income tax credit.

(1) (a) Subject to Subsection (1)(b), for taxable years beginning on or after January 1, 2004, a taxpayer may claim as provided in this section a nonrefundable earned income tax

336 credit equal to 5% of the amount the taxpayer is allowed as a federal earned income tax credit
337 in accordance with Section 32, Internal Revenue Code, for the taxable year.

338 (b) Notwithstanding Subsection (1)(a), a taxpayer may not claim an earned income tax
339 credit under this section if the taxpayer's adjusted gross income, as defined in Section 62,

340 Internal Revenue Code, is greater than:

341 (i) \$12,500 for a taxpayer other than a:

342 (A) husband and wife filing a single return jointly; or

343 (B) head of household; or

344 (ii) \$25,000 for a:

345 (A) husband and wife filing a single return jointly; or

346 (B) head of household.

347 (2) A taxpayer may not carry forward or carry back any earned income tax credit

348 allowed under this section.

349 **Section 4. Effective date.**

350 This act takes effect for taxable years beginning on or after January 1, 2004.