

EARNED INCOME TAX CREDIT

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Jackie Biskupski

LONG TITLE

General Description:

This bill amends the Individual Income Tax Act.

Highlighted Provisions:

This bill:

- ▶ provides for a refundable state earned income tax credit that is a certain percentage of the federal earned income tax credit;
- ▶ requires the State Tax Commission to increase or decrease for inflation or deflation federal adjusted gross income amounts used in determining the tax credit; and
- ▶ grants rulemaking authority to the State Tax Commission to provide procedures for issuing refunds under certain circumstances to a resident or nonresident individual claiming the tax credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

59-10-136, Utah Code Annotated 1953

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

Section 1. Section **59-10-136** is enacted to read:



28 **59-10-136. H DEFINITIONS -- h State earned income tax credit.**

29 (1) As used in this section:

30 (a) "federal adjusted gross income" is as defined in Section 62, Internal Revenue Code;

31 **H [and] h**

32 (b) "federal earned income tax credit" means the amount of the federal earned income
 33 tax credit an individual is allowed for the taxable year in accordance with Section 32, Internal
 34 Revenue Code **H [;] ; AND**

34a **(c) NOTWITHSTANDING SECTION 59-10-103, "NONRESIDENT INDIVIDUAL" MEANS AN**
 34b **INDIVIDUAL WHO:**

34c **(i) IS NOT A RESIDENT OF THIS STATE; AND**

34d **(ii) HAS FEDERAL ADJUSTED GROSS INCOME DERIVED FROM UTAH SOURCES AS**
 34e **CALCULATED UNDER SECTION 59-10-117. h**

35 (2) **H [For] SUBJECT TO SUBSECTION (4), FOR h taxable years beginning on or after**
 35a January 1, 2005, a resident or nonresident
 36 individual may claim as provided in this section a refundable earned income tax credit as
 37 follows:

38 (a) the tax credit is equal to 10% of the federal earned income tax credit if:

39 (i) the federal adjusted gross income of the following is less than or equal to \$5,000:

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

41 (B) a head of household; or

42 (ii) the federal adjusted gross income of a resident or nonresident individual other than
 43 the following is less than or equal to \$2,500:

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

45 (B) a head of household;

46 (b) the tax credit is equal to 7% of the federal earned income tax credit if:

47 (i) the federal adjusted gross income of the following is greater than \$5,000 but less
 48 than or equal to \$15,000:

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

50 (B) a head of household; or

51 (ii) the federal adjusted gross income of a resident or nonresident individual other than
 52 the following is greater than \$2,500 but less than or equal to \$7,500:

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

54 (B) a head of household; or

55 (c) the tax credit is equal to 4% of the federal earned income tax credit if:

56 (i) the federal adjusted gross income of the following is greater than \$15,000 but less
 57 than or equal to \$25,000:

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

59 (B) a head of household; or
 60 (ii) the federal adjusted gross income of a resident or nonresident individual other than
 61 the following is greater than \$7,500 but less than or equal to \$12,500:

62 (A) a husband and wife filing a single tax return jointly; or
 63 (B) a head of household.

64 (3) (a) For taxable years beginning on or after January 1, 2006, the commission shall
 65 increase or decrease the federal adjusted gross income amounts provided for in Subsection (2)
 66 by a percentage equal to the percentage difference between the consumer price index for the
 67 preceding calendar year and the consumer price index for calendar year 2004.

68 (b) For purposes of Subsection (3)(a), the commission shall calculate the consumer
 69 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

69a **Ĥ (4) THE TAX CREDIT FOR A NONRESIDENT INDIVIDUAL IS LIMITED TO AN AMOUNT**
 69b **EQUAL TO THE PRODUCT OF:**

69c **(a) THE TAX CREDIT CALCULATED UNDER SUBSECTION (2); AND**

69d **(b) A PERCENTAGE CALCULATED BY DIVIDING THE NONRESIDENT INDIVIDUAL'S FEDERAL**
 69e **ADJUSTED GROSS INCOME DERIVED FROM UTAH SOURCES FOR THE TAXABLE YEAR, AS**
 69f **CALCULATED UNDER SECTION 59-10-117, BY THE NONRESIDENT INDIVIDUAL'S TOTAL FEDERAL**
 69g **ADJUSTED GROSS INCOME FOR THAT SAME TAXABLE YEAR. ĥ**

70 **Ĥ [~~(4)~~] (5) ĥ** A resident or nonresident individual may not claim a tax credit under this
 70a section if
 71 the resident or nonresident individual's federal adjusted gross income is greater than the
 72 greatest amount of federal adjusted gross income for which a tax credit is allowed under
 73 Subsection (2)(c).

74 **Ĥ [~~(5)] (6) ĥ~~** A resident or nonresident individual may not carry forward or carry back the tax
 75 credit provided for under this section.

76 **Ĥ [~~(6)] (7) ĥ~~** In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 76a the
 77 commission may make rules providing procedures for issuing a refund to a resident or
 78 nonresident individual for the tax credit provided for under this section if the tax credit exceeds
 79 the resident or nonresident individual's tax liability under this chapter for the taxable year for
 80 which the resident or nonresident individual claims the tax credit.

Legislative Review Note
 as of 2-5-04 6:26 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could reduce the Uniform School Fund by \$13,500,000 in FY 2006. The Tax Commission would require an appropriation of \$35,700 to implement the provisions of the bill.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
Uniform School Fund	\$0	\$35,700	\$0	(\$13,500,000)
TOTAL	\$0	\$35,700	\$0	(\$13,500,000)

Individual and Business Impact

Eligible individuals would receive an earned income tax credit of up to ten percent of the federal credit.

Office of the Legislative Fiscal Analyst