

**Representative Patricia W. Jones** proposes the following substitute bill:

**INDIVIDUAL INCOME TAX AMENDMENTS**

**FOR EDUCATION FUNDING**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Patricia W. Jones**

Steven R. Mascaro

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**LONG TITLE**

**General Description:**

This bill modifies the Individual Income Tax Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies the state taxable income brackets and amounts of tax;
- ▶ requires the Utah State Tax Commission to adjust the state taxable income brackets and amounts of tax for inflation or deflation and to make certain other adjustments to the state taxable income brackets and amounts of tax;
- ▶ modifies the personal exemption amount that a resident or nonresident individual is required to add to federal taxable income;
- ▶ modifies a subtraction from federal taxable income for federal income tax paid that is made in calculating state individual income tax liability;
- ▶ provides for a nonrefundable state earned income tax credit that is equal to a certain percentage of the federal earned income tax credit; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

\*HB0045S1\*

26 **Other Special Clauses:**

27 The bill takes effect for taxable years beginning on or after January 1, 2005.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-10-104**, as last amended by Chapters 323 and 324, Laws of Utah 200131 **59-10-114**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session32 **59-10-201**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session33 **59-10-205**, as last amended by Chapter 345, Laws of Utah 1995

34 ENACTS:

35 **59-10-136**, Utah Code Annotated 1953

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37 *Be it enacted by the Legislature of the state of Utah:*38 Section 1. Section **59-10-104** is amended to read:39 **59-10-104. Tax basis -- Rates -- Exemption.**

40 (1) Except as provided in Subsection (4), for taxable years beginning on or after  
 41 January 1, ~~[2001]~~ 2005, a tax is imposed on the state taxable income, as defined in Section  
 42 59-10-112, of every resident individual as provided in this section.

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

46 If the state taxable income is:	The tax is:
47 Less than or equal to <del>[\$863]</del> <u>\$1,640</u>	2.3% of the state taxable income
48 Greater than <del>[\$863]</del> <u>\$1,640</u> but less than	<del>[\$20]</del> <u>\$38</u> , plus 3.3% of state taxable
49 or equal to <del>[\$1,726]</del> <u>\$3,280</u>	income greater than <del>[\$863]</del> <u>\$1,640</u>
50 Greater than <del>[\$1,726]</del> <u>\$3,280</u> but less than	<del>[\$48]</del> <u>\$92</u> , plus 4.2% of state taxable
51 or equal to <del>[\$2,588]</del> <u>\$4,920</u>	income greater than <del>[\$1,726]</del> <u>\$3,280</u>
52 Greater than <del>[\$2,588]</del> <u>\$4,920</u> but less than	<del>[\$85]</del> <u>\$161</u> , plus 5.2% of state taxable
53 or equal to <del>[\$3,450]</del> <u>\$6,560</u>	income greater than <del>[\$2,588]</del> <u>\$4,920</u>
54 Greater than <del>[\$3,450]</del> <u>\$6,560</u> but less than	<del>[\$129]</del> <u>\$246</u> , plus 6% of state taxable
55 or equal to <del>[\$4,313]</del> <u>\$8,200</u>	income greater than <del>[\$3,450]</del> <u>\$6,560</u>
56 Greater than <del>[\$4,313]</del> <u>\$8,200</u>	<del>[\$181]</del> <u>\$344</u> , plus 7% of state taxable

57 income greater than [~~\$4,313~~] \$8,200

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

61 If the state taxable income is:	The tax is:
62 Less than or equal to [ <del>\$1,726</del> ] <u>\$3,280</u>	2.3% of the state taxable income
63 Greater than [ <del>\$1,726</del> ] <u>\$3,280</u> but less than	[ <del>\$40</del> ] <u>\$75</u> , plus 3.3% of state taxable
64 or equal to [ <del>\$3,450</del> ] <u>6,560</u>	income greater than [ <del>\$1,726</del> ] <u>\$3,280</u>
65 Greater than [ <del>\$3,450</del> ] <u>6,560</u> but less than	[ <del>\$97</del> ] <u>\$184</u> , plus 4.2% of state taxable
66 or equal to [ <del>\$5,176</del> ] <u>\$9,840</u>	income greater than [ <del>\$3,450</del> ] <u>\$6,560</u>
67 Greater than [ <del>\$5,176</del> ] <u>\$9,840</u> but less than	[ <del>\$169</del> ] <u>\$321</u> , plus 5.2% of state taxable
68 or equal to [ <del>\$6,900</del> ] <u>\$13,120</u>	income greater than [ <del>\$5,176</del> ] <u>\$9,840</u>
69 Greater than [ <del>\$6,900</del> ] <u>\$13,120</u> but less than	[ <del>\$259</del> ] <u>\$492</u> , plus 6% of state taxable
70 or equal to [ <del>\$8,626</del> ] <u>\$16,400</u>	income greater than [ <del>\$6,900</del> ] <u>\$13,120</u>
71 Greater than [ <del>\$8,626</del> ] <u>\$16,400</u>	[ <del>\$362</del> ] <u>\$689</u> , plus 7% of state taxable
72	income greater than [ <del>\$8,626</del> ] <u>\$16,400</u>

73 (4) (a) For taxable years beginning on or after January 1, 2006, the commission shall:

74 (i) make the following adjustments to the individual income tax brackets under  
75 Subsection (3):

76 (A) increase or decrease the individual income tax brackets under Subsection (3) in a  
77 percentage equal to the percentage difference between the consumer price index for the  
78 preceding calendar year and the consumer price index for calendar year 2004; and

79 (B) after making an increase or decrease under Subsection (4)(a)(i)(A), round the  
80 individual income tax brackets under Subsection (3) to the nearest \$100;

81 (ii) after making the adjustments described in Subsection (4)(a)(i) to the individual  
82 income tax brackets under Subsection (3), adjust the individual income tax brackets under  
83 Subsection (2) such that for each individual income tax bracket under Subsection (3) there is a  
84 corresponding individual income tax bracket under Subsection (2) that is equal to 50% of each  
85 individual income tax bracket under Subsection (3); and

86 (iii) to the extent necessary to reflect an adjustment under Subsection (4)(a)(i) or (ii),  
87 increase or decrease the amount of tax under Subsection (2) or (3) prior to adding in the portion

88 of the tax calculated as a percentage of state taxable income.

89 (b) The commission may not increase or decrease the tax rate percentages provided in  
90 Subsection (2) or (3).

91 (c) For purposes of Subsection (4)(a)(i), the commission shall calculate the consumer  
92 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

93 ~~[(4)]~~ (5) This section does not apply to a resident individual exempt from taxation  
94 under Section 59-10-104.1.

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

96 **59-10-114. Additions to and subtractions from federal taxable income of an**  
97 **individual.**

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

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

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

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

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

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

113 ~~[(d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue~~  
114 ~~Code;]~~

115 (d) for taxable years beginning on or after January 1, 2005, the amounts calculated  
116 under Subsection (7);

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

(i) the taxpayer did not deduct or include the amounts on 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;

(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);

(h) any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c); and

(i) any distribution received by a resident beneficiary of a nonresident trust of income that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state.

(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]~~ for a taxable year beginning on or after January 1, 2005, the following percentages 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]~~ resident or nonresident individual's federal individual income tax return ~~[of the taxpayer]~~ for the same taxable year~~[-and];~~:

(i) 25% if the resident or nonresident individual's federal adjusted gross income as defined by Section 62, Internal Revenue Code, for the same taxable year is \$100,000 or more but less than or equal to \$250,000; or

(ii) 50% if the resident or nonresident individual's federal adjusted gross income as defined by Section 62, Internal Revenue Code, for the same taxable year is greater than \$250,000;

~~[(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) the amount of adoption expenses for one of the following taxable years as elected by the resident or nonresident individual:

(i) regardless of whether a court issues an order granting the adoption, the taxable year in which the adoption expenses are:

(A) paid; or

(B) incurred;

(ii) the taxable year in which a court issues an order granting the adoption; or

(iii) any year in which the resident or nonresident individual may claim the federal adoption expenses credit under Section 23, Internal Revenue Code;

(d) amounts received by taxpayers under age 65 as retirement income which, for purposes of this section, means pensions and annuities, paid from an annuity contract purchased by an employer under a plan which meets the requirements of Section 404(a)(2), Internal Revenue Code, or purchased by an employee under a plan which meets the requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or

181 political subdivision thereof, or the District of Columbia, to the employee involved or the  
182 surviving spouse;

183 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500  
184 personal retirement exemption;

185 (f) 75% of the amount of the personal exemption, as defined and calculated in the  
186 Internal Revenue Code, for each dependent child with a disability and adult with a disability  
187 who is claimed as a dependent on a taxpayer's return;

188 (g) any amount included in federal taxable income that was received pursuant to any  
189 federal law enacted in 1988 to provide reparation payments, as damages for human suffering,  
190 to United States citizens and resident aliens of Japanese ancestry who were interned during  
191 World War II;

192 (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the  
193 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

194 (i) for:

195 (A) the taxpayer;

196 (B) the taxpayer's spouse; and

197 (C) the taxpayer's dependents; and

198 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or  
199 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

200 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a  
201 contribution made during the taxable year on behalf of the taxpayer to a medical care savings  
202 account and interest earned on a contribution to a medical care savings account established  
203 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the  
204 contribution is accepted by the account administrator as provided in the Medical Care Savings  
205 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal  
206 individual income tax return pursuant to Section 220, Internal Revenue Code; and

207 (ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the  
208 following:

209 (A) the maximum contribution allowed under the Medical Care Savings Account Act  
210 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is  
211 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that

212 covers the other spouse, and each spouse has a medical care savings account; or  
213 (B) the maximum contribution allowed under the Medical Care Savings Account Act  
214 for the tax year for taxpayers:  
215 (I) who do not file a joint return; or  
216 (II) who file a joint return, but do not qualify under Subsection (2)(i)(ii)(A);  
217 (j) the amount included in federal taxable income that was derived from money paid by  
218 the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings  
219 Incentive Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d), and  
220 investment income earned on participation agreements under Subsection 53B-8a-106(1) that is  
221 included in federal taxable income, but only when the funds are used for qualified higher  
222 education costs of the beneficiary;  
223 (k) for taxable years beginning on or after January 1, 2000, any amounts paid for  
224 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the  
225 amounts paid for long-term care insurance were not deducted under Section 213, Internal  
226 Revenue Code, in determining federal taxable income;  
227 (l) for taxable years beginning on or after January 1, 2000, if the conditions of  
228 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:  
229 (i) during a time period that the Ute tribal member resides on homesteaded land  
230 diminished from the Uintah and Ouray Reservation; and  
231 (ii) from a source within the Uintah and Ouray Reservation; and  
232 (m) (i) for taxable years beginning on or after January 1, 2003, the total amount of a  
233 resident or nonresident individual's short-term capital gain or long-term capital gain on a  
234 capital gain transaction:  
235 (A) that occurs on or after January 1, 2003;  
236 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:  
237 (I) to purchase qualifying stock in a Utah small business corporation; and  
238 (II) within a 12-month period after the day on which the capital gain transaction occurs;  
239 and  
240 (C) if, prior to the purchase of the qualifying stock described in Subsection  
241 (2)(m)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the  
242 Utah small business corporation that issued the qualifying stock; and



(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

(A) defining the term "gross proceeds"; and

(B) for purposes of Subsection (2)(m)(i)(C), prescribing the circumstances under which a resident or nonresident individual has an ownership interest in a Utah small business corporation.

(3) (a) For purposes of Subsection (2)(d), 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 shall be reduced by 50 cents;

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

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

(b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption shall be further reduced according to the following schedule:

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

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

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

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

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

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

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

(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)(l) 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)(l); 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)(l);

(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

305 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is  
306 in effect.

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

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

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

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

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

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

319 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by  
320 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to  
321 2000 Form 8814 if for purposes of federal individual income taxes the information contained  
322 on 2000 Form 8814 is reported on a form other than Form 8814; and

323 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter  
324 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form  
325 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
326 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
327 8814.

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

330 (i) the lesser of:

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

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

333 (I) the child's taxable interest;

334 (II) the child's ordinary dividends; and

335 (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" means a personal exemption:

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

(B) for:

(I) an individual;

(II) if the individual has a spouse, the individual's spouse; and

(III) if the individual has one or more dependents, the individual's dependents;

(iii) "personal exemption amount" means an amount calculated by dividing the personal exemption value by the personal exemptions claimed;

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

(A) on the resident or nonresident individual's federal individual income tax return; and

(B) for the same taxable year as the taxable year for which the resident or nonresident individual is filing a tax return under this chapter;

(v) "personal exemptions claimed for disabled persons" means the total number of personal exemptions a resident or nonresident individual claimed:

(A) for:

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

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

(III) if one or more of the individual's dependents is disabled, the number of dependents who are disabled;

(B) on the resident or nonresident individual's federal individual income tax return; and

(C) for the same taxable year as the taxable year for which the resident or nonresident individual is filing a tax return under this chapter;

(vi) "personal exemptions remaining" means the number of personal exemptions by which the personal exemptions claimed exceed the personal exemptions claimed for disabled persons; and

(vii) "personal exemption value" means the total dollar amount a resident or nonresident individual is allowed for the personal exemptions claimed:

(A) on the resident or nonresident individual's federal individual income tax return for the same taxable year as the taxable year for which the resident or nonresident individual is filing a tax return under this chapter; and

(B) under Section 151, Internal Revenue Code.

(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) the product of:

(A) the personal exemptions claimed for disabled persons;

(B) the personal exemption amount; and

(C) .25; and

(ii) for any personal exemptions remaining, the sum of:

(A) for the first personal exemption remaining, the product of:

(I) the personal exemption amount; and

(II) .25;

(B) for the second personal exemption remaining, the product of:

398 (I) the personal exemption amount; and  
399 (II) .25;  
400 (C) for the third personal exemption remaining, the product of:  
401 (I) the personal exemption amount; and  
402 (II) .5;  
403 (D) for the fourth personal exemption remaining, the product of:  
404 (I) the personal exemption amount; and  
405 (II) .75; and  
406 (E) for any personal exemptions that exceed the fourth personal exemption remaining,  
407 the product of:  
408 (I) the number of personal exemptions that exceed the fourth personal exemption  
409 remaining; and

410 (II) the personal exemption amount.

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

412 **59-10-136. Nonrefundable earned income tax credit.**

413 (1) For taxable years beginning on or after January 1, 2005, a taxpayer may claim as  
414 provided in this section a nonrefundable earned income tax credit equal to 5% of the amount  
415 the taxpayer is allowed as a federal earned income tax credit in accordance with Section 32,  
416 Internal Revenue Code, for the taxable year.

417 (2) A taxpayer may not carry forward or carry back any earned income tax credit  
418 allowed under this section.

419 Section 4. Section **59-10-201** is amended to read:

420 **59-10-201. Taxation of resident trusts and estates.**

421 (1) A tax determined in accordance with the [~~rates~~] brackets prescribed by Section  
422 59-10-104 for individuals filing separately is imposed for each taxable year on the state taxable  
423 income of each resident estate or trust, except for trusts taxed as corporations.

424 (2) A resident estate or trust shall be allowed the credit provided in Section 59-10-106,  
425 relating to an income tax imposed by another state, except that the limitation shall be computed  
426 by reference to the taxable income of the estate or trust.

427 (3) The property of the trusts established in Title 53B, Chapter 8a, Higher Education  
428 Savings Incentive Program, and Title 53B, Chapter 8b, Higher Education Supplemental

429 Savings Incentive Program, and their income from operations and investments are exempt from  
430 all taxation by the state under this chapter.

431 Section 5. Section **59-10-205** is amended to read:

432 **59-10-205. Tax on income derived from Utah sources.**

433 (1) A tax is imposed on the state taxable income, as defined in Section 59-10-204, of  
434 every nonresident estate or trust in accordance with the ~~[rates]~~ brackets prescribed in Section  
435 59-10-104 for individuals filing separately.

436 (2) The tax shall only be applied to income derived from Utah sources as adjusted by  
437 Section 59-10-207, including such items from another estate or trust of which the first estate or  
438 trust is a beneficiary.

439 Section 6. **Effective date.**

440 This bill takes effect for taxable years beginning on or after January 1, 2005.