

1 **INDIVIDUAL INCOME TAX - EARNED**  
2 **INCOME TAX CREDIT**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Thomas V. Hatch**

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Individual Income Tax Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ allows certain taxpayers to claim a nonrefundable state earned income tax credit;

13 and

14 ▶ requires the ~~§ [State Tax Commission]~~ **DIVISION OF FINANCE §** to make transfers from

14a the General Fund to the

15 Uniform School Fund equal to the amount of state earned income tax credit claimed

16 and grants rulemaking authority to the State Tax Commission to provide procedures

17 for ~~§ [making the transfers]~~ **REPORTING THE AMOUNT OF STATE EARNED INCOME TAX CREDIT**

17a **CLAIMED TO THE DIVISION OF FINANCE § .**

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

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

22 2004.

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **59-10-136**, Utah Code Annotated 1953

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



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

29 **59-10-136. Nonrefundable earned income tax credit -- § [Commission] DIVISION OF**  
 29A **FINANCE § to transfer**  
 30 **from the General Fund into the Uniform School Fund an amount equal to the amount of**  
 31 **state earned income tax credit claimed -- Rulemaking authority.**

32 (1) (a) Subject to Subsection (1)(b), for taxable years beginning on or after January 1,  
 33 2004, a taxpayer may claim as provided in this section a nonrefundable earned income tax  
 34 credit equal to 5% of the amount the taxpayer is allowed as a federal earned income tax credit  
 35 in accordance with Section 32, Internal Revenue Code, for the taxable year.

36 (b) Notwithstanding Subsection (1)(a), a taxpayer may not claim an earned income tax  
 37 credit under this section if the taxpayer's federal adjusted gross income, as defined in Section  
 38 62, Internal Revenue Code, is greater than:

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

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

41 (B) head of household; or

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

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

44 (B) head of household.

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

47 (3) (a) § [~~In accordance with any rules prescribed by the commission under Subsection~~  
 48 ~~(3)(b), the commission]~~ **SUBJECT TO SUBSECTION (3)(b), THE DIVISION OF FINANCE § shall transfer**  
 48a at least annually from the General Fund into the Uniform  
 49 School Fund an amount equal to the amount of earned income tax credit claimed under this  
 50 section.

50a **§ (b)(i) THE COMMISSION SHALL REPORT TO THE DIVISION OF FINANCE THE AMOUNT OF EARNED**  
 50b **INCOME TAX CREDIT CLAIMED UNDER THIS SECTION.**

51 ~~[(b)] (ii) § In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the~~  
 52 commission may make rules providing procedures for § [~~making transfers from the General Fund~~  
 53 ~~into the Uniform School Fund as required by Subsection (3)(a)]~~ **REPORTING TO THE DIVISION OF**  
 53a **FINANCE THE AMOUNT OF EARNED INCOME TAX CREDIT CLAIMED UNDER THIS SECTION § .**

54 Section 2. **Retrospective operation.**

55 This bill has retrospective operation for taxable years beginning on or after January 1,  
 56 2004.



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**Legislative Review Note**

**as of 2-3-04 4:43 PM**

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

**Office of Legislative Research and General Counsel**

**AMENDED BILL**

**State Impact**

Passage of this bill could result in loss of General Fund of \$6,500,000 annually.

	<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>
General Fund	\$0	\$0	(\$6,500,000)	(\$6,500,000)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$6,500,000)</b>	<b>(\$6,500,000)</b>

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**Individual and Business Impact**

Eligible individuals would receive earned income tax credits.

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**Office of the Legislative Fiscal Analyst**