

Lincoln Fillmore proposes the following substitute bill:

Income Tax Rate Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the income tax rate.

Highlighted Provisions:

This bill:

- defines terms;
- provides for a reduction of the income tax rate when the actual state revenue exceeds the forecast revenue;
- provides a formula and process for calculating a reduction of the income tax rate;
- requires the State Tax Commission to annually publish the income tax rate;
- changes the mineral production tax withholding rate; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-101, as last amended by Laws of Utah 2009, Chapter 212

59-6-102, as last amended by Laws of Utah 2008, Chapter 255

59-7-104, as last amended by Laws of Utah 2024, Chapter 255

59-7-201, as last amended by Laws of Utah 2024, Chapter 255

59-7-610, as last amended by Laws of Utah 2021, Chapter 367

59-10-104, as last amended by Laws of Utah 2024, Chapter 255

59-10-116, as last amended by Laws of Utah 2022, Chapter 252

59-10-201, as last amended by Laws of Utah 2010, Chapter 6

59-10-205, as last amended by Laws of Utah 2008, Chapter 389

59-10-1007, as last amended by Laws of Utah 2021, Chapter 367

- 31 **59-10-1017**, as last amended by Laws of Utah 2021, Chapters 367, 370
- 32 **59-10-1022**, as last amended by Laws of Utah 2021, Chapter 367
- 33 **59-10-1023**, as last amended by Laws of Utah 2021, Chapter 367
- 34 **59-10-1028**, as last amended by Laws of Utah 2021, Chapter 367
- 35 **59-10-1035**, as last amended by Laws of Utah 2021, Chapter 367
- 36 **59-10-1036**, as last amended by Laws of Utah 2021, Chapter 367
- 37 **59-10-1042**, as last amended by Laws of Utah 2023, Chapter 459
- 38 **59-10-1043**, as last amended by Laws of Utah 2022, Chapter 258
- 39 **59-10-1403.2**, as last amended by Laws of Utah 2023, Chapter 470
- 40 **59-10-1403.3**, as last amended by Laws of Utah 2021, Chapter 367
- 41 **63I-1-259**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

42 ENACTS:

- 43 **59-1-1801**, Utah Code Annotated 1953
- 44 **59-1-1802**, Utah Code Annotated 1953

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

47 Section 1. Section **59-1-101** is amended to read:

48 **59-1-101 . Definitions.**

49 As used in this title:

- 50 (1) "Commission" and "tax commission" mean the State Tax Commission.
- 51 (2) "Deficiency" [~~is as~~] means the same as that term is defined in Section 59-1-1402.
- 52 (3) "Income tax rate" means:
 - 53 (a) for a taxable year beginning on or after January 1, 2026, and on or before January 1,
 - 54 2027, 4.55%;
 - 55 (b) for a taxable year beginning on or after January 1, 2027, and before January 1, 2037,
 - 56 the rate calculated and published in accordance with Section 59-1-1802; and
 - 57 (c) for a taxable year beginning on or after January 1, 2037, the rate that is in effect on
 - 58 the first day of the taxable year beginning on or after January 1, 2036, and beginning
 - 59 before January 1, 2037.

60 Section 2. Section **59-1-1801** is enacted to read:

61 **Part 18. Income Tax Rate**

62 **59-1-1801 . Definitions.**

- 63 (1) "Consensus entities" means:
 - 64 (a) the Office of the Legislative Fiscal Analyst;

- 65 (b) the commission; and
- 66 (c) the Governor's Office of Planning and Budget.
- 67 (2) "Forecast revenue" means state revenue of:
- 68 (a) for the fiscal year ending June 30, 2026, \$13,237,500,000;
- 69 (b) for the fiscal year ending June 30, 2027, \$13,916,795,000;
- 70 (c) for the fiscal year ending June 30, 2028, \$14,623,268,000;
- 71 (d) for the fiscal year ending June 30, 2029, \$15,357,351,000;
- 72 (e) for the fiscal year ending June 30, 2030, \$16,120,271,000;
- 73 (f) for the fiscal year ending June 30, 2031, \$16,914,872,000;
- 74 (g) for the fiscal year ending June 30, 2032, \$17,744,730,000;
- 75 (h) for the fiscal year ending June 30, 2033, \$18,614,316,000;
- 76 (i) for the fiscal year ending June 30, 2034, \$19,523,292,000; and
- 77 (j) for the fiscal year ending June 30, 2035, \$20,475,118,000.
- 78 (3) "State revenue" means unrestricted revenue generated from:
- 79 (a) liquor markups required by Section 32B-2-304;
- 80 (b) earnings on investment of state money deposited into the General Fund under
- 81 Section 51-7-4;
- 82 (c) severance tax imposed under Chapter 5, Severance Tax on Oil, Gas, and Mining;
- 83 (d) mineral production tax withholding required by Chapter 6, Mineral Production Tax
- 84 Withholding;
- 85 (e) income tax imposed under Chapter 7, Corporate Franchise and Income Taxes, and
- 86 Chapter 10, Individual Income Tax Act;
- 87 (f) premiums tax imposed under Chapter 9, Taxation of Admitted Insurers;
- 88 (g) inheritance tax imposed under Chapter 11, Inheritance Tax Act;
- 89 (h) state sales and use tax imposed under Chapter 12, Sales and Use Tax Act;
- 90 (i) taxes imposed under Chapter 13, Motor and Special Fuel Tax Act;
- 91 (j) tax imposed on cigarettes and tobacco under Chapter 14, Cigarette and Tobacco Tax
- 92 and Licensing Act;
- 93 (k) beer tax imposed under Chapter 15, Beer Tax;
- 94 (l) mineral lease funds described in Chapter 21, Mineral Lease Funds;
- 95 (m) multi-channel video or audio service tax imposed under Section 59-26-103; and
- 96 (n) other payments to the General Fund or Income Tax Fund, including fees, surcharges,
- 97 penalties, interest, lapsing funds, rebates, and settlements.
- 98 (4) "Unrestricted revenue" means revenue that is not statutorily dedicated or earmarked for

99 a particular use.

100 Section 3. Section **59-1-1802** is enacted to read:

101 **59-1-1802 . Calculation of income tax rate.**

102 (1)(a) On or after July 1 and before September 1 of each year between 2026 and 2035,
103 the consensus entities shall determine whether the actual state revenue for the
104 previous fiscal year exceeds the forecast revenue for the previous fiscal year.

105 (b)(i) If the consensus entities determine that the actual state revenue for the previous
106 fiscal year exceeds the forecast revenue for the previous fiscal year, the income
107 tax rate for the taxable year that begins on or after the next January 1 decreases,
108 subject to Subsections (1)(b)(ii) and (1)(b)(iii), to a rate projected to reduce
109 income tax revenue by an amount equal to one half of the difference between
110 actual state revenue for the previous fiscal year and forecast revenue for the
111 previous fiscal year.

112 (ii) The income tax rate decreases only if the rate projected to reduce income tax
113 revenue by one-half of the difference between actual state revenue for the
114 previous fiscal year and forecast revenue for the previous year is at least .01%
115 lower than the income tax rate in effect for the taxable year in which the
116 consensus entities make the determination.

117 (iii) The income tax rate shall be rounded to the second decimal place.

118 (c) If the consensus entities determine that the actual state revenue for the previous fiscal
119 year does not exceed the forecast revenue for the previous fiscal year, the income tax
120 rate for the taxable year beginning on or after the next January 1 remains the same as
121 the income tax rate for the current taxable year.

122 (2) On or before November 1, the commission shall publish the income tax rate for the
123 taxable year beginning on or after the next January 1.

124 Section 4. Section **59-6-102** is amended to read:

125 **59-6-102 . Producer's obligation to deduct and withhold payments -- Amount --**
126 **Exempt payments -- Credit against tax.**

127 ~~[(1) Except as provided in Subsection (2), each producer shall deduct and withhold from~~
128 ~~each payment being made to any person in respect to production of minerals in this state,~~
129 ~~but not including that to which the producer is entitled, an amount equal to 5% of the~~
130 ~~amount which would have otherwise been payable to the person entitled to the payment.]~~

131 (1) Except as provided in Subsection (2), each producer shall deduct and withhold from
132 each payment being made to any person in respect to production of minerals in this state,

133 but not including the payment to which the producer is entitled, an amount equal to the
 134 income tax rate multiplied by the amount payable to the person entitled to the payment.

135 (2) The obligation to deduct and withhold from payments as provided in Subsection (1)

136 does not apply to those payments [which] that are payable to:

137 (a) the United States, this state, or an agency or political subdivision of the United States
 138 or this state;

139 (b) an organization that is exempt from the taxes imposed by Chapter 7, Corporate
 140 Franchise and Income Taxes, in accordance with Subsection 59-7-102(1)(a);

141 (c) an Indian or Indian tribe if the amounts accruing are subject to the supervision of the
 142 United States or an agency of the United States; or

143 (d) a business entity that files an exemption certificate in accordance with Section
 144 59-6-102.1.

145 (3) A claimant, estate, or trust that files a tax return with the commission may claim a
 146 refundable tax credit against the tax reflected on the tax return for the amount withheld
 147 by the producer under Subsection (1).

148 Section 5. Section **59-7-104** is amended to read:

149 **59-7-104 . Tax -- Minimum tax.**

150 (1) Each domestic and foreign corporation, except a corporation that is exempt under
 151 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah
 152 taxable income for the taxable year for the privilege of exercising the corporation's
 153 corporate franchise or for the privilege of doing business in the state.

154 [~~(2) The tax shall be 4.55% of a corporation's Utah taxable income.~~]

155 (2) The tax imposed by Subsection (1) is the amount calculated by multiplying a
 156 corporation's Utah taxable income by the income tax rate.

157 (3) The minimum tax a corporation shall pay under this chapter is \$100.

158 Section 6. Section **59-7-201** is amended to read:

159 **59-7-201 . Tax -- Minimum tax.**

160 (1) There is imposed upon each corporation, except a corporation that is exempt under
 161 Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year
 162 that is derived from sources within this state other than income for any period that the
 163 corporation is required to include in the corporation's tax base under Section 59-7-104.

164 [~~(2) The tax imposed by Subsection (1) shall be 4.55% of a corporation's Utah taxable~~
 165 ~~income]~~

166 (2) The tax imposed by Subsection (1) is the amount calculated by multiplying a

167 corporation's Utah taxable income by the income tax rate.

168 (3) In no case shall the tax be less than \$100.

169 Section 7. Section **59-7-610** is amended to read:

170 **59-7-610 . Recycling market development zones tax credits.**

171 (1) Subject to other provisions of this section, a taxpayer that is a business operating in a
172 recycling market development zone as defined in Section 19-13-102 may claim the
173 following nonrefundable tax credits:

174 (a) a tax credit equal to the product of the [~~percentage listed in Subsection 59-7-104(2)]~~
175 income tax rate and the purchase price paid for machinery and equipment used
176 directly in:

177 (i) commercial composting; or

178 (ii) manufacturing facilities or plant units that:

179 (A) manufacture, process, compound, or produce recycled items of tangible
180 personal property for sale; or

181 (B) reduce or reuse postconsumer waste material; and

182 (b) a tax credit equal to the lesser of:

183 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
184 inventory, and utilities made by the taxpayer for establishing and operating
185 recycling or composting technology in the state; and

186 (ii) \$2,000.

187 (2)(a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from
188 the Department of Environmental Quality a written certification, on a form approved
189 by the commission, that includes:

190 (i) a statement that the taxpayer is operating a business within the boundaries of a
191 recycling market development zone;

192 (ii) for a claim of the tax credit described in Subsection (1)(a):

193 (A) the type of the machinery and equipment that the taxpayer purchased;

194 (B) the date that the taxpayer purchased the machinery and equipment;

195 (C) the purchase price for the machinery and equipment;

196 (D) the total purchase price for all machinery and equipment for which the
197 taxpayer is claiming a tax credit;

198 (E) a statement that the machinery and equipment are integral to the composting
199 or recycling process; and

200 (F) the amount of the taxpayer's tax credit; and

- 201 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 202 (A) the type of net expenditure that the taxpayer made to a third party;
- 203 (B) the date that the taxpayer made the payment to a third party;
- 204 (C) the amount that the taxpayer paid to each third party;
- 205 (D) the total amount that the taxpayer paid to all third parties;
- 206 (E) a statement that the net expenditures support the establishment and operation
- 207 of recycling or composting technology in the state; and
- 208 (F) the amount of the taxpayer's tax credit.
- 209 (b)(i) The Department of Environmental Quality shall provide a taxpayer seeking to
- 210 claim a tax credit under Subsection (1) with a copy of the written certification.
- 211 (ii) The taxpayer shall retain a copy of the written certification for the same period of
- 212 time that a person is required to keep books and records under Section 59-1-1406.
- 213 (c) The Department of Environmental Quality shall submit to the commission an
- 214 electronic list that includes:
- 215 (i) the name and identifying information of each taxpayer to which the Department of
- 216 Environmental Quality issues a written certification; and
- 217 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 218 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 219 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 220 calculated:
- 221 (a) for the taxable year in which the taxpayer made the purchases or payments;
- 222 (b) before any other tax credits the taxpayer may claim for the taxable year; and
- 223 (c) before the taxpayer claims a tax credit authorized by this section.
- 224 (4) The commission shall make rules governing what information a taxpayer shall file with
- 225 the commission to verify the entitlement to and amount of a tax credit.
- 226 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the
- 227 next three taxable years, the amount of a tax credit described in Subsection (1)(a) that
- 228 the taxpayer does not use for the taxable year.
- 229 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in
- 230 a taxable year during which the taxpayer claims or carries forward a tax credit under
- 231 Section 63N-2-213.
- 232 (7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
- 233 during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.
- 234 Section 8. Section **59-10-104** is amended to read:

235 **59-10-104 . Tax basis -- Tax rate -- Exemption.**

236 (1) A tax is imposed on the state taxable income of a resident individual as provided in this
237 section.

238 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
239 product of:

240 (a) the resident individual's state taxable income for that taxable year; and

241 ~~[(b) 4.55%.]~~

242 (b) the income tax rate.

243 (3) This section does not apply to a resident individual exempt from taxation under Section
244 59-10-104.1.

245 Section 9. Section **59-10-116** is amended to read:

246 **59-10-116 . Tax on nonresident individual -- Calculation -- Exemption.**

247 (1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an
248 amount equal to the product of~~[-the]:~~

249 (a) the nonresident individual's state taxable income; and

250 (b) ~~[percentage listed in Subsection 59-10-104(2).]~~ the income tax rate.

251 (2) This section does not apply to a nonresident individual:

252 (a) exempt from taxation under Section 59-10-104.1; or

253 (b) whose only state source income is wages that are excluded in accordance with
254 Section 59-10-117.5.

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

256 **59-10-201 . Taxation of resident trusts and estates.**

257 (1) Except as provided in Subsection (2), a tax ~~[determined in accordance with the rate~~
258 ~~prescribed by Subsection 59-10-104(2)(b)]~~ is imposed for each taxable year on ~~[the state~~
259 ~~taxable income of]~~ each resident estate or trust in the amount calculated by multiplying
260 the resident estate's or trust's state taxable income by the income tax rate.

261 (2) The following are not subject to a tax imposed by this part:

262 (a) a resident estate or trust that is not required to file a federal income tax return for
263 estates and trusts for the taxable year; or

264 (b) a resident trust taxed as a corporation.

265 (3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003,
266 relating to an income tax imposed by another state, except that the limitation shall be
267 computed by reference to the taxable income of the estate or trust.

268 (4) The property of the Utah Educational Savings Plan established in Title 53B, Chapter 8a,

269 Utah Educational Savings Plan, and [its] the Utah Educational Savings Plan's income
270 from operations and investments are exempt from all taxation by the state under this
271 chapter.

272 Section 11. Section **59-10-205** is amended to read:

273 **59-10-205 . Tax on nonresident estate or trust.**

274 (1) Except as provided in Subsection (2), a tax is imposed on a nonresident estate or trust in
275 an amount equal to the product of:

276 (a) the nonresident estate's or trust's state taxable income as determined under Section
277 59-10-204; and

278 (b) the [~~percentage listed in Subsection 59-10-104(2)~~] income tax rate.

279 (2) The following are not subject to a tax imposed by this part:

280 (a) a nonresident estate or trust that is not required to file a federal income tax return for
281 estates and trusts for the taxable year; or

282 (b) a nonresident trust taxed as a corporation.

283 Section 12. Section **59-10-1007** is amended to read:

284 **59-10-1007 . Recycling market development zones tax credits.**

285 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
286 market development zone as defined in Section 19-13-102 may claim the following
287 nonrefundable tax credits:

288 (a) a tax credit equal to the product of the [~~percentage listed in Subsection 59-10-104(2)~~]
289 income tax rate and the purchase price paid for machinery and equipment used
290 directly in:

291 (i) commercial composting; or

292 (ii) manufacturing facilities or plant units that:

293 (A) manufacture, process, compound, or produce recycled items of tangible
294 personal property for sale; or

295 (B) reduce or reuse postconsumer waste material; and

296 (b) a tax credit equal to the lesser of:

297 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
298 inventory, and utilities made by the claimant, estate, or trust for establishing and
299 operating recycling or composting technology in the state; and

300 (ii) \$2,000.

301 (2)(a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust

302 shall receive from the Department of Environmental Quality a written certification,

- 303 on a form approved by the commission, that includes:
- 304 (i) a statement that the claimant, estate, or trust is operating within the boundaries of
305 a recycling market development zone;
- 306 (ii) for a claim of the tax credit described in Subsection (1)(a):
- 307 (A) the type of the machinery and equipment that the claimant, estate, or trust
308 purchased;
- 309 (B) the date that the claimant, estate, or trust purchased the machinery and
310 equipment;
- 311 (C) the purchase price for the machinery and equipment;
- 312 (D) the total purchase price for all machinery and equipment for which the
313 claimant, estate, or trust is claiming a tax credit;
- 314 (E) the amount of the claimant's, estate's, or trust's tax credit; and
- 315 (F) a statement that the machinery and equipment are integral to the composting
316 or recycling process; and
- 317 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 318 (A) the type of net expenditure that the claimant, estate, or trust made to a third
319 party;
- 320 (B) the date that the claimant, estate, or trust made the payment to a third party;
- 321 (C) the amount that the claimant, estate, or trust paid to each third party;
- 322 (D) the total amount that the claimant, estate, or trust paid to all third parties;
- 323 (E) a statement that the net expenditures support the establishment and operation
324 of recycling or composting technology in the state; and
- 325 (F) the amount of the claimant's, estate's, or trust's tax credit.
- 326 (b)(i) The Department of Environmental Quality shall provide a claimant, estate, or
327 trust seeking to claim a tax credit under Subsection (1) with a copy of the written
328 certification.
- 329 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
330 same period of time that a person is required to keep books and records under
331 Section 59-1-1406.
- 332 (c) The Department of Environmental Quality shall submit to the commission an
333 electronic list that includes:
- 334 (i) the name and identifying information of each claimant, estate, or trust to which the
335 Department of Environmental Quality issues a written certification; and
- 336 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the

- 337 written certification.
- 338 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
 339 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state
 340 income tax liability as the tax liability is calculated:
- 341 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
 342 payments;
- 343 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
 344 year; and
- 345 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.
- 346 (4) The commission shall make rules governing what information a claimant, estate, or trust
 347 shall file with the commission to verify the entitlement to and amount of a tax credit.
- 348 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry
 349 forward, to the next three taxable years, the amount of a tax credit described in
 350 Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.
- 351 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
 352 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or
 353 carries forward a tax credit under Section 63N-2-213.
- 354 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a
 355 taxable year during which the claimant, estate, or trust claims or carries forward a tax
 356 credit under Section 63N-2-213.

357 Section 13. Section **59-10-1017** is amended to read:

358 **59-10-1017 . Utah Educational Savings Plan tax credit.**

- 359 (1) As used in this section:
- 360 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.
- 361 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.
- 362 (c) "Higher education costs" means the same as that term is defined in Section
 363 53B-8a-102.5.
- 364 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
 365 taxable year, the product of the [~~percentage listed in Subsection 59-10-104(2)] income
 366 tax rate and:~~
- 367 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account
 368 owner, if that claimant, estate, or trust is other than husband and wife account
 369 owners who file a single return jointly, the maximum amount of a qualified
 370 investment:

- 371 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and
372 (B) increased or kept for that taxable year in accordance with Subsections
373 53B-8a-106(1)(f) and (g);
- 374 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account
375 owners who file a single return jointly, the maximum amount of a qualified
376 investment:
- 377 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and
378 (B) increased or kept for that taxable year in accordance with Subsections
379 53B-8a-106(1)(f) and (g); or
- 380 (iii) for a grantor trust:
- 381 (A) if the owner of the grantor trust has a single filing status or head of household
382 filing status as defined in Section 59-10-1018, the amount described in
383 Subsection (1)(d)(i); or
- 384 (B) if the owner of the grantor trust has a joint filing status as defined in Section
385 59-10-1018, the amount described in Subsection (1)(d)(ii).
- 386 (e) "Owner of the grantor trust" means the same as that term is defined in Section
387 53B-8a-102.5.
- 388 (f) "Qualified investment" means the same as that term is defined in Section
389 53B-8a-102.5.
- 390 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this
391 section, a claimant, estate, or trust that is an account owner may claim a nonrefundable
392 tax credit equal to the product of:
- 393 (a) the amount of a qualified investment made:
- 394 (i) during the taxable year; and
395 (ii) into an account owned by the claimant, estate, or trust; and
- 396 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate.
- 397 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
398 make a qualified investment described in Subsection (2).
- 399 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this
400 section with respect to any portion of a qualified investment described in Subsection (2)
401 that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
402 income tax return.
- 403 (5) A tax credit under this section may not exceed the maximum amount of a qualified
404 investment for the taxable year.

405 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry back
 406 the tax credit under this section.

407 Section 14. Section **59-10-1022** is amended to read:

408 **59-10-1022 . Nonrefundable tax credit for capital gain transactions.**

409 (1) As used in this section:

410 (a)[(†)] "Capital gain transaction" means a transaction that results in a:

411 [(A)] (i) short-term capital gain; or

412 [(B)] (ii) long-term capital gain.

413 [(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 414 the commission may by rule define the term "transaction."]

415 (b) "Commercial domicile" means the principal place from which the trade or business
 416 of a Utah small business corporation is directed or managed.

417 (c) "Long-term capital gain" [is-as] means the same as that term is defined in Section
 418 1222, Internal Revenue Code.

419 (d) "Qualifying stock" means stock that is:

420 (i)(A) common; or

421 (B) preferred;

422 (ii) as defined by the commission by rule made in accordance with Title 63G,
 423 Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

424 (A) a claimant, estate, or trust; or

425 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
 426 section:

427 (I) was a partner on the day on which the stock was issued; and

428 (II) remains a partner until the last day of the taxable year for which the
 429 claimant, estate, or trust claims a tax credit under this section; and

430 (iii) issued:

431 (A) by a Utah small business corporation;

432 (B) on or after January 1, 2008; and

433 (C) for:

434 (I) money; or

435 (II) other property, except for stock or securities.

436 (e) "Short-term capital gain" [is-as] means the same as that term is defined in Section
 437 1222, Internal Revenue Code.

438 (f) "Transaction" means the definition the commission makes by rule made in

- 439 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 440 [(f)] (g)(i) "Utah small business corporation" means a corporation that:
- 441 (A) except as provided in Subsection [(1)(f)(ii)] (1)(g)(ii), is a small business
- 442 corporation as defined in Section 1244(c)(3), Internal Revenue Code;
- 443 (B) except as provided in Subsection [(1)(f)(iii)] (1)(g)(iii), meets the requirements
- 444 of Section 1244(c)(1)(C), Internal Revenue Code; and
- 445 (C) has [its] the corporation's commercial domicile in this state.
- 446 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
- 447 (iii) The phrase "the date the loss on such stock was sustained" in Sections
- 448 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last
- 449 day of the taxable year for which the claimant, estate, or trust claims a tax credit
- 450 under this section."
- 451 (2) [~~For taxable years beginning on or after January 1, 2008, a~~] A claimant, estate, or trust
- 452 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit
- 453 equal to the product of:
- 454 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
- 455 long-term capital gain on a capital gain transaction that occurs on or after January 1,
- 456 2008; and
- 457 (b) the [~~percentage listed in Subsection 59-10-104(2)]~~ income tax rate.
- 458 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable
- 459 tax credit allowed by Subsection (2) if:
- 460 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
- 461 (i) to purchase qualifying stock in a Utah small business corporation; and
- 462 (ii) within a 12-month period after the day on which the capital gain transaction
- 463 occurs; and
- 464 (b) [~~prior to~~] before the purchase of the qualifying stock described in Subsection (3)(a)(i),
- 465 the claimant, estate, or trust did not have an ownership interest in the Utah small
- 466 business corporation that issued the qualifying stock.
- 467 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this
- 468 section.
- 469 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 470 commission may make rules:
- 471 (a) defining the term "gross proceeds"; and
- 472 (b) [~~prescribing~~] providing the circumstances under which a claimant, estate, or trust has

473 an ownership interest in a Utah small business corporation.

474 Section 15. Section **59-10-1023** is amended to read:

475 **59-10-1023 . Nonrefundable tax credit for amounts paid under a health benefit**
476 **plan.**

477 (1) As used in this section:

478 (a) "Claimant with dependents" means a claimant:

479 (i) regardless of the claimant's filing status for purposes of filing a federal individual
480 income tax return for the taxable year; and

481 (ii) who claims one or more dependents under Section 151, Internal Revenue Code,
482 as allowed on the claimant's federal individual income tax return for the taxable
483 year.

484 (b) "Eligible insured individual" means:

485 (i) the claimant who is insured under a health benefit plan;

486 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

487 (A) the claimant files a single return jointly under this chapter with the claimant's
488 spouse for the taxable year; and

489 (B) the spouse is insured under the health benefit plan described in Subsection
490 (1)(b)(i); or

491 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

492 (A) the claimant claims the dependent under Section 151, Internal Revenue Code,
493 as allowed on the claimant's federal individual income tax return for the
494 taxable year; and

495 (B) the dependent is insured under the health benefit plan described in Subsection
496 (1)(b)(i).

497 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under a
498 health benefit plan for a taxable year if:

499 (i) the claimant claims a tax credit for that amount under Section 35, Internal
500 Revenue Code:

501 (A) on the claimant's federal individual income tax return for the taxable year; and

502 (B) with respect to an eligible insured individual;

503 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
504 Code:

505 (A) on the claimant's federal individual income tax return for the taxable year; and

506 (B) with respect to an eligible insured individual; or

- 507 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
 508 Internal Revenue Code, with respect to an eligible insured individual.
- 509 (d)(i) "Health benefit plan" [~~is as~~] means the same as that term is defined in Section
 510 31A-1-301.
- 511 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
 512 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
 513 Administrative Rulemaking Act.
- 514 (e) "Joint claimant with no dependents" means [~~a husband and wife~~] spouses who:
 515 (i) file a single return jointly under this chapter for the taxable year; and
 516 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the [
 517 ~~husband's and wife's~~] spouses' federal individual income tax return for the taxable
 518 year.
- 519 (f) "Single claimant with no dependents" means:
 520 (i) a single individual who:
 521 (A) files a single federal individual income tax return for the taxable year; and
 522 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
 523 single individual's federal individual income tax return for the taxable year;
 524 (ii) a head of household:
 525 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
 526 individual income tax return for the taxable year; and
 527 (B) who does not claim a dependent under Section 151, Internal Revenue Code,
 528 on the head of household's federal individual income tax return for the taxable
 529 year; or
 530 (iii) a married individual who:
 531 (A) does not file a single federal individual income tax return jointly with that
 532 married individual's spouse for the taxable year; and
 533 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
 534 married individual's federal individual income tax return for the taxable year.
- 535 (2) Subject to Subsection (3), and except as provided in Subsection (4), [~~for taxable years~~
 536 ~~beginning on or after January 1, 2009,~~] a claimant may claim a nonrefundable tax credit
 537 equal to the product of:
 538 (a) the difference between:
 539 (i) the total amount the claimant pays during the taxable year for:
 540 (A) insurance offered under a health benefit plan; and

- 541 (B) an eligible insured individual; and
- 542 (ii) excluded expenses; and
- 543 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate.
- 544 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim
- 545 on a return for a taxable year is:
- 546 (a) for a single claimant with no dependents, \$300;
- 547 (b) for a joint claimant with no dependents, \$600; or
- 548 (c) for a claimant with dependents, \$900.
- 549 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 550 participate in insurance offered under a health benefit plan maintained and funded in
- 551 whole or in part by:
- 552 (a) the claimant's employer; or
- 553 (b) another person's employer.
- 554 (5) A claimant may not carry forward or carry back a tax credit under this section.
- 555 Section 16. Section **59-10-1028** is amended to read:
- 556 **59-10-1028 . Nonrefundable tax credit for capital gain transactions on the**
- 557 **exchange of one form of legal tender for another form of legal tender.**
- 558 (1) As used in this section:
- 559 (a) "Capital gain transaction" means a transaction that results in a:
- 560 (i) short-term capital gain; or
- 561 (ii) long-term capital gain.
- 562 (b) "Long-term capital gain" ~~[is as]~~ means the same as that term is defined in Section
- 563 1222, Internal Revenue Code.
- 564 (c) "Long-term capital loss" ~~[is as]~~ means the same as that term is defined in Section
- 565 1222, Internal Revenue Code.
- 566 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
- 567 and short-term capital gains on a claimant's, estate's, or trust's transactions from
- 568 exchanges made for a taxable year of one form of legal tender for another form of
- 569 legal tender exceeds the sum of long-term capital losses and short-term capital losses
- 570 on those transactions for that taxable year.
- 571 (e) "Short-term capital loss" ~~[is as]~~ means the same as that term is defined in Section
- 572 1222, Internal Revenue Code.
- 573 (f) "Short-term capital gain" ~~[is as]~~ means the same as that term is defined in Section
- 574 1222, Internal Revenue Code.

575 (2) Except as provided in Section 59-10-1002.2, [~~for taxable years beginning on or after~~
576 ~~January 1, 2012,~~] a claimant, estate, or trust may claim a nonrefundable tax credit equal
577 to the product of:

578 (a) to the extent a net capital gain is included in taxable income, the amount of the
579 claimant's, estate's, or trust's net capital gain on capital gain transactions from
580 exchanges made on or after January 1, 2012, for a taxable year, of one form of legal
581 tender for another form of legal tender; and

582 (b) the [~~percentage listed in Subsection 59-10-104(2)] income tax rate.~~

583 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this
584 section.

585 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
586 commission may make rules to implement this section.

587 Section 17. Section **59-10-1035** is amended to read:

588 **59-10-1035 . Nonrefundable tax credit for contribution to state Achieving a**
589 **Better Life Experience Program account.**

590 (1) As used in this section:

591 (a) "Account" means an account in a qualified ABLE program where the designated
592 beneficiary of the account is a resident of this state.

593 (b) "Contributor" means a claimant, estate, or trust that:

594 (i) makes a contribution to an account; and

595 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

596 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
597 529A.

598 (d) "Qualified ABLE program" means the same as that term is defined in Section
599 35A-12-102.

600 (2) A contributor to an account may claim a nonrefundable tax credit as provided in this
601 section.

602 (3) Subject to the other provisions of this section, the tax credit is equal to the product of:

603 (a) the [~~percentage listed in Subsection 59-10-104(2)] income tax rate; and~~

604 (b) the total amount of contributions:

605 (i) the contributor makes for the taxable year; and

606 (ii) for which the contributor receives a statement from the qualified ABLE program
607 itemizing the contributions.

608 (4) A contributor may not claim a tax credit under this section:

- 609 (a) for an amount of excess contribution to an account that is returned to the contributor;
 610 or
 611 (b) with respect to an amount the contributor deducts on a federal income tax return.
 612 (5) A contributor may not carry forward or carry back a tax credit under this section~~[may~~
 613 ~~not be carried forward or carried back]~~.

614 Section 18. Section **59-10-1036** is amended to read:

615 **59-10-1036 . Nonrefundable tax credit for military survivor benefits.**

- 616 (1) As used in this section:
 617 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.
 618 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
 619 10101.
 620 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.
 621 (d) "Survivor benefits" means the amount paid by the federal government in accordance
 622 with 10 U.S.C. Secs. 1447 through 1455.
 623 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
 624 survivor benefits if the benefits are paid due to:
 625 (a) the death of a member of the armed forces or reserve components while on active
 626 duty; or
 627 (b) the death of a member of the reserve components that results from a
 628 service-connected cause while performing inactive duty training.
 629 (3) The tax credit described in Subsection (2) is equal to the product of:
 630 (a) the amount of survivor benefits that the surviving spouse or dependent child received
 631 during the taxable year; and
 632 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate.
 633 (4) ~~[The tax credit described in Subsection (2):]~~ A surviving spouse or a dependent child
 634 may not carry forward or carry back a tax credit under this section.
 635 ~~[(a) may not be carried forward or carried back; and]~~
 636 ~~[(b) applies to a taxable year beginning on or after January 1, 2017.]~~

637 Section 19. Section **59-10-1042** is amended to read:

638 **59-10-1042 . Nonrefundable tax credit for social security benefits.**

- 639 (1) As used in this section:
 640 (a) "Head of household filing status" means the same as that term is defined in Section
 641 59-10-1018.
 642 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

- 643 (c) "Married filing separately status" means a married individual who:
644 (i) does not file a single federal individual income tax return jointly with that married
645 individual's spouse for the taxable year; and
646 (ii) files a single federal individual income tax return for the taxable year.
- 647 (d) "Modified adjusted gross income" means the sum of the following for a claimant or,
648 if the claimant's return under this chapter is allowed a joint filing status, the claimant
649 and the claimant's spouse:
650 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
651 this section;
652 (ii) any interest income that is not included in adjusted gross income for the taxable
653 year described in Subsection (1)(d)(i); and
654 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
655 taxable year described in Subsection (1)(d)(i).
- 656 (e) "Single filing status" means a single individual who files a single federal individual
657 income tax return for the taxable year.
- 658 (f) "Social security benefit" means an amount received by a claimant as a monthly
659 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.
- 660 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant
661 on a return that receives a social security benefit may claim a nonrefundable tax credit
662 against taxes otherwise due under this part equal to the product of:
663 (a) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate; and
664 (b) the claimant's social security benefit that is included in adjusted gross income on the
665 claimant's federal income tax return for the taxable year.
- 666 (3) A claimant may not:
667 (a) carry forward or carry back the amount of a tax credit under this section that exceeds
668 the claimant's tax liability for the taxable year; or
669 (b) claim a tax credit under this section for a taxable year if a tax credit under Section
670 59-10-1019 is claimed on the claimant's return for the same taxable year.
- 671 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall
672 be reduced by \$.025 for each dollar by which modified adjusted gross income for
673 purposes of the return exceeds:
674 (a) for a federal individual income tax return that is allowed a married filing separately
675 status, \$37,500;
676 (b) for a federal individual income tax return that is allowed a single filing status,

- 677 \$45,000;
- 678 (c) for a federal individual income tax return that is allowed a head of household filing
679 status, \$75,000; or
- 680 (d) for a federal individual income tax return [~~under this chapter~~]that is allowed a joint
681 filing status, \$75,000.
- 682 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
683 commission may make rules governing the calculation and method for claiming the tax
684 credit described in this section.

685 Section 20. Section **59-10-1043** is amended to read:

686 **59-10-1043 . Nonrefundable tax credit for military retirement.**

- 687 (1) As used in this section:
- 688 (a)(i) "Military retirement pay" means retirement pay, including survivor benefits,
689 that relates to service in the armed forces or the reserve components, as described
690 in 10 U.S.C. Sec. 10101.
- 691 (ii) "Military retirement pay" does not include:
- 692 (A) Social Security income;
- 693 (B) 401(k) or IRA distributions; or
- 694 (C) income from other sources.
- 695 (b) "Survivor benefits" means the retired pay portion of the benefits described in 10
696 U.S.C. Secs. 1447 through 1455.
- 697 (2) Except as provided in Section 59-10-1002.2, a claimant who receives military
698 retirement pay may claim a nonrefundable tax credit against taxes equal to the product
699 of:
- 700 (a) the [~~percentage listed in Subsection 59-10-104(2)~~] income tax rate; and
- 701 (b) the amount of military retirement pay that is included in adjusted gross income on
702 the claimant's federal income tax return for the taxable year.
- 703 (3) A claimant may not:
- 704 (a) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax
705 liability for the taxable year; or
- 706 (b) claim a tax credit under this section for a taxable year if a tax credit under Section
707 59-10-1019 is claimed on the claimant's return for the same taxable year.

708 Section 21. Section **59-10-1403.2** is amended to read:

709 **59-10-1403.2 . Pass-through entity payment or withholding of tax on behalf of a**
710 **pass-through entity taxpayer -- Exceptions to payment or withholding requirement --**

711 **Procedures and requirements -- Failure to pay or withhold a tax on behalf of a**
712 **pass-through entity taxpayer.**

713 (1)(a) Except as provided in Subsections (1)(b) and (2), for a taxable year, a
714 pass-through entity shall pay or withhold a tax:

715 (i) on:

716 (A) the business income of the pass-through entity; and

717 (B) the nonbusiness income of the pass-through entity derived from or connected
718 with Utah sources; and

719 (ii) on behalf of a pass-through entity taxpayer.

720 (b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):

721 (i) on behalf of a final pass-through entity taxpayer who is a resident individual;

722 (ii) if the pass-through entity is an organization exempt from taxation under
723 Subsection 59-7-102(1)(a);

724 (iii) if the pass-through entity:

725 (A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and

726 (B) is not required to file a return under Chapter 7, Corporate Franchise and
727 Income Taxes, or this chapter;

728 (iv) if the pass-through entity is a publicly traded partnership:

729 (A) as defined in Section 7704(b), Internal Revenue Code;

730 (B) that is classified as a partnership for federal income tax purposes; and

731 (C) that files an annual information return reporting the following with respect to
732 each partner of the publicly traded partnership with income derived from or
733 connected with Utah sources that exceeds \$500 in a taxable year:

734 (I) the partner's name;

735 (II) the partner's address;

736 (III) the partner's taxpayer identification number; and

737 (IV) other information required by the commission; or

738 (v) on behalf of a final pass-through entity taxpayer that is a nonresident individual if
739 the pass-through entity pays the tax described in Subsection (2).

740 (2)(a) For each taxable year that begins on or after January 1, 2022, but begins on or
741 before December 31, 2025, a pass-through entity that is not a disregarded
742 pass-through entity may elect to pay a tax in an amount equal to the product of:

743 (i) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate; and

744 (ii) voluntary taxable income.

- 745 (b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a)
746 shall notify any final pass-through entity taxpayer of that election.
- 747 (c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to
748 each final pass-through entity taxpayer a statement that states:
- 749 (i) the amount of tax paid under Subsection (2)(a) on the income attributed to the
750 final pass-through entity taxpayer; and
- 751 (ii) the amount of tax paid to another state by the pass-through entity on income:
752 (A) attributed to the final pass-through entity taxpayer; and
753 (B) that the commission determines is substantially similar to the tax under
754 Subsection (2)(a).
- 755 (d) A payment of the tax described in Subsection (2)(a) on or before the last day of the
756 taxable year:
- 757 (i) is an irrevocable election to be subject to the tax for the taxable year; and
758 (ii) may not be refunded.
- 759 (3)(a) Subject to Subsection (3)(b), the tax a pass-through entity shall pay or withhold on
760 behalf of a pass-through entity taxpayer for a taxable year is an amount:
- 761 (i) determined by the commission by rule made in accordance with Title 63G,
762 Chapter 3, Utah Administrative Rulemaking Act; and
- 763 (ii) that the commission estimates will be sufficient to pay the tax liability of the
764 pass-through entity taxpayer under this chapter with respect to the income
765 described in Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the
766 taxable year.
- 767 (b) The rules the commission makes in accordance with Subsection (3)(a):
- 768 (i) except as provided in Subsection (3)(c):
- 769 (A) shall:
- 770 (I) for a pass-through entity except for a pass-through entity that is an S
771 corporation, take into account items of income, gain, loss, deduction, and
772 credit as analyzed on the schedule for reporting partners' distributive share
773 items as part of the federal income tax return for the pass-through entity; or
- 774 (II) for a pass-through entity that is an S corporation, take into account items of
775 income, gain, loss, deduction, and credit as reconciled on the schedule for
776 reporting shareholders' pro rata share items as part of the federal income tax
777 return for the pass-through entity; and
- 778 (B) notwithstanding Subsection (3)(b)(ii)(D), take into account the refundable tax

- 779 credit provided in Section 59-6-102; and
- 780 (ii) may not take into account the following items if taking those items into account
781 does not result in an accurate estimate of a pass-through entity taxpayer's tax
782 liability under this chapter for the taxable year:
- 783 (A) a capital loss;
- 784 (B) a passive loss;
- 785 (C) another item of deduction or loss if that item of deduction or loss is generally
786 subject to significant reduction or limitation in calculating:
- 787 (I) for a pass-through entity taxpayer that is classified as a C corporation for
788 federal income tax purposes, unadjusted income as defined in Section
789 59-7-101;
- 790 (II) for a pass-through entity that is classified as an individual, partnership, or S
791 corporation for federal income tax purposes, adjusted gross income; or
- 792 (III) for a pass-through entity that is classified as an estate or a trust for federal
793 income tax purposes, unadjusted income as defined in Section 59-10-103; or
- 794 (D) a tax credit allowed against a tax imposed under:
- 795 (I) Chapter 7, Corporate Franchise and Income Taxes; or
- 796 (II) this chapter.
- 797 (c) The rules the commission makes in accordance with Subsection (3)(a) may establish
798 a method for taking into account items of income, gain, loss, deduction, or credit of a
799 pass-through entity if:
- 800 (i) for a pass-through entity except for a pass-through entity that is an S corporation,
801 the pass-through entity does not analyze the items of income, gain, loss,
802 deduction, or credit on the schedule for reporting partners' distributive share items
803 as part of the federal income tax return for the pass-through entity; or
- 804 (ii) for a pass-through entity that is an S corporation, the pass-through entity does not
805 reconcile the items of income, gain, loss, deduction, or credit on the schedule for
806 reporting shareholders' pro rata share items as part of the federal income tax return
807 for the pass-through entity.
- 808 (4)(a) Except as provided in Subsection (4)(b), a pass-through entity shall remit to the
809 commission the tax the pass-through entity pays or withholds on behalf of a
810 pass-through entity taxpayer under this section:
- 811 (i) on or before the due date of the pass-through entity's return, not including
812 extensions; and

- 813 (ii) on a form provided by the commission.
- 814 (b) A pass-through entity shall remit the tax described in Subsection (2) on or before the
815 last day of the pass-through entity's taxable year.
- 816 (c) The commission shall consider only the amount of tax remitted as provided in
817 Subsection (4)(b), on or before the last day of the pass-through entity's taxable year
818 as a payment described in Subsection (2).
- 819 (d) Except as provided in Subsection (1)(b), a pass-through entity that files an amended
820 return under this part shall pay or withhold tax on any increase in the income
821 described in Subsection (1)(a)(i) on behalf of the pass-through entity taxpayer and
822 remit that tax to the commission.
- 823 (5) A pass-through entity shall provide a statement to a pass-through entity taxpayer on
824 behalf of whom the pass-through entity pays or withholds a tax under this section
825 showing the amount of tax the pass-through entity pays or withholds under this section
826 for the taxable year on behalf of the pass-through entity taxpayer.
- 827 (6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an
828 amount under this section for a taxable year from a pass-through entity and shall waive
829 any penalty and interest on that amount if:
- 830 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by
831 this section on behalf of the pass-through entity taxpayer;
- 832 (b) the pass-through entity taxpayer:
- 833 (i) files a return on or before the due date for filing the pass-through entity's return,
834 including extensions; and
- 835 (ii) on or before the due date including extensions described in Subsection (6)(b)(i),
836 pays the tax on the amount for the taxable year:
- 837 (A) if the pass-through entity taxpayer is classified as a C corporation for federal
838 income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes;
839 or
- 840 (B) if the pass-through entity taxpayer is classified as an estate, individual,
841 partnership, S corporation, or a trust for federal income tax purposes, under this
842 chapter; and
- 843 (c) the pass-through entity applies to the commission.
- 844 (7) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an
845 amount under this section for a taxable year from a pass-through entity that is a trust and
846 shall waive any penalty and interest on that amount if:

- 847 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by
 848 this section on behalf of a dependent beneficiary;
- 849 (b) the pass-through entity applies to the commission; and
- 850 (c)(i) the dependent beneficiary complies with the requirements of Subsection (6)(b);
 851 or
- 852 (ii)(A) the dependent beneficiary's adjusted gross income for the taxable year does
 853 not exceed the basic standard deduction for the dependent beneficiary, as
 854 calculated under Section 63, Internal Revenue Code, for that taxable year; and
 855 (B) the trustee of the trust retains a statement of dependent beneficiary income on
 856 behalf of the dependent beneficiary.
- 857 (8) If a pass-through entity would have otherwise qualified for a waiver of a penalty and
 858 interest under Subsection (7), except that the trustee of a trust has not applied to the
 859 commission as required by Subsection (7)(b) or retained the statement of dependent
 860 beneficiary income required by Subsection (7)(c)(ii)(B), it is a rebuttable presumption in
 861 an audit that the pass-through entity would have otherwise qualified for the waiver of the
 862 penalty and interest under Subsection (7).

863 Section 22. Section **59-10-1403.3** is amended to read:

864 **59-10-1403.3 . Refund of amounts paid or withheld for a pass-through entity.**

- 865 (1) As used in this section:
- 866 (a) "Committee" means the Revenue and Taxation Interim Committee.
- 867 (b) "Qualifying excess withholding" means an amount that:
- 868 (i) is paid or withheld:
- 869 (A) by a pass-through entity that has a different taxable year than the pass-through
 870 entity that requests a refund under this section; and
- 871 (B) on behalf of the pass-through entity that requests the refund, if the
 872 pass-through entity that requests the refund also is a pass-through entity
 873 taxpayer; and
- 874 (ii) is equal to the difference between:
- 875 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
 876 entity that requests the refund; and
- 877 (B) the product of the [~~percentage listed in Subsection 59-10-104(2)] income tax
 878 rate and the income, described in Subsection 59-10-1403.2(1)(a)(i), of the
 879 pass-through entity that requests the refund.~~
- 880 (2) [~~For a taxable year ending on or after July 1, 2017, a] A pass-through entity may claim a~~

- 881 refund of qualifying excess withholding, if the amount of the qualifying excess
 882 withholding is equal to or greater than \$250,000.
- 883 (3) A pass-through entity that requests a refund of qualifying excess withholding under this
 884 section shall:
- 885 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
 886 on which the pass-through entity files the pass-through entity's income tax return; and
 887 (b) provide any information that the commission may require to determine that the
 888 pass-through entity is eligible to receive the refund.
- 889 (4) A pass-through entity shall claim a refund of qualifying excess withholding under this
 890 section within 30 days after the earlier of the day on which:
- 891 (a) the pass-through entity files an income tax return; or
 892 (b) the pass-through entity's income tax return is due, including any extension of due
 893 date authorized in statute.
- 894 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 895 commission may make rules establishing the information that a pass-through entity shall
 896 provide to the commission to obtain a refund of qualifying excess withholding under this
 897 section.
- 898 ~~[(6)(a) On or before November 30, 2018, the committee shall review the \$250,000~~
 899 ~~threshold described in Subsection (2) for the purpose of assessing whether the~~
 900 ~~threshold amount should be maintained, increased, or decreased.]~~
- 901 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a), the~~
 902 ~~commission shall provide the committee with:]~~
- 903 ~~[(i) the total number of refund requests made under this section;]~~
 904 ~~[(ii) the total costs of any refunds issued under this section;]~~
 905 ~~[(iii) the costs of any audits conducted on refund requests made under this section;~~
 906 ~~and]~~
- 907 ~~[(iv) an estimation of:]~~
- 908 ~~[(A) the number of refund requests the commission expects to receive if the~~
 909 ~~Legislature increases the threshold;]~~
- 910 ~~[(B) the number of refund requests the commission expects to receive if the~~
 911 ~~Legislature decreases the threshold; and]~~
- 912 ~~[(C) the costs of any audits the commission would conduct if the Legislature~~
 913 ~~increases or decreases the threshold.]~~
- 914 Section 23. Section **63I-1-259** is amended to read:

915 **63I-1-259 . Repeal dates: Title 59.**

916 (1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to
917 inform the Department of Workforce Services whether an individual claimed a federal
918 earned income tax credit, is repealed July 1, 2029.

919 (2) Title 59, Chapter 1, Part 18, Income Tax Rate, is repealed July 1, 2036.

920 ~~[(2)]~~ (3) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is
921 repealed July 1, 2029.

922 ~~[(3)]~~ (4) Section 59-9-102.5, Offset for occupational health and safety related donations, is
923 repealed December 31, 2030.

924 ~~[(4)]~~ (5) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is
925 repealed July 1, 2029.

926 Section 24. **Effective Date.**

927 (1) Except as provided in Subsection (2), this bill takes effect for a taxable year beginning
928 on or after January 1, 2026.

929 (2) The actions affecting the following sections take effect on January 1, 2026:

930 (a) Section 59-1-101;

931 (b) Section 59-1-1801;

932 (c) Section 59-1-1802; and

933 (d) Section 63I-1-259.