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**Modifications to Income Tax**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Nate Blouin**

House Sponsor:

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**LONG TITLE****General Description:**

This bill modifies the state income tax.

**Highlighted Provisions:**

This bill:

- ▶ imposes a separate income tax rate on individual, estate, and trust income over \$1,000,000;
- ▶ adjusts the \$1,000,000 for inflation;
- ▶ makes the earned income tax credit refundable; 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:

- 59-6-102**, as last amended by Laws of Utah 2008, Chapter 255
- 59-10-103**, as last amended by Laws of Utah 2023, Chapter 44
- 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
- 59-10-1002.2**, as last amended by Laws of Utah 2023, Chapters 460, 462
- 59-10-1007**, as last amended by Laws of Utah 2021, Chapter 367
- 59-10-1017**, as last amended by Laws of Utah 2021, Chapters 367, 370
- 59-10-1022**, as last amended by Laws of Utah 2021, Chapter 367
- 59-10-1023**, as last amended by Laws of Utah 2021, Chapter 367
- 59-10-1028**, as last amended by Laws of Utah 2021, Chapter 367

31 **59-10-1035**, as last amended by Laws of Utah 2021, Chapter 367  
 32 **59-10-1036**, as last amended by Laws of Utah 2021, Chapter 367  
 33 **59-10-1042**, as last amended by Laws of Utah 2023, Chapter 459  
 34 **59-10-1043**, as last amended by Laws of Utah 2022, Chapter 258  
 35 **59-10-1102.1**, as enacted by Laws of Utah 2023, Chapter 460  
 36 **59-10-1403.2**, as last amended by Laws of Utah 2023, Chapter 470  
 37 **59-10-1403.3**, as last amended by Laws of Utah 2021, Chapter 367

38 ENACTS:

39 **59-10-1115**, Utah Code Annotated 1953

40 REPEALS:

41 **59-10-1044**, as last amended by Laws of Utah 2023, Chapter 459

42

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

44 Section 1. Section **59-6-102** is amended to read:

45 **59-6-102 . Producer's obligation to deduct and withhold payments -- Amount --**  
 46 **Exempt payments -- Credit against tax.**

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

51 (1) Except as provided in Subsection (2), each producer shall deduct and withhold from  
 52 each payment being made to any person in respect to production of minerals in this state,  
 53 but not including the payment to which the producer is entitled, an amount equal to the  
 54 income tax rate, as described in Subsection 59-10-103(1)(k)(i), multiplied by the amount  
 55 payable to the person entitled to the payment.

56 (2) The obligation to deduct and withhold from payments as provided in Subsection (1)  
 57 does not apply to those payments which are payable to:

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

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

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

64 (d) a business entity that files an exemption certificate in accordance with Section

65 59-6-102.1.

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

69 Section 2. Section **59-10-103** is amended to read:

70 **59-10-103 . Definitions.**

71 (1) As used in this chapter:

72 (a)(i) "Adjusted gross income":

73 (A) for a resident or nonresident individual, means the same as that term is  
74 defined in Section 62, Internal Revenue Code; or

75 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),  
76 Internal Revenue Code.

77 (ii) "Adjusted gross income" does not include:

78 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec.  
79 636(a) (36), to the extent that a deduction for the expenditures paid with the  
80 loan is disallowed, or a similar paycheck protection loan that is authorized by  
81 the federal government, provided in response to COVID-19, forgiven if the  
82 borrower meets the expenditure requirements, and exempt from federal income  
83 tax, to the extent that a deduction for the expenditures paid with the loan is  
84 disallowed; or

85 (B) an amount that an individual receives in accordance with Section 6428,  
86 Internal Revenue Code, or an amount that an individual receives that is  
87 authorized by the federal government as a tax credit for the 2020 tax year,  
88 provided in response to COVID-19, paid in advance of the filing of the  
89 individual's 2020 federal income tax return, and exempt from federal income  
90 tax.

91 (b) "Corporation" includes:

92 (i) an association;

93 (ii) a joint stock company; and

94 (iii) an insurance company.

95 (c) "COVID-19" means:

96 (i) the severe acute respiratory syndrome coronavirus 2; or

97 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

98 (d) "Distributable net income" means the same as that term is defined in Section 643,

- 99 Internal Revenue Code.
- 100 (e) "Employee" means the same as that term is defined in Section 59-10-401.
- 101 (f) "Employer" means the same as that term is defined in Section 59-10-401.
- 102 (g) "Federal taxable income":
- 103 (i) for a resident or nonresident individual, means taxable income as defined by
- 104 Section 63, Internal Revenue Code; or
- 105 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
- 106 (b), Internal Revenue Code.
- 107 (h) "Fiduciary" means:
- 108 (i) a guardian;
- 109 (ii) a trustee;
- 110 (iii) an executor;
- 111 (iv) an administrator;
- 112 (v) a receiver;
- 113 (vi) a conservator; or
- 114 (vii) any person acting in any fiduciary capacity for any individual.
- 115 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.
- 116 Sec. 1.170A-6(c)(2).
- 117 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 118 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 119 Reservation in *Hagen v. Utah*, 510 U.S. 399 (1994).
- 120 (k) "Income tax rate" means:
- 121 (i) 4.55% for the portion of state taxable income that is below the threshold; and
- 122 (ii) 5.55% for the portion of state taxable income that is equal to or above the
- 123 threshold.
- 124 [~~(k)~~] (l) "Individual" means a natural person and includes aliens and minors.
- 125 (m) "Inflation factor" means a percentage equal to the percentage by which the
- 126 consumer price index, as calculated by Sections 1(f)(4) and 1(f)(5), Internal Revenue
- 127 Code, for the preceding calendar year exceeds the consumer price index for the
- 128 calendar year two years before the current calendar year.
- 129 [~~(l)~~] (n) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate
- 130 all or part of the trust without the consent of a person who has a substantial beneficial
- 131 interest in the trust and the interest would be adversely affected by the exercise of the
- 132 settlor's power to revoke or terminate all or part of the trust.

- 133       ~~[(m)]~~ (o) "Military service" means the same as that term is defined in Pub. L. No.  
134           108-189, Sec. 101.
- 135       ~~[(n)]~~ (p) "Nonresident individual" means an individual who is not a resident of this state.
- 136       ~~[(o)]~~ (q) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a  
137           resident estate or trust.
- 138       ~~[(p)]~~ (r)(i) "Partnership" includes a syndicate, group, pool, joint venture, or other  
139           unincorporated organization:
- 140           (A) through or by means of which any business, financial operation, or venture is  
141           carried on; and
- 142           (B) that is not, within the meaning of this chapter, a trust, an estate, or a  
143           corporation.
- 144       (ii) "Partnership" does not include any organization not included under the definition  
145           of "partnership" in Section 761, Internal Revenue Code.
- 146       (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
147           organization described in Subsection ~~[(1)(p)(i)]~~ (1)(r)(i).
- 148       ~~[(q)]~~ (s) "Pass-through entity" means the same as that term is defined in Section  
149           59-10-1402.
- 150       ~~[(r)]~~ (t) "Pass-through entity taxpayer" means the same as that term is defined in Section  
151           59-10-1402.
- 152       ~~[(s)]~~ (u) "Qualified nongrantor charitable lead trust" means a trust:
- 153           (i) that is irrevocable;
- 154           (ii) that has a trust term measured by:
- 155               (A) a fixed term of years; or
- 156               (B) the life of a person living on the day on which the trust is created;
- 157           (iii) under which:
- 158               (A) a portion of the value of the trust assets is distributed during the trust term:
- 159                   (I) to an organization described in Section 170(c), Internal Revenue Code; and
- 160                   (II) as a guaranteed annuity interest or a unitrust interest; and
- 161               (B) assets remaining in the trust at the termination of the trust term are distributed  
162               to a beneficiary:
- 163                   (I) designated in the trust; and
- 164                   (II) that is not an organization described in Section 170(c), Internal Revenue  
165               Code;
- 166           (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue

- 167 Code; and
- 168 (v) under which the grantor of the trust is not treated as the owner of any portion of
- 169 the trust for federal income tax purposes.
- 170 [(t)] (v) "Resident individual" means an individual who is domiciled in this state for any
- 171 period of time during the taxable year, but only for the duration of the period during
- 172 which the individual is domiciled in this state.
- 173 [(t)] (w) "Resident estate" or "resident trust" means the same as that term is defined in
- 174 Section 75-7-103.
- 175 [(v)] (x) "~~Service member~~ Servicemember" means the same as that term is defined in
- 176 Pub. L. No. 108-189, Sec. 101.
- 177 [(w)] (y) "State income tax percentage for a nonresident estate or trust" means a
- 178 percentage equal to a nonresident estate's or trust's state taxable income for the
- 179 taxable year divided by the nonresident estate's or trust's total adjusted gross income
- 180 for that taxable year after making the adjustments required by:
- 181 (i) Section 59-10-202;
- 182 (ii) Section 59-10-207;
- 183 (iii) Section 59-10-209.1; or
- 184 (iv) Section 59-10-210.
- 185 [(x)] (z) "State income tax percentage for a nonresident individual" means a percentage
- 186 equal to a nonresident individual's state taxable income for the taxable year divided
- 187 by the difference between:
- 188 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
- 189 income for that taxable year, after making the:
- 190 (A) additions and subtractions required by Section 59-10-114; and
- 191 (B) adjustments required by Section 59-10-115; and
- 192 (ii) if the nonresident individual described in Subsection [(1)(x)(i)] (1)(z)(i) is a [~~service member~~]
- 193 servicemember, the compensation the [~~service member~~]
- 194 servicemember receives for military service if the [~~service member~~] servicemember
- 195 is serving in compliance with military orders.
- 196 [(y)] (aa) "State income tax percentage for a part-year resident individual" means, for a
- 197 taxable year, a fraction:
- 198 (i) the numerator of which is the sum of:
- 199 (A) subject to Section 59-10-1404.5, for the time period during the taxable year
- 200 that the part-year resident individual is a resident, the part-year resident

201 individual's total adjusted gross income for that time period, after making the:

202 (I) additions and subtractions required by Section 59-10-114; and

203 (II) adjustments required by Section 59-10-115; and

204 (B) for the time period during the taxable year that the part-year resident

205 individual is a nonresident, an amount calculated by:

206 (I) determining the part-year resident individual's adjusted gross income for  
207 that time period, after making the:

208 (Aa) additions and subtractions required by Section 59-10-114; and

209 (Ab) adjustments required by Section 59-10-115; and

210 (II) calculating the portion of the amount determined under Subsection [

211 ~~(1)(y)(i)(B)(I)~~ (1)(aa)(i)(B)(I) that is derived from Utah sources in

212 accordance with Section 59-10-117; and

213 (ii) the denominator of which is the difference between:

214 (A) the part-year resident individual's total adjusted gross income for that taxable  
215 year, after making the:

216 (I) additions and subtractions required by Section 59-10-114; and

217 (II) adjustments required by Section 59-10-115; and

218 (B) if the part-year resident individual is a ~~[service member]~~ servicemember, any

219 compensation the service member receives for military service during the

220 portion of the taxable year that the ~~[service member]~~ servicemember is a

221 nonresident if the ~~[service member]~~ servicemember is serving in compliance

222 with military orders.

223 ~~(z)~~ (bb) "Taxable income" or "state taxable income":

224 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident  
225 individual's adjusted gross income after making the:

226 (A) additions and subtractions required by Section 59-10-114; and

227 (B) adjustments required by Section 59-10-115;

228 (ii) for a nonresident individual, is an amount calculated by:

229 (A) determining the nonresident individual's adjusted gross income for the taxable  
230 year, after making the:

231 (I) additions and subtractions required by Section 59-10-114; and

232 (II) adjustments required by Section 59-10-115; and

233 (B) calculating the portion of the amount determined under Subsection [

234 ~~(1)(z)(ii)(A)~~ (1)(bb)(ii)(A) that is derived from Utah sources in accordance

- 235 with Section 59-10-117;
- 236 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
- 237 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.
- 238 ~~[(aa)]~~ (cc) "Taxpayer" means any of the following that has income subject in whole or
- 239 part to the tax imposed by this chapter:
- 240 (i) an individual;
- 241 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through
- 242 entity or a pass-through entity taxpayer;
- 243 (iii) a pass-through entity; or
- 244 (iv) a pass-through entity taxpayer.
- 245 (dd) "Threshold" means:
- 246 (i) for the taxable year beginning on or after January 1, 2026, and beginning before
- 247 January 1, 2027, \$1,000,000; or
- 248 (ii) for each taxable year beginning on or after January 1, 2027, the amount
- 249 calculated by increasing or decreasing the previous taxable year's threshold by the
- 250 inflation factor and rounding to the nearest whole dollar.
- 251 ~~[(bb)]~~ (ee) "Trust term" means a time period:
- 252 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
- 253 created; and
- 254 (ii) ending on the day on which the qualified nongrantor charitable lead trust
- 255 described in Subsection ~~[(1)(bb)(i)]~~ (1)(ee)(i) terminates.
- 256 ~~[(ee)]~~ (ff) "Uintah and Ouray Reservation" means the lands recognized as being included
- 257 within the Uintah and Ouray Reservation in:
- 258 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
- 259 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- 260 ~~[(dd)]~~ (gg) "Unadjusted income" means an amount equal to the difference between:
- 261 (i) the total income required to be reported by a resident or nonresident estate or trust
- 262 on the resident or nonresident estate's or trust's federal income tax return for
- 263 estates and trusts for the taxable year; and
- 264 (ii) the sum of the following:
- 265 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
- 266 (I) for administering the resident or nonresident estate or trust; and
- 267 (II) that the resident or nonresident estate or trust deducts as allowed on the
- 268 resident or nonresident estate's or trust's federal income tax return for estates



- 269 and trusts for the taxable year;
- 270 (B) the income distribution deduction that a resident or nonresident estate or trust
- 271 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the
- 272 resident or nonresident estate's or trust's federal income tax return for estates
- 273 and trusts for the taxable year;
- 274 (C) the amount that a resident or nonresident estate or trust deducts as a deduction
- 275 for estate tax or generation skipping transfer tax under Section 691(c), Internal
- 276 Revenue Code, as allowed on the resident or nonresident estate's or trust's
- 277 federal income tax return for estates and trusts for the taxable year; and
- 278 (D) the amount that a resident or nonresident estate or trust deducts as a personal
- 279 exemption under Section 642(b), Internal Revenue Code, as allowed on the
- 280 resident or nonresident estate's or trust's federal income tax return for estates
- 281 and trusts for the taxable year.

282 ~~[(ee)]~~ (hh) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.

283 1.170A-6(c)(2).

284 ~~[(ff)]~~ (ii) "Ute tribal member" means an individual who is enrolled as a member of the

285 Ute Indian Tribe of the Uintah and Ouray Reservation.

286 ~~[(gg)]~~ (jj) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

287 ~~[(hh)]~~ (kk) "Wages" means the same as that term is defined in Section 59-10-401.

- 288 (2)(a) Any term used in this chapter has the same meaning as when used in comparable
- 289 context in the laws of the United States relating to federal income taxes unless a
- 290 different meaning is clearly required.
- 291 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
- 292 mean the Internal Revenue Code or other provisions of the laws of the United States
- 293 relating to federal income taxes that are in effect for the taxable year.
- 294 (c) Any reference to a specific section of the Internal Revenue Code or other provision
- 295 of the laws of the United States relating to federal income taxes shall include any
- 296 corresponding or comparable provisions of the Internal Revenue Code as amended,
- 297 redesignated, or reenacted.

298 Section 3. Section **59-10-104** is amended to read:

299 **59-10-104 . Tax basis -- Tax rate -- Exemption.**

300

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

- 304 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to~~the~~  
305 ~~product of~~]:
- 306 (a) the resident individual's state taxable income for that taxable year; and  
307 ~~[(b) 4.55%.]~~
- 308 (b) the income tax rate.
- 309 (3) This section does not apply to a resident individual exempt from taxation under Section  
310 59-10-104.1.
- 311 Section 4. Section **59-10-116** is amended to read:
- 312 **59-10-116 . Tax on nonresident individual -- Calculation -- Exemption.**
- 313 (1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an  
314 amount equal to the product of~~the~~]:
- 315 (a) the nonresident individual's state taxable income; and  
316 (b) the income tax rate.
- 317 ~~[(b) percentage listed in Subsection 59-10-104(2).]~~
- 318 (2) This section does not apply to a nonresident individual:
- 319 (a) exempt from taxation under Section 59-10-104.1; or  
320 (b) whose only state source income is wages that are excluded in accordance with  
321 Section 59-10-117.5.
- 322 Section 5. Section **59-10-201** is amended to read:
- 323 **59-10-201 . Taxation of resident trusts and estates.**
- 324 (1) Except as provided in Subsection (2), a tax ~~[determined in accordance with the rate~~  
325 ~~prescribed by Subsection 59-10-104(2)(b)]~~is imposed for each taxable year on the state  
326 taxable income of each resident estate or trust in the amount calculated by multiplying  
327 the resident estate's or trust's state taxable income by the income tax rate.
- 328 (2) The following are not subject to a tax imposed by this part:
- 329 (a) a resident estate or trust that is not required to file a federal income tax return for  
330 estates and trusts for the taxable year; or  
331 (b) a resident trust taxed as a corporation.
- 332 (3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003,  
333 relating to an income tax imposed by another state, except that the limitation shall be  
334 computed by reference to the taxable income of the estate or trust.
- 335 (4) The property of the Utah Educational Savings Plan established in Title 53B, Chapter 8a,  
336 Utah Educational Savings Plan, and its income from operations and investments are  
337 exempt from all taxation by the state under this chapter.

338 Section 6. Section **59-10-205** is amended to read:

339 **59-10-205 . Tax on nonresident estate or trust.**

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

342 (a) the nonresident estate's or trust's state taxable income as determined under Section  
343 59-10-204; and

344 (b) the income tax rate.

345 [~~(b) the percentage listed in Subsection 59-10-104(2).]~~

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

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

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

350 Section 7. Section **59-10-1002.2** is amended to read:

351 **59-10-1002.2 . Apportionment of tax credits.**

352 (1) A nonresident individual or a part-year resident individual that claims a tax credit in  
353 accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023,  
354 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, [~~59-10-1044,~~]59-10-1046, or  
355 59-10-1047 may only claim an apportioned amount of the tax credit equal to:

356 (a) for a nonresident individual, the product of:

357 (i) the state income tax percentage for the nonresident individual; and

358 (ii) the amount of the tax credit that the nonresident individual would have been  
359 allowed to claim but for the apportionment requirements of this section; or

360 (b) for a part-year resident individual, the product of:

361 (i) the state income tax percentage for the part-year resident individual; and

362 (ii) the amount of the tax credit that the part-year resident individual would have been  
363 allowed to claim but for the apportionment requirements of this section.

364 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
365 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an  
366 apportioned amount of the tax credit equal to the product of:

367 (a) the state income tax percentage for the nonresident estate or trust; and

368 (b) the amount of the tax credit that the nonresident estate or trust would have been  
369 allowed to claim but for the apportionment requirements of this section.

370 Section 8. Section **59-10-1007** is amended to read:

371 **59-10-1007 . Recycling market development zones tax credits.**

- 372 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling  
373 market development zone as defined in Section 19-13-102 may claim the following  
374 nonrefundable tax credits:
- 375 (a) a tax credit equal to the product of the [~~percentage listed in Subsection 59-10-104(2)~~]  
376 income tax rate described in Subsection 59-10-103(1)(k)(i) and the purchase price  
377 paid for machinery and equipment used directly in:
- 378 (i) commercial composting; or  
379 (ii) manufacturing facilities or plant units that:
- 380 (A) manufacture, process, compound, or produce recycled items of tangible  
381 personal property for sale; or  
382 (B) reduce or reuse postconsumer waste material; and
- 383 (b) a tax credit equal to the lesser of:
- 384 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
385 inventory, and utilities made by the claimant, estate, or trust for establishing and  
386 operating recycling or composting technology in the state; and  
387 (ii) \$2,000.
- 388 (2)(a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust  
389 shall receive from the Department of Environmental Quality a written certification,  
390 on a form approved by the commission, that includes:
- 391 (i) a statement that the claimant, estate, or trust is operating within the boundaries of  
392 a recycling market development zone;
- 393 (ii) for a claim of the tax credit described in Subsection (1)(a):
- 394 (A) the type of the machinery and equipment that the claimant, estate, or trust  
395 purchased;
- 396 (B) the date that the claimant, estate, or trust purchased the machinery and  
397 equipment;
- 398 (C) the purchase price for the machinery and equipment;
- 399 (D) the total purchase price for all machinery and equipment for which the  
400 claimant, estate, or trust is claiming a tax credit;
- 401 (E) the amount of the claimant's, estate's, or trust's tax credit; and  
402 (F) a statement that the machinery and equipment are integral to the composting  
403 or recycling process; and
- 404 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 405 (A) the type of net expenditure that the claimant, estate, or trust made to a third

- 406 party;
- 407 (B) the date that the claimant, estate, or trust made the payment to a third party;
- 408 (C) the amount that the claimant, estate, or trust paid to each third party;
- 409 (D) the total amount that the claimant, estate, or trust paid to all third parties;
- 410 (E) a statement that the net expenditures support the establishment and operation
- 411 of recycling or composting technology in the state; and
- 412 (F) the amount of the claimant's, estate's, or trust's tax credit.
- 413 (b)(i) The Department of Environmental Quality shall provide a claimant, estate, or
- 414 trust seeking to claim a tax credit under Subsection (1) with a copy of the written
- 415 certification.
- 416 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
- 417 same period of time that a person is required to keep books and records under
- 418 Section 59-1-1406.
- 419 (c) The Department of Environmental Quality shall submit to the commission an
- 420 electronic list that includes:
- 421 (i) the name and identifying information of each claimant, estate, or trust to which the
- 422 Department of Environmental Quality issues a written certification; and
- 423 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the
- 424 written certification.
- 425 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
- 426 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state
- 427 income tax liability as the tax liability is calculated:
- 428 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
- 429 payments;
- 430 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
- 431 year; and
- 432 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.
- 433 (4) The commission shall make rules governing what information a claimant, estate, or trust
- 434 shall file with the commission to verify the entitlement to and amount of a tax credit.
- 435 (5) Except as provided in Subsections (6) [~~through (8)~~] and (7), a claimant, estate, or trust
- 436 may carry forward, to the next three taxable years, the amount of a tax credit described
- 437 in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.
- 438 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
- 439 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or

440 carries forward a tax credit under Section 63N-2-213.

441 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a  
442 taxable year during which the claimant, estate, or trust claims or carries forward a tax  
443 credit under Section 63N-2-213.

444 Section 9. Section **59-10-1017** is amended to read:

445 **59-10-1017 . Utah Educational Savings Plan tax credit.**

446 (1) As used in this section:

447 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

448 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

449 (c) "Higher education costs" means the same as that term is defined in Section  
450 53B-8a-102.5.

451 (d) "Maximum amount of a qualified investment for the taxable year" means, for a  
452 taxable year, the product of the percentage listed in Subsection 59-10-104(2) and:

453 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account  
454 owner, if that claimant, estate, or trust is other than husband and wife account  
455 owners who file a single return jointly, the maximum amount of a qualified  
456 investment:

457 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

458 (B) increased or kept for that taxable year in accordance with Subsections  
459 53B-8a-106(1)(f) and (g);

460 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account  
461 owners who file a single return jointly, the maximum amount of a qualified  
462 investment:

463 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

464 (B) increased or kept for that taxable year in accordance with Subsections  
465 53B-8a-106(1)(f) and (g); or

466 (iii) for a grantor trust:

467 (A) if the owner of the grantor trust has a single filing status or head of household  
468 filing status as defined in Section 59-10-1018, the amount described in  
469 Subsection (1)(d)(i); or

470 (B) if the owner of the grantor trust has a joint filing status as defined in Section  
471 59-10-1018, the amount described in Subsection (1)(d)(ii).

472 (e) "Owner of the grantor trust" means the same as that term is defined in Section  
473 53B-8a-102.5.

- 474 (f) "Qualified investment" means the same as that term is defined in Section  
 475 53B-8a-102.5.
- 476 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this  
 477 section, a claimant, estate, or trust that is an account owner may claim a nonrefundable  
 478 tax credit equal to the product of:
- 479 (a) the amount of a qualified investment made:
- 480 (i) during the taxable year; and  
 481 (ii) into an account owned by the claimant, estate, or trust; and
- 482 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate described in  
 483 Subsection 59-10-103(1)(k)(i).
- 484 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may  
 485 make a qualified investment described in Subsection (2).
- 486 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this  
 487 section with respect to any portion of a qualified investment described in Subsection (2)  
 488 that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal  
 489 income tax return.
- 490 (5) A tax credit under this section may not exceed the maximum amount of a qualified  
 491 investment for the taxable year.
- 492 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry back  
 493 the tax credit under this section.

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

495 **59-10-1022 . Nonrefundable tax credit for capital gain transactions.**

- 496 (1) As used in this section:
- 497 (a)~~(f)~~ "Capital gain transaction" means a transaction that results in a:
- 498 ~~[(A)]~~ (i) short-term capital gain; or  
 499 ~~[(B)]~~ (ii) long-term capital gain.
- 500 ~~[(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
 501 ~~the commission may by rule define the term "transaction."]~~
- 502 (b) "Commercial domicile" means the principal place from which the trade or business  
 503 of a Utah small business corporation is directed or managed.
- 504 (c) "Long-term capital gain" ~~[is as]~~ means the same as that term is defined in Section  
 505 1222, Internal Revenue Code.
- 506 (d) "Qualifying stock" means stock that is:
- 507 (i)(A) common; or

- 508 (B) preferred;
- 509 (ii) as defined by the commission by rule made in accordance with Title 63G,  
510 Chapter 3, Utah Administrative Rulemaking Act, originally issued to:
- 511 (A) a claimant, estate, or trust; or
- 512 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this  
513 section:
- 514 (I) was a partner on the day on which the stock was issued; and
- 515 (II) remains a partner until the last day of the taxable year for which the  
516 claimant, estate, or trust claims a tax credit under this section; and
- 517 (iii) issued:
- 518 (A) by a Utah small business corporation;
- 519 (B) on or after January 1, 2008; and
- 520 (C) for:
- 521 (I) money; or
- 522 (II) other property, except for stock or securities.
- 523 (e) "Short-term capital gain" [~~is as~~] means the same as that term is defined in Section  
524 1222, Internal Revenue Code.
- 525 (f)(i) "Utah small business corporation" means a corporation that:
- 526 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as  
527 defined in Section 1244(c)(3), Internal Revenue Code;
- 528 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section  
529 1244(c)(1)(C), Internal Revenue Code; and
- 530 (C) has its commercial domicile in this state.
- 531 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
- 532 (iii) The phrase "the date the loss on such stock was sustained" in Sections  
533 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last  
534 day of the taxable year for which the claimant, estate, or trust claims a tax credit  
535 under this section."
- 536 (2) [~~For taxable years beginning on or after January 1, 2008, a~~] A claimant, estate, or trust  
537 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit  
538 equal to the product of:
- 539 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or  
540 long-term capital gain on a capital gain transaction that occurs on or after January 1,  
541 2008; and



- 542 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate described in  
 543 Subsection 59-10-103(1)(k)(i).
- 544 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable  
 545 tax credit allowed by Subsection (2) if:
- 546 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
- 547 (i) to purchase qualifying stock in a Utah small business corporation; and
- 548 (ii) within a 12-month period after the day on which the capital gain transaction  
 549 occurs; and
- 550 (b) ~~[prior to]~~ before the purchase of the qualifying stock described in Subsection (3)(a)(i),  
 551 the claimant, estate, or trust did not have an ownership interest in the Utah small  
 552 business corporation that issued the qualifying stock.
- 553 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this  
 554 section.
- 555 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 556 commission may make rules:
- 557 (a) defining the ~~[term]~~ terms "gross proceeds" and "transaction"; and
- 558 (b) ~~[prescribing]~~ providing the circumstances under which a claimant, estate, or trust has  
 559 an ownership interest in a Utah small business corporation.
- 560 Section 11. Section **59-10-1023** is amended to read:
- 561 **59-10-1023 . Nonrefundable tax credit for amounts paid under a health benefit**  
 562 **plan.**
- 563 (1) As used in this section:
- 564 (a) "Claimant with dependents" means a claimant:
- 565 (i) regardless of the claimant's filing status for purposes of filing a federal individual  
 566 income tax return for the taxable year; and
- 567 (ii) who claims one or more dependents under Section 151, Internal Revenue Code,  
 568 as allowed on the claimant's federal individual income tax return for the taxable  
 569 year.
- 570 (b) "Eligible insured individual" means:
- 571 (i) the claimant who is insured under a health benefit plan;
- 572 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
- 573 (A) the claimant files a single return jointly under this chapter with the claimant's  
 574 spouse for the taxable year; and
- 575 (B) the spouse is insured under the health benefit plan described in Subsection

- 576 (1)(b)(i); or
- 577 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
- 578 (A) the claimant claims the dependent under Section 151, Internal Revenue Code,
- 579 as allowed on the claimant's federal individual income tax return for the
- 580 taxable year; and
- 581 (B) the dependent is insured under the health benefit plan described in Subsection
- 582 (1)(b)(i).
- 583 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under a
- 584 health benefit plan for a taxable year if:
- 585 (i) the claimant claims a tax credit for that amount under Section 35, Internal
- 586 Revenue Code:
- 587 (A) on the claimant's federal individual income tax return for the taxable year; and
- 588 (B) with respect to an eligible insured individual;
- 589 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
- 590 Code:
- 591 (A) on the claimant's federal individual income tax return for the taxable year; and
- 592 (B) with respect to an eligible insured individual; or
- 593 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
- 594 Internal Revenue Code, with respect to an eligible insured individual.
- 595 (d)(i) "Health benefit plan" [~~is as~~] means the same as that term is defined in Section
- 596 31A-1-301.
- 597 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
- 598 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
- 599 Administrative Rulemaking Act.
- 600 (e) "Joint claimant with no dependents" means [~~a husband and wife~~] spouses who:
- 601 (i) file a single return jointly under this chapter for the taxable year; and
- 602 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the [~~husband's and wife's~~]
- 603 spouses' federal individual income tax return for the taxable
- 604 year.
- 605 (f) "Single claimant with no dependents" means:
- 606 (i) a single individual who:
- 607 (A) files a single federal individual income tax return for the taxable year; and
- 608 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
- 609 single individual's federal individual income tax return for the taxable year;

- 610 (ii) a head of household:
- 611 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
- 612 individual income tax return for the taxable year; and
- 613 (B) who does not claim a dependent under Section 151, Internal Revenue Code,
- 614 on the head of household's federal individual income tax return for the taxable
- 615 year; or
- 616 (iii) a married individual who:
- 617 (A) does not file a single federal individual income tax return jointly with that
- 618 married individual's spouse for the taxable year; and
- 619 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
- 620 married individual's federal individual income tax return for the taxable year.
- 621 (2) Subject to Subsection (3), and except as provided in Subsection (4),~~for taxable years~~
- 622 ~~beginning on or after January 1, 2009,~~ a claimant may claim a nonrefundable tax credit
- 623 equal to the product of:
- 624 (a) the difference between:
- 625 (i) the total amount the claimant pays during the taxable year for:
- 626 (A) insurance offered under a health benefit plan; and
- 627 (B) an eligible insured individual; and
- 628 (ii) excluded expenses; and
- 629 (b) the ~~percentage listed in Subsection 59-10-104(2)~~ income tax rate described in
- 630 Subsection 59-10-103(1)(k)(i).
- 631 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim
- 632 on a return for a taxable year is:
- 633 (a) for a single claimant with no dependents, \$300;
- 634 (b) for a joint claimant with no dependents, \$600; or
- 635 (c) for a claimant with dependents, \$900.
- 636 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 637 participate in insurance offered under a health benefit plan maintained and funded in
- 638 whole or in part by:
- 639 (a) the claimant's employer; or
- 640 (b) another person's employer.
- 641 (5) A claimant may not carry forward or carry back a tax credit under this section.
- 642 Section 12. Section **59-10-1028** is amended to read:
- 643 **59-10-1028 . Nonrefundable tax credit for capital gain transactions on the**

644 **exchange of one form of legal tender for another form of legal tender.**

645 (1) As used in this section:

646 (a) "Capital gain transaction" means a transaction that results in a:

647 (i) short-term capital gain; or

648 (ii) long-term capital gain.

649 (b) "Long-term capital gain" [~~is-as~~] means the same as that term is defined in Section  
650 1222, Internal Revenue Code.

651 (c) "Long-term capital loss" [~~is-as~~] means the same as that term defined in Section 1222,  
652 Internal Revenue Code.

653 (d) "Net capital gain" means the amount by which the sum of long-term capital gains  
654 and short-term capital gains on a claimant's, estate's, or trust's transactions from  
655 exchanges made for a taxable year of one form of legal tender for another form of  
656 legal tender exceeds the sum of long-term capital losses and short-term capital losses  
657 on those transactions for that taxable year.

658 (e) "Short-term capital loss" [~~is-as~~] means the same as that term is defined in Section  
659 1222, Internal Revenue Code.

660 (f) "Short-term capital gain" [~~is-as~~] means the same as that term is defined in Section  
661 1222, Internal Revenue Code.

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

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

669 (b) the [~~percentage listed in Subsection 59-10-104(2)] income tax rate described in  
670 Subsection 59-10-103(1)(k)(i).~~

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

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

675 Section 13. Section **59-10-1035** is amended to read:

676 **59-10-1035 . Nonrefundable tax credit for contribution to state Achieving a**  
677 **Better Life Experience Program account.**

- 678 (1) As used in this section:
- 679 (a) "Account" means an account in a qualified ABLE program where the designated  
680 beneficiary of the account is a resident of this state.
- 681 (b) "Contributor" means a claimant, estate, or trust that:
- 682 (i) makes a contribution to an account; and
- 683 (ii) receives a statement from the qualified ABLE program itemizing the contribution.
- 684 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.  
685 529A.
- 686 (d) "Qualified ABLE program" means the same as that term is defined in Section  
687 35A-12-102.
- 688 (2) A contributor to an account may claim a nonrefundable tax credit as provided in this  
689 section.
- 690 (3) Subject to the other provisions of this section, the tax credit is equal to the product of:
- 691 (a) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate described in  
692 Subsection 59-10-103(1)(k)(i); and
- 693 (b) the total amount of contributions:
- 694 (i) the contributor makes for the taxable year; and
- 695 (ii) for which the contributor receives a statement from the qualified ABLE program  
696 itemizing the contributions.
- 697 (4) A contributor may not claim a tax credit under this section:
- 698 (a) for an amount of excess contribution to an account that is returned to the contributor;  
699 or
- 700 (b) with respect to an amount the contributor deducts on a federal income tax return.
- 701 (5) A contributor may not carry forward or carry back a tax credit under this section~~[may~~  
702 ~~not be carried forward or carried back]~~.

703 Section 14. Section **59-10-1036** is amended to read:

704 **59-10-1036 . Nonrefundable tax credit for military survivor benefits.**

- 705 (1) As used in this section:
- 706 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- 707 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.  
708 10101.
- 709 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- 710 (d) "Survivor benefits" means the amount paid by the federal government in accordance  
711 with 10 U.S.C. Secs. 1447 through 1455.

- 712 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for  
 713 survivor benefits if the benefits are paid due to:
- 714 (a) the death of a member of the armed forces or reserve components while on active  
 715 duty; or
- 716 (b) the death of a member of the reserve components that results from a  
 717 service-connected cause while performing inactive duty training.
- 718 (3) The tax credit described in Subsection (2) is equal to the product of:
- 719 (a) the amount of survivor benefits that the surviving spouse or dependent child received  
 720 during the taxable year; and
- 721 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate described in  
 722 Subsection 59-10-103(1)(k)(i).
- 723 (4) A surviving spouse or a dependent child may not carry forward or carry back a tax  
 724 credit under this section.
- 725 ~~[(4) The tax credit described in Subsection (2):]~~
- 726 ~~[(a) may not be carried forward or carried back; and]~~
- 727 ~~[(b) applies to a taxable year beginning on or after January 1, 2017.]~~
- 728 Section 15. Section **59-10-1042** is amended to read:
- 729 **59-10-1042 . Nonrefundable tax credit for social security benefits.**
- 730 (1) As used in this section:
- 731 (a) "Head of household filing status" means the same as that term is defined in Section  
 732 59-10-1018.
- 733 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
- 734 (c) "Married filing separately status" means a married individual who:
- 735 (i) does not file a single federal individual income tax return jointly with that married  
 736 individual's spouse for the taxable year; and
- 737 (ii) files a single federal individual income tax return for the taxable year.
- 738 (d) "Modified adjusted gross income" means the sum of the following for a claimant or,  
 739 if the claimant's return under this chapter is allowed a joint filing status, the claimant  
 740 and the claimant's spouse:
- 741 (i) adjusted gross income for the taxable year for which a tax credit is claimed under  
 742 this section;
- 743 (ii) any interest income that is not included in adjusted gross income for the taxable  
 744 year described in Subsection (1)(d)(i); and
- 745 (iii) any addition to adjusted gross income required by Section 59-10-114 for the

- 746 taxable year described in Subsection (1)(d)(i).
- 747 (e) "Single filing status" means a single individual who files a single federal individual  
748 income tax return for the taxable year.
- 749 (f) "Social security benefit" means an amount received by a claimant as a monthly  
750 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.
- 751 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant  
752 on a return that receives a social security benefit may claim a nonrefundable tax credit  
753 against taxes otherwise due under this part equal to the product of:
- 754 (a) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate described in  
755 Subsection 59-10-103(1)(k)(i); and
- 756 (b) the claimant's social security benefit that is included in adjusted gross income on the  
757 claimant's federal income tax return for the taxable year.
- 758 (3) A claimant may not:
- 759 (a) carry forward or carry back the amount of a tax credit under this section that exceeds  
760 the claimant's tax liability for the taxable year; or
- 761 (b) claim a tax credit under this section for a taxable year if a tax credit under Section  
762 59-10-1019 is claimed on the claimant's return for the same taxable year.
- 763 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall  
764 be reduced by \$.025 for each dollar by which modified adjusted gross income for  
765 purposes of the return exceeds:
- 766 (a) for a ~~[federal individual income tax]~~ return filed under this chapter that is allowed a  
767 married filing separately status, \$37,500;
- 768 (b) for a ~~[federal individual income tax]~~ return filed under this chapter that is allowed a  
769 single filing status, \$45,000;
- 770 (c) for a ~~[federal individual income tax]~~ return filed under this chapter that is allowed a  
771 head of household filing status, \$75,000; or
- 772 (d) for a return filed under this chapter that is allowed a joint filing status, \$75,000.
- 773 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
774 commission may make rules governing the calculation and method for claiming the tax  
775 credit described in this section.

776 Section 16. Section **59-10-1043** is amended to read:

777 **59-10-1043 . Nonrefundable tax credit for military retirement.**

- 778 (1) As used in this section:
- 779 (a)(i) "Military retirement pay" means retirement pay, including survivor benefits,

780 that relates to service in the armed forces or the reserve components, as described  
781 in 10 U.S.C. Sec. 10101.

782 (ii) "Military retirement pay" does not include:

783 (A) Social Security income;

784 (B) 401(k) or IRA distributions; or

785 (C) income from other sources.

786 (b) "Survivor benefits" means the retired pay portion of the benefits described in 10  
787 U.S.C. Secs. 1447 through 1455.

788 (2) Except as provided in Section 59-10-1002.2, a claimant who receives military  
789 retirement pay may claim a nonrefundable tax credit against taxes equal to the product  
790 of:

791 (a) the [~~percentage listed in Subsection 59-10-104(2)~~] income tax rate described in  
792 Subsection 59-10-103(1)(k)(i); and

793 (b) the amount of military retirement pay that is included in adjusted gross income on  
794 the claimant's federal income tax return for the taxable year.

795 (3) A claimant may not:

796 (a) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax  
797 liability for the taxable year; or

798 (b) claim a tax credit under this section for a taxable year if a tax credit under Section  
799 59-10-1019 is claimed on the claimant's return for the same taxable year.

800 Section 17. Section **59-10-1102.1** is amended to read:

801 **59-10-1102.1 . Apportionment of tax credit.**

802 A nonresident individual or a part-year resident individual who claims a tax credit in  
803 accordance with Section 59-10-1114 or 59-10-1115 may claim only an apportioned amount of  
804 the tax credit equal to the product of:

805 (1) the state income tax percentage for the nonresident individual or the state income tax  
806 percentage for the part-year resident individual; and

807 (2) the amount of the tax credit that the nonresident individual or the part-year resident  
808 individual would have been allowed to claim but for the apportionment requirement of  
809 this section.

810 Section 18. Section **59-10-1115** is enacted to read:

811 **59-10-1115 . Refundable earned income tax credit.**

812 (1) As used in this section:

813 (a) "Federal earned income tax credit" means the federal earned income tax credit



- 814 described in Section 32, Internal Revenue Code.
- 815 (b) "Qualifying claimant" means a claimant who:
- 816 (i) qualifies for and claims the federal earned income tax credit for the current taxable
- 817 year; and
- 818 (ii) earns income in Utah that is reported on a W-2 form.
- 819 (2) Subject to Section 59-10-1102.1, a qualifying claimant may claim a refundable earned
- 820 income tax credit equal to the lesser of:
- 821 (a) 20% of the amount of the federal earned income tax credit that the qualifying
- 822 claimant was entitled to claim on a federal income tax return for the current taxable
- 823 year; and
- 824 (b) the total Utah wages reported on the qualifying claimant's W-2 form for the current
- 825 taxable year.

826 Section 19. Section **59-10-1403.2** is amended to read:

827 **59-10-1403.2 . Pass-through entity payment or withholding of tax on behalf of a**

828 **pass-through entity taxpayer -- Exceptions to payment or withholding requirement --**

829 **Procedures and requirements -- Failure to pay or withhold a tax on behalf of a**

830 **pass-through entity taxpayer.**

- 831 (1)(a) Except as provided in Subsections (1)(b) and (2), for a taxable year, a
- 832 pass-through entity shall pay or withhold a tax:
- 833 (i) on:
- 834 (A) the business income of the pass-through entity; and
- 835 (B) the nonbusiness income of the pass-through entity derived from or connected
- 836 with Utah sources; and
- 837 (ii) on behalf of a pass-through entity taxpayer.
- 838 (b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):
- 839 (i) on behalf of a final pass-through entity taxpayer who is a resident individual;
- 840 (ii) if the pass-through entity is an organization exempt from taxation under
- 841 Subsection 59-7-102(1)(a);
- 842 (iii) if the pass-through entity:
- 843 (A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and
- 844 (B) is not required to file a return under Chapter 7, Corporate Franchise and
- 845 Income Taxes, or this chapter;
- 846 (iv) if the pass-through entity is a publicly traded partnership:
- 847 (A) as defined in Section 7704(b), Internal Revenue Code;

- 848 (B) that is classified as a partnership for federal income tax purposes; and  
849 (C) that files an annual information return reporting the following with respect to  
850 each partner of the publicly traded partnership with income derived from or  
851 connected with Utah sources that exceeds \$500 in a taxable year:
- 852 (I) the partner's name;
  - 853 (II) the partner's address;
  - 854 (III) the partner's taxpayer identification number; and
  - 855 (IV) other information required by the commission; or
- 856 (v) on behalf of a final pass-through entity taxpayer that is a nonresident individual if  
857 the pass-through entity pays the tax described in Subsection (2).
- 858 (2)(a) For each taxable year that begins on or after January 1, 2022, but begins on or  
859 before December 31, 2025, a pass-through entity that is not a disregarded  
860 pass-through entity may elect to pay a tax in an amount equal to the product of:
- 861 (i) the [~~percentage listed in Subsection 59-10-104(2)~~] income tax rate; and
  - 862 (ii) voluntary taxable income.
- 863 (b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a)  
864 shall notify any final pass-through entity taxpayer of that election.
- 865 (c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to  
866 each final pass-through entity taxpayer a statement that states:
- 867 (i) the amount of tax paid under Subsection (2)(a) on the income attributed to the  
868 final pass-through entity taxpayer; and
  - 869 (ii) the amount of tax paid to another state by the pass-through entity on income:
    - 870 (A) attributed to the final pass-through entity taxpayer; and
    - 871 (B) that the commission determines is substantially similar to the tax under  
872 Subsection (2)(a).
- 873 (d) A payment of the tax described in Subsection (2)(a) on or before the last day of the  
874 taxable year:
- 875 (i) is an irrevocable election to be subject to the tax for the taxable year; and
  - 876 (ii) may not be refunded.
- 877 (3)(a) Subject to Subsection (3)(b), the tax a pass-through entity shall pay or withhold on  
878 behalf of a pass-through entity taxpayer for a taxable year is an amount:
- 879 (i) determined by the commission by rule made in accordance with Title 63G,  
880 Chapter 3, Utah Administrative Rulemaking Act; and
  - 881 (ii) that the commission estimates will be sufficient to pay the tax liability of the

882 pass-through entity taxpayer under this chapter with respect to the income  
883 described in Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the  
884 taxable year.

885 (b) The rules the commission makes in accordance with Subsection (3)(a):

886 (i) except as provided in Subsection (3)(c):

887 (A) shall:

888 (I) for a pass-through entity except for a pass-through entity that is an S  
889 corporation, take into account items of income, gain, loss, deduction, and  
890 credit as analyzed on the schedule for reporting partners' distributive share  
891 items as part of the federal income tax return for the pass-through entity; or

892 (II) for a pass-through entity that is an S corporation, take into account items of  
893 income, gain, loss, deduction, and credit as reconciled on the schedule for  
894 reporting shareholders' pro rata share items as part of the federal income tax  
895 return for the pass-through entity; and

896 (B) notwithstanding Subsection (3)(b)(ii)(D), take into account the refundable tax  
897 credit provided in Section 59-6-102; and

898 (ii) may not take into account the following items if taking those items into account  
899 does not result in an accurate estimate of a pass-through entity taxpayer's tax  
900 liability under this chapter for the taxable year:

901 (A) a capital loss;

902 (B) a passive loss;

903 (C) another item of deduction or loss if that item of deduction or loss is generally  
904 subject to significant reduction or limitation in calculating:

905 (I) for a pass-through entity taxpayer that is classified as a C corporation for  
906 federal income tax purposes, unadjusted income as defined in Section  
907 59-7-101;

908 (II) for a pass-through entity that is classified as an individual, partnership, or S  
909 corporation for federal income tax purposes, adjusted gross income; or

910 (III) for a pass-through entity that is classified as an estate or a trust for federal  
911 income tax purposes, unadjusted income as defined in Section 59-10-103; or

912 (D) a tax credit allowed against a tax imposed under:

913 (I) Chapter 7, Corporate Franchise and Income Taxes; or

914 (II) this chapter.

915 (c) The rules the commission makes in accordance with Subsection (3)(a) may establish

- 916 a method for taking into account items of income, gain, loss, deduction, or credit of a  
917 pass-through entity if:
- 918 (i) for a pass-through entity except for a pass-through entity that is an S corporation,  
919 the pass-through entity does not analyze the items of income, gain, loss,  
920 deduction, or credit on the schedule for reporting partners' distributive share items  
921 as part of the federal income tax return for the pass-through entity; or
- 922 (ii) for a pass-through entity that is an S corporation, the pass-through entity does not  
923 reconcile the items of income, gain, loss, deduction, or credit on the schedule for  
924 reporting shareholders' pro rata share items as part of the federal income tax return  
925 for the pass-through entity.
- 926 (4)(a) Except as provided in Subsection (4)(b), a pass-through entity shall remit to the  
927 commission the tax the pass-through entity pays or withholds on behalf of a  
928 pass-through entity taxpayer under this section:
- 929 (i) on or before the due date of the pass-through entity's return, not including  
930 extensions; and
- 931 (ii) on a form provided by the commission.
- 932 (b) A pass-through entity shall remit the tax described in Subsection (2) on or before the  
933 last day of the pass-through entity's taxable year.
- 934 (c) The commission shall consider only the amount of tax remitted as provided in  
935 Subsection (4)(b), on or before the last day of the pass-through entity's taxable year  
936 as a payment described in Subsection (2).
- 937 (d) Except as provided in Subsection (1)(b), a pass-through entity that files an amended  
938 return under this part shall pay or withhold tax on any increase in the income  
939 described in Subsection (1)(a)(i) on behalf of the pass-through entity taxpayer and  
940 remit that tax to the commission.
- 941 (5) A pass-through entity shall provide a statement to a pass-through entity taxpayer on  
942 behalf of whom the pass-through entity pays or withholds a tax under this section  
943 showing the amount of tax the pass-through entity pays or withholds under this section  
944 for the taxable year on behalf of the pass-through entity taxpayer.
- 945 (6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an  
946 amount under this section for a taxable year from a pass-through entity and shall waive  
947 any penalty and interest on that amount if:
- 948 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by  
949 this section on behalf of the pass-through entity taxpayer;

- 950 (b) the pass-through entity taxpayer:
- 951 (i) files a return on or before the due date for filing the pass-through entity's return,
- 952 including extensions; and
- 953 (ii) on or before the due date including extensions described in Subsection (6)(b)(i),
- 954 pays the tax on the amount for the taxable year:
- 955 (A) if the pass-through entity taxpayer is classified as a C corporation for federal
- 956 income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes;
- 957 or
- 958 (B) if the pass-through entity taxpayer is classified as an estate, individual,
- 959 partnership, S corporation, or a trust for federal income tax purposes, under this
- 960 chapter; and
- 961 (c) the pass-through entity applies to the commission.
- 962 (7) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an
- 963 amount under this section for a taxable year from a pass-through entity that is a trust and
- 964 shall waive any penalty and interest on that amount if:
- 965 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by
- 966 this section on behalf of a dependent beneficiary;
- 967 (b) the pass-through entity applies to the commission; and
- 968 (c)(i) the dependent beneficiary complies with the requirements of Subsection (6)(b);
- 969 or
- 970 (ii)(A) the dependent beneficiary's adjusted gross income for the taxable year does
- 971 not exceed the basic standard deduction for the dependent beneficiary, as
- 972 calculated under Section 63, Internal Revenue Code, for that taxable year; and
- 973 (B) the trustee of the trust retains a statement of dependent beneficiary income on
- 974 behalf of the dependent beneficiary.
- 975 (8) If a pass-through entity would have otherwise qualified for a waiver of a penalty and
- 976 interest under Subsection (7), except that the trustee of a trust has not applied to the
- 977 commission as required by Subsection (7)(b) or retained the statement of dependent
- 978 beneficiary income required by Subsection (7)(c)(ii)(B), it is a rebuttable presumption in
- 979 an audit that the pass-through entity would have otherwise qualified for the waiver of the
- 980 penalty and interest under Subsection (7).

981 Section 20. Section **59-10-1403.3** is amended to read:

982 **59-10-1403.3 . Refund of amounts paid or withheld for a pass-through entity.**

- 983 (1) As used in this section:

- 984 (a) "Committee" means the Revenue and Taxation Interim Committee.
- 985 (b) "Qualifying excess withholding" means an amount that:
- 986 (i) is paid or withheld:
- 987 (A) by a pass-through entity that has a different taxable year than the pass-through
- 988 entity that requests a refund under this section; and
- 989 (B) on behalf of the pass-through entity that requests the refund, if the
- 990 pass-through entity that requests the refund also is a pass-through entity
- 991 taxpayer; and
- 992 (ii) is equal to the difference between:
- 993 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
- 994 entity that requests the refund; and
- 995 (B) the product of the [~~percentage listed in Subsection 59-10-104(2)] income tax~~
- 996 rate and the income, described in Subsection 59-10-1403.2(1)(a)(i), of the
- 997 pass-through entity that requests the refund.
- 998 (2) [~~For a taxable year ending on or after July 1, 2017, a~~] A pass-through entity may claim a
- 999 refund of qualifying excess withholding, if the amount of the qualifying excess
- 1000 withholding is equal to or greater than \$250,000.
- 1001 (3) A pass-through entity that requests a refund of qualifying excess withholding under this
- 1002 section shall:
- 1003 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
- 1004 on which the pass-through entity files the pass-through entity's income tax return; and
- 1005 (b) provide any information that the commission may require to determine that the
- 1006 pass-through entity is eligible to receive the refund.
- 1007 (4) A pass-through entity shall claim a refund of qualifying excess withholding under this
- 1008 section within 30 days after the earlier of the day on which:
- 1009 (a) the pass-through entity files an income tax return; or
- 1010 (b) the pass-through entity's income tax return is due, including any extension of due
- 1011 date authorized in statute.
- 1012 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1013 commission may make rules establishing the information that a pass-through entity shall
- 1014 provide to the commission to obtain a refund of qualifying excess withholding under this
- 1015 section.
- 1016 [~~(6)(a) On or before November 30, 2018, the committee shall review the \$250,000~~
- 1017 ~~threshold described in Subsection (2) for the purpose of assessing whether the~~

1018 ~~threshold amount should be maintained, increased, or decreased.]~~  
1019 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a), the~~  
1020 ~~commission shall provide the committee with:]~~  
1021 ~~[(i) the total number of refund requests made under this section;]~~  
1022 ~~[(ii) the total costs of any refunds issued under this section;]~~  
1023 ~~[(iii) the costs of any audits conducted on refund requests made under this section;~~  
1024 ~~and]~~  
1025 ~~[(iv) an estimation of:]~~  
1026 ~~[(A) the number of refund requests the commission expects to receive if the~~  
1027 ~~Legislature increases the threshold;]~~  
1028 ~~[(B) the number of refund requests the commission expects to receive if the~~  
1029 ~~Legislature decreases the threshold; and]~~  
1030 ~~[(C) the costs of any audits the commission would conduct if the Legislature~~  
1031 ~~increases or decreases the threshold.]~~  
1032 **Section 21. Repealer.**  
1033 This bill repeals:  
1034 Section **59-10-1044, Nonrefundable earned income tax credit.**  
1035 Section 22. **Effective Date.**  
1036 This bill takes effect for a taxable year beginning on or after January 1, 2026.