

Senator Wayne L. Niederhauser proposes the following substitute bill:

AMENDMENTS TO INCOME TAX CREDITS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends the Nonrefundable Tax Credit Act to allow a tax credit for a dependent adult with a disability or dependent child with a disability as part of the taxpayer tax credit and to modify the retirement tax credits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ for a taxable year beginning on or after January 1, 2009, allows a tax credit for a dependent adult with a disability or dependent child with a disability as part of the taxpayer tax credit;
- ▶ modifies the retirement tax credits; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for a taxable year beginning on or after January 1, 2009.

Utah Code Sections Affected:



26 AMENDS:

27 **59-10-1018**, as renumbered and amended by Laws of Utah 2008, Chapter 389

28 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

29

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

31 Section 1. Section **59-10-1018** is amended to read:

32 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

33 (1) As used in this section:

34 (a) "Dependent adult with a disability" means an individual:

35 (i) with respect to whom a claimant makes a deduction as allowed as a personal
36 exemption deduction on the claimant's federal individual income tax return for the taxable
37 year; and

38 (ii) is:

39 (A) 18 years of age or older;

40 (B) eligible for services under Title 62A, Chapter 5, Services for People with
41 Disabilities; and

42 (C) not enrolled in:

43 (I) an education program for students with disabilities that is authorized under Section
44 53A-15-301; or

45 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.

46 (b) "Dependent child with a disability" means an individual 21 years of age or younger:

47 (i) with respect to whom a claimant makes a deduction as allowed as a personal
48 exemption deduction on the claimant's federal individual income tax return for the taxable
49 year; and

50 (ii) who is:

51 (A) (I) diagnosed by a school district representative under rules adopted by the State
52 Board of Education as having a disability classified as:

53 (Aa) autism;

54 (Bb) deafness;

55 (Cc) preschool developmental delay;

56 (Dd) dual sensory impairment;

57 (Ee) hearing impairment;
58 (Ff) intellectual disability;
59 (Gg) multidisability;
60 (Hh) orthopedic impairment;
61 (Ii) other health impairment;
62 (Jj) traumatic brain injury; or
63 (Kk) visual impairment;
64 (II) not receiving residential services from:
65 (Aa) the Division of Services for People with Disabilities created under Section
66 62A-5-102; or
67 (Bb) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
68 and
69 (III) enrolled in:
70 (Aa) an education program for students with disabilities that is authorized under
71 Section 53A-15-301; or
72 (Bb) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
73 or
74 (B) identified under guidelines of the Department of Health as qualified for:
75 (I) Early Intervention; or
76 (II) Infant Development Services.

77 ~~[(a)]~~ (c) "Head of household filing status" means a head of household, as defined in
78 Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for
79 the taxable year.

80 ~~[(b)]~~ (d) "Joint filing status" means:
81 (i) a husband and wife who file a single return jointly under this chapter for ~~[a]~~ the
82 taxable year; or
83 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
84 single federal individual income tax return for the taxable year.

85 ~~[(c)]~~ (e) "Single filing status" means:
86 (i) a single individual who files a single federal individual income tax return for the
87 taxable year; or

88 (ii) a married individual who:

89 (A) does not file a single federal individual income tax return jointly with that married
90 individual's spouse for the taxable year; and

91 (B) files a single federal individual income tax return for the taxable year.

92 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through
93 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
94 equal to the sum of:

95 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
96 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
97 allowed as the standard deduction on the claimant's federal individual income tax return for
98 that taxable year; or

99 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
100 tax return for the taxable year, the product of:

101 (A) the difference between:

102 (I) the amount the claimant deducts as allowed as an itemized deduction on the
103 claimant's federal individual income tax return for that taxable year; and

104 (II) any amount of state or local income taxes the claimant deducts as allowed as an
105 itemized deduction on the claimant's federal individual income tax return for that taxable year;
106 and

107 (B) 6%; and

108 (b) the sum of:

109 [~~(b)~~] (i) the product of:

110 [~~(i)~~] (A) 75% of the total amount the claimant deducts as allowed as a personal
111 exemption deduction, including the amount the claimant deducts as allowed as a personal
112 exemption deduction with respect to any dependent adult with a disability or dependent child
113 with a disability, on the claimant's federal individual income tax return for that taxable year;

114 and

115 [~~(i)~~] (B) 6%[-]; and

116 (ii) for a taxable year beginning on or after January 1, 2009, with respect to each
117 dependent adult with a disability or dependent child with a disability that the claimant deducts
118 as allowed as a personal exemption deduction on the claimant's federal individual income tax

119 return for that taxable year, the product of:

120 (A) 75% of the total amount the claimant deducts as allowed as a personal exemption
121 deduction on the claimant's federal individual income tax return for that taxable year with
122 respect to the dependent child with a disability or dependent adult with a disability; and

123 (B) 6%.

124 (3) A claimant may not carry forward or carry back a tax credit under this section.

125 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
126 by which a claimant's state taxable income exceeds:

127 (a) for a claimant who has a single filing status, \$12,000;

128 (b) for a claimant who has a head of household filing status, \$18,000; or

129 (c) for a claimant who has a joint filing status, \$24,000.

130 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall
131 increase or decrease the following dollar amounts by a percentage equal to the percentage
132 difference between the consumer price index for the preceding calendar year and the consumer
133 price index for calendar year 2007:

134 (i) the dollar amount listed in Subsection (4)(a); and

135 (ii) the dollar amount listed in Subsection (4)(b).

136 (b) After the commission increases or decreases the dollar amounts listed in Subsection
137 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
138 nearest whole dollar.

139 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
140 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
141 the dollar amount listed in Subsection (4)(c) is equal to the product of:

142 (i) the dollar amount listed in Subsection (4)(a); and

143 (ii) two.

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

146 Section 2. Section **59-10-1019** is amended to read:

147 **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

148 (1) As used in this section:

149 (a) "Eligible age 65 or older retiree" means a claimant, regardless of whether that

150 claimant is retired, who:

151 (i) is 65 years of age or older; and

152 (ii) was born on or before December 31, 1952.

153 (b) (i) "Eligible retirement income" means income received by an eligible under age 65

154 retiree as a pension or annuity if that pension or annuity is:

155 (A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under

156 age 65 retiree; and

157 (B) (I) paid from an annuity contract purchased by an employer under a plan that meets

158 the requirements of Section 404(a)(2), Internal Revenue Code;

159 (II) purchased by an employee under a plan that meets the requirements of Section 408,

160 Internal Revenue Code; or

161 (III) paid by:

162 (Aa) the United States;

163 (Bb) a state or a political subdivision of a state; or

164 (Cc) the District of Columbia.

165 (ii) "Eligible retirement income" does not include amounts received by the spouse of a

166 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been

167 employed in a community property state.

168 (c) "Eligible under age 65 retiree" means a claimant, regardless of whether that

169 claimant is retired, who:

170 (i) is younger than 65 years of age;

171 (ii) was born on or before December 31, 1952; and

172 (iii) has eligible retirement income for the taxable year for which a tax credit is claimed

173 under this section.

174 (d) "Head of household filing status" is as defined in Section 59-10-1018.

175 (e) "Joint filing status" is as defined in Section 59-10-1018.

176 (f) "Married filing separately status" means a married individual who:

177 (i) does not file a single federal individual income tax return jointly with that married

178 individual's spouse for the taxable year; and

179 (ii) files a single federal individual income tax return for the taxable year.

180 (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older

181 retiree's or eligible under age 65 retiree's:

182 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
183 this section;

184 (ii) any interest income that is not included in adjusted gross income for the taxable
185 year described in Subsection (1)(g)(i); and

186 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
187 taxable year described in Subsection (1)(g)(i).

188 (h) "Single filing status" means a single individual who files a single federal individual
189 income tax return for the taxable year.

190 (2) Except as provided in Section 59-10-1002.2 and subject to Subsections (3) through
191 (6):

192 (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450
193 against taxes otherwise due under this part; or

194 (b) each eligible under age 65 retiree may claim a nonrefundable tax credit against
195 taxes otherwise due under this part in an amount equal to the lesser of:

196 (i) [~~\$288~~] \$225; or

197 (ii) the product of:

198 (A) the eligible under age 65 retiree's eligible retirement income for the taxable year for
199 which the eligible under age 65 retiree claims a tax credit under this section; and

200 (B) 6%.

201 (3) A tax credit under this section may not be carried forward or carried back.

202 (4) The sum of the tax credits allowed by Subsection (2) claimed on one return filed
203 under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross
204 income for purposes of the return exceeds:

205 (a) for a federal individual income tax return that is allowed a married filing separately
206 status, \$16,000;

207 (b) for a federal individual income tax return that is allowed a single filing status,
208 \$25,000;

209 (c) for a federal individual income tax return that is allowed a head of household filing
210 status, \$32,000; or

211 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

212 (5) For purposes of determining the ownership of items of retirement income under this
213 section, common law doctrine shall be applied in all cases even though some items of
214 retirement income may have originated from service or investments in a community property
215 state.

216 Section 3. **Retrospective operation.**

217 This bill has retrospective operation for a taxable year beginning on or after January 1,
218 2009.