

## SB0273S02 compared with SB0273S01

~~deleted text~~ shows text that was in SB0273S01 but was deleted in SB0273S02.

inserted text shows text that was not in SB0273S01 but was inserted into SB0273S02.

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Senator Jim Dabakis proposes the following substitute bill:

### HIGHER EDUCATION TAX CREDITS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jim Dabakis**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill enacts an individual income tax credit.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a nonrefundable tax credit for certain higher education expenses; and
- ▶ provides that the tax credit is subject to apportionment.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

This bill provides for retrospective operation.

##### Utah Code Sections Affected:

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AMENDS:

**59-10-1002.2**, as last amended by Laws of Utah 2011, Chapter 302

ENACTS:

**59-10-1033**, Utah Code Annotated 1953

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

Section 1. Section **59-10-1002.2** is amended to read:

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

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022, 59-10-1023, 59-10-1024, ~~[or] 59-10-1028~~, or 59-10-1033 may only claim an apportioned amount of the tax credit equal to:

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

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

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

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

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

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

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

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

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

Section 2. Section **59-10-1033** is enacted to read:

**59-10-1033. Nonrefundable tax credit for higher education costs.**

(1) As used in this section, "qualified higher education expenses" means an expense described in Section 529(e)(3), Internal Revenue Code, except that an expense shall be determined without regard to whether the individual with respect to whom the expense is

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incurred is a beneficiary under Section 529(e)(3), Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant may claim a nonrefundable tax credit against a tax under this chapter:

(a) if the claimant filing the return ~~for which the tax credit is claimed is allowed to claim any amount of a federal earned income tax credit under Section 32, Internal Revenue Code.~~ ~~has an adjusted gross income~~ on the claimant's federal individual income tax return ~~for the taxable year, regardless of whether the claimant actually claims the federal earned income tax credit~~ that is less than:

(i) for a claimant who has a single filing status as defined in Section 59-10-1018, \$30,000;

(ii) for a claimant who has a head of household filing status as defined in Section 59-10-1018, \$45,000; or

(iii) for a claimant who has a joint filing status as defined in Section 59-10-1018, \$60,000; and

(b) equal to the product of:

(i) the amount of qualified higher education expenses the claimant pays during the taxable year; and

(ii) 5%.

(3) ~~A~~ Subject to Subsection (4), a tax credit under this section may not exceed \$1,000.

(4) (a) For taxable years beginning on or after January 1, 2016, the commission shall annually increase or decrease the dollar amounts described in Subsections (2)(a)(i), (2)(a)(ii), and (3) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2014.

(b) After making an increase or decrease required by Subsection (4)(a), the commission shall:

(i) round the dollar amounts described in Subsections (2)(a)(i), (2)(a)(ii), and (3) to the nearest whole dollar; and

(ii) increase or decrease the dollar amount described in Subsection (2)(a)(iii) so that the dollar amount described in Subsection (2)(a)(iii) is equal to the product of ~~5% and~~:

(A) the ~~maximum~~ dollar amount ~~of a qualified investment~~ described in Subsection

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(2)(a)(i) as rounded under Subsection ~~{53B-8a-106(1), determined without regard to whether:~~

~~— (a) a claimant claims a tax credit under Section 59-10-1017; or~~

~~— (b) the claimant is an account owner as defined in Section 53B-8a-102.~~

~~— (4)(b)(i); and~~

(B) two.

(iii) For purposes of Subsection ~~(2)(a)~~, ~~{whether a claimant is allowed to claim any amount of federal earned income tax credit under Section 32}~~ the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code, shall be determined on the basis of the sum of the adjusted gross incomes of all individuals who file the return.

~~— (5) A tax credit under this section may not be claimed with respect to any portion of qualified higher education expenses described in Subsection (2) that a claimant deducts on a federal income tax return.~~

~~(6)(5)~~ A tax credit under this section may not be carried forward or carried back.

### Section 3. **Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2015.