

HB0265S01 compared with HB0265

~~deleted text~~ shows text that was in HB0265 but was deleted in HB0265S01.

inserted text shows text that was not in HB0265 but was inserted into HB0265S01.

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Representative Steve Eliason proposes the following substitute bill:

MENTAL HEALTH PRACTITIONER AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: ~~_____~~ Curtis S. Bramble

LONG TITLE

General Description:

This bill creates ~~a~~ state income tax ~~credit~~ credits for psychiatrists and psychiatric mental health nurse practitioners under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Occupational and Professional Licensing within the Department of Commerce to issue a tax credit certificate to a psychiatrist or psychiatric mental health nurse practitioner who submits an application to the division and provides certain information to the division;
- ▶ defines terms;
- ▶ creates a ~~nonrefundable~~ refundable state income tax credit for a psychiatrist or a psychiatric mental health nurse practitioner who begins ~~practicing~~ a new practice

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in the state ~~{on or after July 1, 2016}~~;

- ▶ creates a refundable state income tax credit for a psychiatrist or a psychiatric mental health nurse practitioner who provides mental health services to an underserved population in the state;
- ▶ creates a refundable state income tax credit for a volunteer retired psychiatrist who provides mental health services to an underserved population; and
- ▶ limits the number of years in which the income tax credits may be claimed.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides ~~{retrospective operation}~~ a special effective date.

Utah Code Sections Affected:

~~{AMENDS:~~

~~———— 59-10-1002.1, as last amended by Laws of Utah 2015, Chapters 30 and 41~~

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

~~{ENACTS:~~

~~58-1-111, Utah Code Annotated 1953~~

~~{———— 59-10-1036, Utah Code Annotated 1953~~

~~{ 59-10-1111, Utah Code Annotated 1953~~

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

Section 1. Section **58-1-111** is enacted to read:

58-1-111. Tax credit certificate -- Psychiatrists and psychiatric mental health nurse practitioners -- Underserved populations.

(1) As used in this section:

(a) "Average of 30 hours or more per week" means that the quotient calculated when dividing the claimant's total hours providing licensed services in the state during the taxable year by the number of weeks in which the claimant is licensed in the state during the taxable year is greater than or equal to 30.

(b) "Licensed services" means the provision of behavioral health treatment in the state and within the scope of practice of a psychiatrist~~{or}~~, a psychiatric mental health nurse

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practitioner or a volunteer health practitioner.

(c) "Psychiatric mental health nurse practitioner" means an individual who:

(i) is licensed under Chapter 31b, Nurse Practice Act, for the practice of advanced practice registered nursing as that term is defined in Section 58-31b-102; and

(ii) holds a certification recognized by the American Nurses Credentialing Center of the American Association of Colleges of Nursing as a psychiatric mental health nurse practitioner.

(d) "Psychiatrist" means an individual who:

(i) is licensed as a physician under:

(A) Chapter 67, Utah Medical Practice Act;

(B) Chapter 67b, Interstate Medical Licensure Compact; or

(C) Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(e) "Underserved population" means:

~~{~~ (i) a veteran;

† (iii) i) an individual located in a county of the third, fourth, fifth, or sixth class, as designated in Section 17-50-501; or

(iii) ii) a Native American Indian; or

~~—~~ (iv) an individual who is less than 19 years of age;.

(f) "Volunteer retired psychiatrist" means an individual:

(i) described in Subsection (1)(d) who, during the calendar year, did not receive payment for providing licensed services; or

(ii) (A) licensed under Chapter 81, Retired Volunteer Health Practitioner Act; and

(B) previously or currently board certified in psychiatry.

(2) (a) An individual who seeks to obtain a state income tax credit under ~~{Sections 59-10-1036 and 59-10-1111}~~Subsections 59-10-1111(2) through (4) shall file an application with the division with respect to each taxable year in which the individual seeks ~~{the}~~a state income tax credit.

(b) An individual may qualify for a tax credit certificate under this section for no more

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than 10 taxable years ~~under:~~ for each tax credit.

~~{~~ ~~(i) Section 59-10-1036; and~~

~~— (ii) Section 59-10-1111.~~

~~‡~~ (3) The application for a tax credit certificate under Subsection 59-10-1111(2) shall require the individual to provide the following to the division:

(a) the date on which the individual obtained a license and the specialization described in Subsection (1)(c)(ii) or (d)(ii);

(b) if the individual's social security number;

~~— (c) an attestation;~~ individual was licensed to provide licensed services prior to January 1, 2017, an attestation:

(i) that the individual did not provide licensed services for the two calendar years before the date the individual initially applied for the income tax credit under this subsection; and

(ii) the date on which the individual resumed providing licensed services in the state; and

(c) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) An application for a tax credit certificate under Subsection 59-10-1111(3) shall require the individual to attest to the division:

~~{i}~~ a) that the individual averaged 30 or more hours per week during the taxable year providing licensed services; ~~and~~

~~{~~ ~~(ii) if applicable:~~

~~‡~~ ~~{A}~~ b) that the individual devoted 25% or more of the individual's total hours of licensed services in the taxable year to an underserved population; ~~and~~

~~{B}~~ c) the type of underserved population for which the individual provided services during the taxable year; and

(d) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~{4}~~ 5) An application for a tax credit certificate under Subsection 59-10-1111(4) shall require the individual to attest to the division:

(a) whether the individual is licensed under Subsection (1)(f)(i) or (ii);

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(b) that the individual did not receive payment during the calendar year for providing licensed services;

(c) that during the calendar year, the individual provided at least 300 hours of licensed services to an underserved population, the homeless population or veterans, without receiving payment for providing the licensed services;

(d) a description of the type of population described in Subsection (5)(c) for which the individual provided licensed services; and

(e) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) The division shall issue a tax ~~certification~~ credit certificate in accordance with ~~Subsections (4)(b) through (d) to an individual who submits the information and attestation under Subsection (3)~~ this subsection.

(b) The tax ~~certification~~ credit certificate may state that an individual is entitled to:

(i) a tax credit under ~~Section 59-10-1036~~ Subsection 59-10-1111(2) if the individual meets the requirements of Subsection (3);

(ii) a tax credit under ~~Section~~ Subsection 59-10-1111 ~~;~~ or ~~(3)~~ if the individual meets the requirements of Subsection (4);

(iii) a tax credit under ~~Sections 59-10-1036 and~~ Subsection 59-10-1111 ~~;~~
~~(c) 4~~ ~~(i) The tax certificate issued by the division shall state that~~ if the individual ~~qualifies for~~ meets the requirements of Subsection (5); or

(iv) a tax credit under ~~Section 59-10-1036~~ Subsections 59-10-1111(2) and (3) if the individual ~~;~~

~~(A) attested to practicing an average of 30 or more hours per week during the taxable year; and~~

~~(B) was licensed on or after July 1, 2016, or received a specialty certification~~ meets the requirements of Subsections (3) and (4).

(7) (a) The division may issue a tax credit certificate to an individual under Subsection 59-10-1111(2) for no more than 10 taxable years after the date on which the individual resumed services under Subsection ~~(1)(c) or (d) on or after July 1, 2016.~~

~~(ii) The tax certificate issued by the division shall state that the individual qualifies for a refundable tax credit under Section 59-10-1111, if the individual attests to the division that~~

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the individual:

~~—— (A) practiced an average of 30 or more hours per week during the taxable year, and~~

~~—— (B) devoted 25% or more of the individual's licensed services in the taxable year to an underserved population.~~

~~—— (d)3(b)(ii).~~

(b) The division may issue a tax ~~refund~~ credit certificate to an individual under ~~{Sections 59-10-1036}~~ Subsections 59-10-1111(3) and ~~{59-10-1111}~~(4) for no more than 10 taxable years ~~{ per income tax refund}~~.

(~~5~~8) The division shall provide a copy of a tax credit certificate issued under this section to the individual and the State Tax Commission.

Section 2. Section ~~{59-10-1002.1}~~ 59-10-1111 is ~~{amended to read:~~

~~—— 59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission publishing requirements.~~

~~—— (1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.~~

~~—— (2) Except as provided in Subsection (4), beginning two taxable years after the requirements of Subsection (3) are met:~~

~~—— (a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and~~

~~—— (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.~~

~~—— (3) Except as provided in Subsection (4), the commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit as provided in Subsection (2) if:~~

~~—— (a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and~~

~~—— (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.~~

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- ~~—— (4) This section does not apply to a tax credit under:~~
- ~~—— (a) Section 59-10-1027[.], or~~
- ~~—— (b) Section 59-10-1036.~~
- ~~—— (5) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and Taxation Interim Committee that in accordance with this section:~~
- ~~—— (a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and~~
- ~~—— (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.~~
- ~~—— (6) (a) Within a 30-day period after making the report required by Subsection (5), the commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.~~
- ~~—— (b) The list shall:~~
- ~~—— (i) be published on:~~
- ~~—— (A) the commission's website; and~~
- ~~—— (B) the public legal notice website in accordance with Section 45-1-101;~~
- ~~—— (ii) include a statement that:~~
- ~~—— (A) the commission is required to remove the tax credit from each return on which the tax credit appears; and~~
- ~~—— (B) the tax credit may not be claimed or carried forward on a return;~~
- ~~—— (iii) state the taxable year for which the removal described in Subsection (6)(a) takes effect; and~~
- ~~—— (iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (6).~~
- ~~—— Section 3. 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 59-10-1036 may only claim an apportioned amount of the tax credit equal to:~~

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- ~~— (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 4. Section **59-10-1036** is enacted to read:~~
- ~~— **59-10-1036. Definitions -- Nonrefundable tax credit for psychiatrists and psychiatric mental health nurse practitioners:**~~
- ~~— (1) As used in this section:~~
- ~~— (a) "Psychiatric mental health nurse practitioner" means the same as that term is defined in Section 58-1-111.~~
- ~~— (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.~~
- ~~— (c) "Tax credit certificate" means a certificate issued by the Division of Occupational and Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a tax credit under this section.~~
- ~~— (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate issued by the Division of Occupational and Professional licensing under Section 58-1-111, may claim a nonrefundable tax credit:~~
- ~~— (a) as provided in this section;~~
- ~~— (b) against taxes otherwise due under this chapter; and~~
- ~~— (c) in the amount of \$15,000.~~
- ~~— (3) A claimant may claim a tax credit under this section for no more than 10 taxable~~

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years.

Section 5. Section ~~59-10-111~~ is } enacted to read:

59-10-1111. Refundable tax credit for psychiatrists~~{and}~~, psychiatric mental health nurse practitioners~~{who work with underserved populations}~~, and volunteer retired psychiatrists.

(1) As used in this section:

(a) "Psychiatric mental health nurse practitioner" means the same as that term is defined in Section 58-1-111.

(b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.

(c) "Tax credit certificate" means a certificate issued by the Division of Occupational and Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a tax credit under this section.

(d) "Volunteer retired psychiatrist" means the same as that term is defined in Section 58-1-111.

(2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate issued by the Division of Occupational and Professional Licensing under ~~{Section}~~ Subsection 58-1-111(3), may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of ~~{\$7}~~ \$10,000.

(3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of \$10,000.

(4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit certificate under Subsection 58-1-111(5) may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of \$10,000.

(5) A claimant may claim a tax credit under ~~{this section}~~ Subsections (2) through (4) for no more than 10 taxable years for each tax credit.

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~~(4)6~~ (a) In accordance with any rules prescribed by the commission under Subsection ~~(4)6~~(b), the commission shall make a refund to a claimant who claims a tax credit under this section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a claimant as required by Subsection ~~(4)6~~(a).

Section ~~6~~3. ~~{Retrospective}~~Effective ~~{operation}~~date.

This bill ~~has retrospective operation for a taxable year beginning on or after January 1, 2016.~~

Legislative Review Note

Office of Legislative Research and General Counsel; ~~takes effect on January 1, 2017.~~