

## HB0405S01 compared with HB0405

~~deleted text~~ shows text that was in HB0405 but was deleted in HB0405S01.

Inserted text shows text that was not in HB0405 but was inserted into HB0405S01.

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Representative Daniel McCay proposes the following substitute bill:

### CHARITY HEALTH CARE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies provisions relating to the property tax exemption for certain nonprofit health care organizations.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a nonprofit hospital or other health care related organization to comply with certain requirements to qualify for a property tax exemption;
- ▶ specifies the requirements for a nonprofit hospital or other health care organization to establish that property owned by the nonprofit hospital or other health care related organization is used exclusively for a charitable purpose;
- ▶ specifies procedures for computing a nonprofit hospital's or other health care related

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organization's total gift to the community;

- ▶ requires a nonprofit hospital or other health care related organization to make certain statements and submit certain forms to the county to be eligible for a property tax exemption; 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:

**59-2-1101**, as last amended by Laws of Utah 2015, Chapters 129 and 261

ENACTS:

**59-2-1117**, Utah Code Annotated 1953

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

Section 1. Section **59-2-1101** is amended to read:

**59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

(a) "Educational purposes" includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

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(d) "Nonprofit entity" includes an entity if the:

- (i) entity is treated as a disregarded entity for federal income tax purposes;
- (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) "Nonprofit hospital or other health care related organization":

(i) means an organization that:

(A) is organized as an entity that qualifies as being exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) is organized to:

(I) provide hospital ~~for nursing home~~ care;

(II) promote health care; or

(III) provide health related assistance to the general public; ~~and~~

(ii) includes a nonprofit entity that meets the requirements of Subsection

(1)(e)(i)(B) ~~and~~; and

(iii) does not include an entity that is organized to provide nursing home care.

~~(f)~~ (f) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

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- (ii) property of:
  - (A) the state;
  - (B) school districts; and
  - (C) public libraries;
- (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
  - (A) counties;
  - (B) cities;
  - (C) towns;
  - (D) local districts;
  - (E) special service districts; and
  - (F) all other political subdivisions of the state;
- (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
  - (v) places of burial not held or used for private or corporate benefit;
  - (vi) farm machinery and equipment;
  - (vii) a high tunnel, as defined in Section 10-9a-525;
  - (viii) intangible property; and
  - (ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:
    - (A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and
    - (B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.
- (b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, is considered to be a school district.
- (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:
  - (a) the new owner of the property shall pay a proportional tax based upon the period of time:

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(i) beginning on the day that the new owner acquired the property; and  
(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

(7) A nonprofit hospital or other health care related organization shall comply with the requirements specified in Section 59-2-1117 to qualify for a property tax exemption under Subsection (3)(a)(iv).

Section 2. Section **59-2-1117** is enacted to read:

**59-2-1117. Exemption of property of a nonprofit hospital or other health care related organization used for exclusively charitable purpose -- Determination of exclusively charitable purpose.**

(1) As used in this section ~~f.i.~~:

(a) "~~nonprofit~~ Medically Indigent" means patients who are financially unable to pay for the cost of the care they receive.

(b) "Nonprofit hospital or other health care related organization" means the same as that term is defined in Section 59-2-1101.

(2) Property owned by a nonprofit hospital or other health care related organization is exempt from taxation if it meets the requirements of this section.

(3) To qualify for a property tax exemption under this section, the nonprofit hospital or

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other health care related organization owning the property for which an exemption is sought shall:

(a) demonstrate that its property is used exclusively for a charitable purpose;

(b) (i) for a nonprofit entity described in Subsection 59-2-1101(1)(e)(i), demonstrate that its net earnings and donations do not benefit a private shareholder or individual; or

(ii) for a nonprofit entity described in Subsection 59-2-1101(1)(e)(ii), demonstrate that the net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity;

(c) ensure open access to medical services regardless of race, religion, gender, or ability to pay;

(d) demonstrate that its policies reflect the public interest;

(e) annually establish that its total gift to the community exceeds its tax liability for that year as determined in accordance with Subsection (4); and

(f) demonstrate that tax exemptions extended to satellite health care facilities and centralized support facilities enhance and improve the nonprofit hospital's or other health care related organization's mission.

(4) (a) A nonprofit hospital or other health care related organization shall annually establish that its total gift to the community exceeds its tax liability by computing:

(i) the amount and value of the institution's unreimbursed care to medically indigent persons or subsidized patients, as measured by computing the applicable Medicaid reimbursement rate for the professional or facility services provided to a medically indigent person or subsidized patient ~~{ minus any payments received by the medically indigent person or subsidized patient }~~; and

(ii) the tax liability for that year, as measured by computing ~~+~~:

~~—— (A) }~~ the amount of property tax revenues that would be realized by assessing the hospital's or other health care related organization's real ~~{ and tangible personal }~~ property ~~{; plus~~

~~—— (B) the amount of income tax revenues that would be realized if the hospital or other health care related organization was subject to the state's income tax on net earnings }.~~

(b) In determining a nonprofit hospital's or other health care related organization's total gift to the community, the following may not be included:

(i) the value of volunteer and community service rendered for and by the hospital or other health care related organization;

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~~{ (ii) the value of the difference between standard charges and actual reimbursement for patients covered by Medicare, Medicaid, or other similar government entitlement programs;~~

‡ ~~(~~iii~~ii) the value of volunteer assistance donated by individual to a nonprofit hospital or other health care related organization; or~~

~~(~~iv~~iii) the value of monetary donations given to a nonprofit hospital or other health care related organization.~~

(5) (a) A nonprofit hospital or other health care related organization shall make a statement that the nonprofit hospital's or other health care related organization's total gift to the community exceeds its tax liability to the county to be eligible for a property tax exemption under this section.

(b) (i) The commission shall develop a form for a nonprofit hospital or other health care related organization to calculate, in accordance with this section, its total gift to the community and its tax liability to determine whether the nonprofit hospital or other health care related organization is eligible for a property tax exemption under this section.

(ii) As a condition of claiming a property tax exemption under this section, a taxpayer shall complete and submit to the county the form described under Subsection (5)(b)(i).

~~{ (iii) The form filed under Subsection (5)(b)(i) is subject to audit by the state auditor.~~

‡ Section 3. **Effective date.**

This bill takes effect on January 1, 2019.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**