

## HB0427S01 compared with HB0427

~~deleted text~~ shows text that was in HB0427 but was deleted in HB0427S01.

inserted text shows text that was not in HB0427 but was inserted into HB0427S01.

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Representative Travis M. Seegmiller proposes the following substitute bill:

### INCOME TAX REDUCTIONS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Travis M. Seegmiller**

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

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#### LONG TITLE

##### General Description:

This bill modifies the income tax code by amending provisions relating to income tax rates and tax credit calculations.

##### Highlighted Provisions:

This bill:

- ▶ amends the corporate franchise and income tax rate;
- ▶ amends the individual income tax rate;
- ▶ amends the calculations of certain tax credits to match the income tax rates; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

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This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

**59-7-104**, as last amended by Laws of Utah 2019, Chapter 418

**59-7-201**, as last amended by Laws of Utah 2018, Chapter 456

**59-7-610**, as last amended by Laws of Utah 2019, Chapter 247

**59-7-620**, as last amended by Laws of Utah 2017, Chapter 222

**59-10-104**, as last amended by Laws of Utah 2018, Chapter 456

**59-10-1007**, as last amended by Laws of Utah 2019, Chapter 247

**59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389

**59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389

**59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389

**59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389

**59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399

**59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222

**59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55

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

Section 1. Section **59-7-104** is amended to read:

**59-7-104. Tax -- Minimum tax.**

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise, as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section 59-7-101, in the state.

(2) The tax shall be ~~{ }~~:

(a) for a taxable year beginning on or after January 1, 2021, but beginning on or before December 31, 2021, 4.89% of a corporation's taxable income; and

(b) for a taxable year beginning on or after January 1, 2022, 4.95% ~~{ 4.75% }~~ of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

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Section 2. Section **59-7-201** is amended to read:

### **59-7-201. Tax -- Minimum tax.**

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be ~~{ }~~:

(a) for a taxable year beginning on or after January 1, 2021, but beginning on or before December 31, 2021, 4.89% of a corporation's taxable income; and

(b) for a taxable year beginning on or after January 1, 2022, 4.95% ~~{ }~~ 4.75% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 3. Section **59-7-610** is amended to read:

### **59-7-610. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form

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approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is

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calculated:

- (a) for the taxable year in which the taxpayer made the purchases or payments;
- (b) before any other tax credits the taxpayer may claim for the taxable year; and
- (c) before the taxpayer claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

Section 4. Section **59-7-620** is amended to read:

**59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a corporation that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

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(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) ~~[5%]~~ the percentage listed in Subsection 59-7-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

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

Section 5. Section **59-10-104** is amended to read:

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

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

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) ~~4.75%~~ (i) for a taxable year beginning on or after January 1, 2021, but beginning on or before December 31, 2021, 4.89%; and

(ii) for a taxable year beginning on or after January 1, 2022, 4.95%~~{4.75%}~~.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 6. Section **59-10-1007** is amended to read:

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

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

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(a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

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(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries

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

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

(8) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

Section 7. Section **59-10-1017** is amended to read:

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

(1) As used in this section:

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

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

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

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of [~~5%~~] the percentage listed in Subsection 59-10-104(2) and:

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

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

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

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

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

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

(iii) for a grantor trust:

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

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

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

(f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

(7) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.1.

Section 8. Section **59-10-1017.1** is amended to read:

### **59-10-1017.1. Student Prosperity Savings Program tax credit.**

(1) As used in this section, "qualified donation" means an amount donated, in accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in Section 53B-8a-202.

(2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified

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donation.

(3) The tax credit equals the product of:

(a) the qualified donation; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(4) A claimant, estate, or trust may not claim a tax credit under this section with respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a federal income tax return.

(5) A claimant, estate, or trust may not carry forward or carry back the portion of the tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for the taxable year in which the claimant, estate, or trust claims the tax credit.

(6) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.

Section 9. Section **59-10-1022** is amended to read:

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

(1) As used in this section:

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

(A) short-term capital gain; or

(B) long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

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

(d) "Qualifying stock" means stock that is:

(i) (A) common; or

(B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this

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section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant,

estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2008; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

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

(f) (i) "Utah small business corporation" means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."

(2) [~~For taxable years beginning on or after January 1, 2008, a~~] A claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

(a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

(b) [~~5%~~] the percentage listed in Subsection 59-10-104(2).

(3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

(a) 70% or more of the gross proceeds of the capital gain transaction are expended:

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- (i) to purchase qualifying stock in a Utah small business corporation; and
- (ii) within a 12-month period after the day on which the capital gain transaction occurs;

and

(b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

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

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

- (a) defining the term "gross proceeds"; and
- (b) prescribing the circumstances under which a claimant, estate, or trust has an

ownership interest in a Utah small business corporation.

Section 10. Section **59-10-1023** is amended to read:

**59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.**

(1) As used in this section:

(a) "Claimant with dependents" means a claimant:

(i) regardless of the claimant's filing status for purposes of filing a federal individual income tax return for the taxable year; and

(ii) who claims one or more dependents under Section 151, Internal Revenue Code, or who claims a tax credit under Section 24, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

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(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d) (i) "Health benefit plan" [~~is as~~] means the same as that term is defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "Joint claimant with no dependents" means [~~a husband and wife~~] spouses who:

(i) file a single return jointly under this chapter for the taxable year; and

(ii) do not claim a dependent under Section 151, Internal Revenue Code, on the [~~husband's and wife's~~] spouses' federal individual income tax return for the taxable year.

(f) "Single claimant with no dependents" means:

(i) a single individual who:

(A) files a single federal individual income tax return for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;

(ii) a head of household:

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(A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and

(B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or

(iii) a married individual who:

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

(B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.

(2) Subject to Subsection (3), and except as provided in Subsection (4), [~~for taxable years beginning on or after January 1, 2009,~~] a claimant may claim a nonrefundable tax credit equal to the product of:

(a) the difference between:

(i) the total amount the claimant pays during the taxable year for:

(A) insurance offered under a health benefit plan; and

(B) an eligible insured individual; and

(ii) excluded expenses; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:

(a) for a single claimant with no dependents, \$300;

(b) for a joint claimant with no dependents, \$600; or

(c) for a claimant with dependents, \$900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

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

Section 11. Section **59-10-1028** is amended to read:

**59-10-1028. Nonrefundable tax credit for capital gain transactions on the**

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### exchange of one form of legal tender for another form of legal tender.

(1) As used in this section:

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

(i) short-term capital gain; or

(ii) long-term capital gain.

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

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

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

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

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

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

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

(b) [~~5%~~] the percentage listed in Subsection 59-10-104(2).

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

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

Section 12. Section **59-10-1035** is amended to read:

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

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) ~~5%~~ the percentage listed in Subsection 59-10-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

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

Section 13. Section **59-10-1036** is amended to read:

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

(1) As used in this section:

(a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.

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(c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(d) "Survivor benefits" means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.

(2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:

(a) the death of a member of the armed forces or reserve components while on active duty; or

(b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.

(3) The tax credit described in Subsection (2) is equal to the product of:

(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

(b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

(4) ~~[The]~~ A surviving spouse or a dependent child may not carry forward or carry back a tax credit described in Subsection (2)[:].

~~[(a) may not be carried forward or carried back; and]~~

~~[(b) applies to a taxable year beginning on or after January 1, 2017.]~~

Section 14. **Effective date.**

This bill takes effect for a taxable year beginning on or after January 1, 2021.