INCOME TAX RATE REDUCTION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: ____________

LONG TITLE

General Description:

This bill modifies provisions related to income tax.

Highlighted Provisions:

This bill:

- defines terms;
- provides for a reduction of the income tax rate when the growth rate of income tax revenue exceeds the growth rate of the gross domestic product for Utah;
- provides a formula and process for calculating a reduction of the income tax rate;
- requires the State Tax Commission to annually publish the income tax rate; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-101, as last amended by Laws of Utah 2009, Chapter 212

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

59-10-116, as last amended by Laws of Utah 2008, Chapters 382 and 389

59-10-201, as last amended by Laws of Utah 2010, Chapter 6

59-10-205, as last amended by Laws of Utah 2008, Chapter 389

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

59-10-1403.3, as enacted by Laws of Utah 2017, Chapter 270

ENACTS:

59-1-1801, Utah Code Annotated 1953

59-1-1802, Utah Code Annotated 1953

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

Section 1. Section **59-1-101** is amended to read:

59-1-101. Definitions.

As used in this title:

(1) "Commission" and "tax commission" mean the State Tax Commission.

(2) "Deficiency" is as defined in Section 59-1-1402.

<u>(3) "Income tax rate" means:</u>

<u>(a) for a taxable year beginning before January 1, 2021, 4.95%; or</u>

<u>(b) for a taxable year beginning on or after January 1, 2021, the current rate calculated and published in accordance with Part 18, Income Tax Rate.</u>

Section 2. Section **59-1-1801** is enacted to read:

Part 18. Income Tax Rate

<u>59-1-1801.</u> Definitions.

As used in this section:

(1) "Consensus entities" means:

(a) the Legislative Fiscal Analyst;

(b) the commission; and

(c) the Governor's Office of Management and Budget.

(2) "Income tax revenue growth rate" means the greater of:

(a) the amount by which income tax revenue increased in the preceding fiscal year compared to the second preceding fiscal year, expressed as a percentage; and

(b) zero.

(3) "Gross domestic product for Utah" means the Gross Domestic Product by State for Utah in current dollars published by the Bureau of Economic Analysis, United States Department of Commerce.

(4) "Growth rate differential" means the difference between:

(a) the income tax revenue growth rate; and

(b) the percent change in gross domestic product for Utah.

(5) "Percent change in gross domestic product for Utah" means the greater of:

(a) the percent change in the gross domestic product for Utah in the preceding fiscal year compared to the second preceding fiscal year; and

(b) zero.

(6) "Targeted growth rate" means:

(a) if the growth rate differential is greater than zero, the income tax revenue growth rate minus one half of the growth rate differential; or

(b) if the growth rate differential is less than or equal to zero, the income tax revenue growth rate.

Section 3. Section **59-1-1802** is enacted to read:

59-1-1802. Calculation of income tax rate.

(1) (a) Beginning in 2020, after June 30, the consensus entities shall calculate the income tax revenue growth rate and the percent change in gross domestic product for Utah.

(b) If, based on the calculations done in accordance with Subsection (1)(a), the income tax revenue growth rate exceeds the percent change in gross domestic product for Utah, the income tax rate for a taxable year beginning on or after January 1 of the upcoming calendar year decreases to a rate, rounded to the nearest hundredth, that would have generated an income tax revenue growth rate equal to the targeted growth rate.

(2) No later than November 1 before a taxable year beginning on or after January 1, the commission shall publish the income tax rate for the taxable year.

Section 4. 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 4.95% of a~~] imposed by Subsection (1) is an amount equal to the product of:

(a) corporation's Utah taxable income[~~.~~]; and

(b) the income tax rate.

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

Section 5. 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 4.95% of a~~] is an amount equal to the product of:

(a) corporation's Utah taxable income[~~.~~]; and

(b) the income tax rate.

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

Section 6. 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 income tax rate 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 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 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 7. 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.

(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 income tax rate; 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 8. 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) [~~4.95%~~] the income tax rate.

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

Section 9. Section **59-10-116** is amended to read:

59-10-116. Tax on nonresident individual -- Calculation -- Exemption.

(1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an amount equal to the product of [~~the~~]:

(a) the nonresident individual's state taxable income; and

(b) [~~percentage listed in Subsection 59-10-104(2)~~] the income tax rate.

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

Section 10. Section **59-10-201** is amended to read:

59-10-201. Taxation of resident trusts and estates.

(1) Except as provided in Subsection (2), a tax [~~determined in accordance with the rate prescribed by Subsection 59-10-104(2)(b)~~] is imposed for each taxable year on [~~the state taxable income of~~] each resident estate or trust[~~.~~] in an amount equal to the product of:

(a) the resident estate's or trust's state taxable income; and

(b) the income tax rate.

(2) The following are not subject to a tax imposed by this part:

(a) a resident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or

(b) a resident trust taxed as a corporation.

(3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003, relating to an income tax imposed by another state, except that the limitation shall be computed by reference to the taxable income of the estate or trust.

(4) The property of the Utah Educational Savings Plan established in Title 53B,

Chapter 8a, Utah Educational Savings Plan, and its income from operations and investments are exempt from all taxation by the state under this chapter.

Section 11. Section **59-10-205** is amended to read:

59-10-205. Tax on nonresident estate or trust.

(1) Except as provided in Subsection (2), a tax is imposed on a nonresident estate or trust in an amount equal to the product of:

(a) the nonresident estate's or trust's state taxable income as determined under Section 59-10-204; and

(b) the [~~percentage listed in Subsection 59-10-104(2)~~] income tax rate.

(2) The following are not subject to a tax imposed by this part:

(a) a nonresident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or

(b) a nonresident trust taxed as a corporation.

Section 12. 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:

(a) a tax credit [~~of 5% of~~] equal to the product of the income tax rate 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;

(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 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 13. 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 income tax rate 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 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 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

(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 income tax rate.

(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 14. 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 donation.

(3) The tax credit equals the product of:

(a) the qualified donation; and

(b) [~~5%~~] <u>the income tax rate</u>.

(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 15. 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 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 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 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 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%~~] <u>the income tax rate</u>.

(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:

(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 16. 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, 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:

(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 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 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 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:

(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 income tax rate.

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

59-10-1028. Nonrefundable tax credit for capital gain transactions on the 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 defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" is as 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 defined in Section 1222, Internal Revenue Code.

(f) "Short-term capital gain" is as 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 income tax rate.

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

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 income tax rate; 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 19. 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. 10101.

(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 income tax rate.

(4) The 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 20. Section **59-10-1403.3** is amended to read:

59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.

(1) As used in this section:

(a) "Committee" means the Revenue and Taxation Interim Committee.

(b) "Qualifying excess withholding" means an amount that:

(i) is paid or withheld:

(A) by a pass-through entity that has a different taxable year than the pass-through entity that requests a refund under this section; and

(B) on behalf of the pass-through entity that requests the refund, if the pass-through entity that requests the refund also is a pass-through entity taxpayer; and

(ii) is equal to the difference between:

(A) the amount paid or withheld for the taxable year on behalf of the pass-through entity that requests the refund; and

(B) the product of [~~5%~~] the income tax rate and the income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests the refund.

(2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is equal to or greater than $250,000.

(3) A pass-through entity that requests a refund of qualifying excess withholding under this section shall:

(a) apply to the commission for a refund on or, subject to Subsection (4), after the day on which the pass-through entity files the pass-through entity's income tax return; and

(b) provide any information that the commission may require to determine that the pass-through entity is eligible to receive the refund.

(4) A pass-through entity shall claim a refund of qualifying excess withholding under this section within 30 days after the earlier of the day on which:

(a) the pass-through entity files an income tax return; or

(b) the pass-through entity's income tax return is due, including any extension of due date authorized in statute.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing the information that a pass-through entity shall provide to the commission to obtain a refund of qualifying excess withholding under this section.

(6) (a) On or before November 30, 2018, the committee shall review the $250,000 threshold described in Subsection (2) for the purpose of assessing whether the threshold amount should be maintained, increased, or decreased.

(b) To assist the committee in conducting the review described in Subsection (6)(a), the commission shall provide the committee with:

(i) the total number of refund requests made under this section;

(ii) the total costs of any refunds issued under this section;

(iii) the costs of any audits conducted on refund requests made under this section; and

(iv) an estimation of:

(A) the number of refund requests the commission expects to receive if the Legislature increases the threshold;

(B) the number of refund requests the commission expects to receive if the Legislature decreases the threshold; and

(C) the costs of any audits the commission would conduct if the Legislature increases or decreases the threshold.