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**ADOPTION TAX CREDIT**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rex P. Shipp**

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

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**LONG TITLE**

**General Description:**

This bill enacts an individual income tax credit for adoption expenses.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts a nonrefundable individual income tax credit for adoption expenses;
- ▶ repeals an individual income tax credit for adopting a child with special needs; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

**62A-4a-607**, as last amended by Laws of Utah 2017, Chapter 148

ENACTS:

**59-10-1041**, Utah Code Annotated 1953

REPEALS:

**59-10-1104**, as last amended by Laws of Utah 2013, Chapter 414



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

30 Section 1. Section **59-10-137** is amended to read:

31 **59-10-137. Review of credits allowed under this chapter.**

32 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
33 Committee.

34 (2) (a) The committee shall review the tax credits described in this chapter as provided  
35 in Subsection (3) and make recommendations concerning whether the tax credits should be  
36 continued, modified, or repealed.

37 (b) In conducting the review required under Subsection (2)(a), the committee shall:

38 (i) schedule time on at least one committee agenda to conduct the review;

39 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
40 under review to provide testimony;

41 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
42 and analysis of the information for each tax credit regarding which the Governor's Office of  
43 Economic Development is required to make a report under this chapter; and

44 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
45 analysis of the information for each tax credit regarding which the Office of the Legislative  
46 Fiscal Analyst is required to make a report under this chapter;

47 (iv) ensure that the committee's recommendations described in this section include an  
48 evaluation of:

49 (A) the cost of the tax credit to the state;

50 (B) the purpose and effectiveness of the tax credit; and

51 (C) the extent to which the state benefits from the tax credit; and

52 (v) undertake other review efforts as determined by the committee chairs or as  
53 otherwise required by law.

54 (3) (a) On or before November 30, 2017, and every three years after 2017, the  
55 committee shall conduct the review required under Subsection (2) of the tax credits allowed  
56 under the following sections:

57 (i) Section [59-10-1004](#);

58 (ii) Section [59-10-1010](#);

- 59 (iii) Section 59-10-1015;
- 60 (iv) Section 59-10-1025;
- 61 (v) Section 59-10-1027;
- 62 (vi) Section 59-10-1031;
- 63 (vii) Section 59-10-1032;
- 64 (viii) Section 59-10-1035;
- 65 [~~(ix) Section 59-10-1104;~~]
- 66 [~~(x)~~ (ix) Section 59-10-1105; and
- 67 [~~(xi)~~ (x) Section 59-10-1108.

68 (b) On or before November 30, 2018, and every three years after 2018, the committee  
69 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
70 following sections:

- 71 (i) Section 59-10-1005;
- 72 (ii) Section 59-10-1006;
- 73 (iii) Section 59-10-1012;
- 74 (iv) Section 59-10-1013;
- 75 (v) Section 59-10-1022;
- 76 (vi) Section 59-10-1023;
- 77 (vii) Section 59-10-1028;
- 78 (viii) Section 59-10-1034;
- 79 (ix) Section 59-10-1037; and
- 80 (x) Section 59-10-1107.

81 (c) On or before November 30, 2019, and every three years after 2019, the committee  
82 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
83 following sections:

- 84 (i) Section 59-10-1007;
- 85 (ii) Section 59-10-1009;
- 86 (iii) Section 59-10-1014;
- 87 (iv) Section 59-10-1017;
- 88 (v) Section 59-10-1018;
- 89 (vi) Section 59-10-1019;

- 90 (vii) Section 59-10-1024;  
91 (viii) Section 59-10-1029;  
92 (ix) Section 59-10-1030;  
93 (x) Section 59-10-1033;  
94 (xi) Section 59-10-1036;  
95 (xii) Section 59-10-1106; and  
96 (xiii) Section 59-10-1111.

97 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
98 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
99 2017.

100 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
101 years after the effective date of the tax credit and every three years after the initial review date.

102 Section 2. Section 59-10-1041 is enacted to read:

103 **59-10-1041. Adoption tax credit.**

104 (1) As used in this section:

105 (a) "Adoption expense" means a reasonable and necessary adoption fee, court cost,  
106 attorney fee, or other expense that is:

107 (i) directly related to, and for the principal purpose of, adoption of a qualifying child  
108 through a domestic adoption;

109 (ii) not incurred in violation of state or federal law or in carrying out any surrogate  
110 parenting arrangement; and

111 (iii) not paid or reimbursed by an employer or state assistance program.

112 (b) "Domestic adoption" means an adoption completed entirely within the United  
113 States.

114 (c) (i) "Qualifying child" means an individual who:

115 (A) is under the age of 18; or

116 (B) is physically or mentally incapable of caring for himself or herself.

117 (ii) "Qualifying child" does not include an individual who is the child of the claimant's  
118 spouse.

119 (2) A claimant may claim, in the taxable year in which the adoption is finalized, a  
120 nonrefundable tax credit equal to the amount of the claimant's adoption expenses.

121 (3) A claimant may carry forward, to the next five taxable years, the amount of any tax  
122 credit that exceeds the claimant's tax liability for the taxable year.

123 (4) A claimant may not claim a credit under this section to the extent that the claimant  
124 claims a federal tax credit under 26 U.S.C. Sec. 23 for the same adoption expense.

125 (5) A claimant who is married may claim a tax credit under this section only if the  
126 claimant and the claimant's spouse file a joint income tax return.

127 Section 3. Section **62A-4a-607** is amended to read:

128 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**  
129 **parents.**

130 (1) (a) The division and all child-placing agencies licensed under this part shall  
131 promote adoption when that is a possible and appropriate alternative for a child. Specifically,  
132 in accordance with Section [62A-4a-205.6](#), the division shall actively promote the adoption of  
133 all children in [~~its~~] the division's custody who have a final plan for termination of parental  
134 rights pursuant to Section [78A-6-314](#) or a primary permanency plan of adoption.

135 (b) Beginning May 1, 2000, the division may not place a child for adoption, either  
136 temporarily or permanently, with any individual or individuals who do not qualify for adoptive  
137 placement pursuant to the requirements of Sections [78B-6-117](#), [78B-6-102](#), and [78B-6-137](#).

138 (2) The division shall obtain or conduct research of prior adoptive families to  
139 determine what families may do to be successful with their adoptive children and shall make  
140 this research available to potential adoptive parents.

141 (3) (a) A child-placing agency licensed under this part shall inform each potential  
142 adoptive parent with whom [~~it~~] the child-placing agency is working that:

143 (i) children in the custody of the state are available for adoption;

144 (ii) Medicaid coverage for medical, dental, and mental health services may be available  
145 for these children;

146 (iii) tax benefits, including the tax credit provided for in Section [~~59-10-1104~~]  
147 [59-10-1041](#), and financial assistance may be available to defray the costs of adopting these  
148 children;

149 (iv) training and ongoing support may be available to the adoptive parents of these  
150 children; and

151 (v) information about individual children may be obtained by contacting the division's

152 offices or its Internet site as explained by the child-placing agency.

153 (b) A child-placing agency shall:

154 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;

155 and

156 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in  
157 accordance with Subsection (3)(d).

158 (c) As a condition of licensure, the child-placing agency shall certify to the Office of  
159 Licensing at the time of license renewal that it has complied with the provisions of this section.

160 (d) Before July 1, 2000, the division shall:

161 (i) prepare a pamphlet that explains the information that is required by Subsection  
162 (3)(a); and

163 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to  
164 child-placing agencies.

165 (e) The division shall respond to any inquiry made as a result of the notice provided in  
166 Subsection (3)(a).

167 **Section 4. Repealer.**

168 This bill repeals:

169 Section **59-10-1104, Tax credit for adoption of a child who has a special need.**

170 **Section 5. Retrospective operation.**

171 This bill has retrospective operation for a taxable year beginning on or after January 1,  
172 2019.