

1 **TUITION TAX CREDIT**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Parley Hellewell**

5 AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING AN INDIVIDUAL
6 INCOME TAX CREDIT FOR EDUCATION COSTS UNDER CERTAIN CIRCUMSTANCES;
7 AND PROVIDING DEFINITIONS.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 ENACTS:

10 **59-10-108.8**, Utah Code Annotated 1953

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

12 Section 1. Section **59-10-108.8** is enacted to read:

13 **59-10-108.8. Credit for tuition paid to a private school.**

14 (1) As used in this section:

15 (a) "Qualifying student" means a student who has received a certificate of participation
16 from a local public school board.

17 (b) "School" means a private school as referred to in Section 53A-11-101, attendance at
18 which satisfies the state's compulsory education law and which:

19 (i) does not discriminate in its admission policies on the basis of race, sex, or religion;

20 (ii) meets all applicable health and safety standards of federal and state law; and

21 (iii) requires qualifying students to participate in the testing programs required under
22 Section 53A-1-603. It does not include a home school.

23 (c) "Tuition" means charges related to the teaching of those subjects legally and commonly
24 taught in the public elementary and secondary schools of the state. It does not include payments
25 for:

26 (i) transportation to and from school or school-related activities;

27 (ii) textbooks, workbooks, and personal or consumable items such as those listed in

28 Section 53A-12-202;

29 (iii) extracurricular activities; or

30 (iv) uniforms.

31 (2) For taxable years beginning on or after January 1, 2000, but beginning before

32 December 31, 2004, a taxpayer who obtains a certificate of participation may deduct a refundable

33 tax credit for tuition costs paid for each qualifying student in grades kindergarten through 12

34 attending an elementary or secondary school in this state, subject to the provisions of Subsection

35 (3).

36 (3) The credit claimed for each qualifying student under Subsection (2) may not exceed
37 the lesser of:

38 (a) the amount of the tuition paid to the school during the taxable year; or

39 (b) the value of the weighted pupil unit used by the State Office of Education in its final
40 accounting for the year for which the taxpayer claims the credit.

41 (4) (a) A local public school board may grant certificates of participation for purposes of
42 the tax credit authorized under this section to students as a means of:

43 (i) managing the effects of student enrollment growth within the school district; or

44 (ii) reducing class size.

45 (b) (i) The school board shall establish standards and procedures for determining which
46 students qualify for a certificate of participation and which schools will be eligible to receive
47 qualifying students under general guidelines provided by the State Board of Education.

48 (ii) The State Board of Education shall provide for periodic review of local school board
49 standards and procedures established under Subsection (4)(b)(i).

50 (c) (i) The local school board shall project by December 1 of each year the number of
51 certificates of participation it shall grant for the next school year based on its current October 1
52 student count.

53 (ii) The number of students projected to receive certificates shall be included in the
54 district's student count for state funding purposes for the next fiscal year with an offset for the
55 credit claimed for each student under Subsection (2).

56 (iii) The school district shall use the money it receives under Subsection (4)(c)(ii), the
57 amount generated by the number of qualifying students included in the student count less the credit
58 claimed for each student, to:

- 59 (A) reduce class size;
- 60 (B) purchase textbooks or media materials; or
- 61 (C) for other one-time expenditures related to managing student enrollment growth.
- 62 (d) The local school board may only grant certificates of participation to students who:
- 63 (i) would be entering kindergarten in a public school the board has targeted for growth
- 64 restrictions;
- 65 (ii) were enrolled on a full-time basis for at least six months during the previous school
- 66 year in a school targeted by the board for growth restrictions; or
- 67 (iii) attended school under a certificate of participation during the previous school year,
- 68 so long as the public school the student would otherwise attend remains targeted for growth
- 69 restrictions.
- 70 (e) A school district is not required to provide transportation for students attending a
- 71 school under a certificate of participation.
- 72 (5) For each taxable year for which a taxpayer claims a credit under this section, the
- 73 taxpayer shall submit a certificate of participation issued by the local school board under
- 74 Subsection (4)(a) to the commission.
- 75 (6) A taxpayer may not carry forward or carry back a tax credit provided for under this
- 76 section.
- 77 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 78 commission may make rules providing procedures for issuing refunds for the credit under this
- 79 section.

Legislative Review Note
as of 2-5-99 9:05 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel