

**INDIVIDUAL INCOME TAX AND CORPORATE
FRANCHISE AND INCOME TAX CREDITS
FOR QUALIFYING EDUCATION EXPENSES**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: John E. Swallow

This act modifies the Individual Income Tax Act and Corporate Franchise and Income Taxes to provide nonrefundable credits for qualifying education expenses paid by a taxpayer during the taxable year. This act has retrospective operation for taxable years beginning on or after January 1, 2001.

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

ENACTS:

59-7-614, Utah Code Annotated 1953

59-10-133, Utah Code Annotated 1953

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

Section 1. Section **59-7-614** is enacted to read:

59-7-614. Nonrefundable credit for qualifying education expenses -- Definitions.

(1) As used in this section:

(a) "Qualifying education expenses" means the amount a taxpayer pays during a taxable year on behalf of a qualifying student:

(i) for the following expenses:

(A) tuition paid to the school at which the qualifying student attends;

(B) a textbook that is required for class instruction at the school at which the qualifying student attends; or

(C) a qualifying school fee; and

(ii) if on behalf of the qualifying student the taxpayer pays a total of \$200 or more:

(A) for an expense described in Subsection (1)(a)(i);



28 (B) during the taxable year; and
29 (C) for which the taxpayer does not receive reimbursement from any other person.
30 (b) (i) "Qualifying school fee" means:
31 (A) except as provided in Subsection (1)(b)(ii), a fee paid to the school at which the
32 qualifying student attends that is directly related to the school's or school district's:
33 (I) educational activities; or
34 (II) educational functions.
35 (ii) "Qualifying school fee" does not include amounts paid to participate in:
36 (A) a field trip;
37 (B) a trip; or
38 (C) an activity similar to Subsection (1)(b)(ii)(A) or (B).
39 (c) "Qualifying student" means an individual who is:
40 (i) under 21 years of age on the last day of the taxable year for which the credit provided
41 for in this section is claimed;
42 (ii) born on or after September 1, 1995; and
43 (iii) enrolled at a school as a full-time student during the taxable year for which the credit
44 authorized by this section is claimed.
45 (d) "School" means an elementary school or a secondary school that:
46 (i) is a:
47 (A) public school; or
48 (B) private school;
49 (ii) provides instruction for one or more grades kindergarten through 12;
50 (iii) satisfies the requirements of Title 53A, Chapter 11, Part 1, Compulsory Education
51 Requirements; and
52 (iv) is not a home school.
53 (e) "School expense certificate" means a certificate that is:
54 (i) developed by the commission;
55 (ii) provided to schools by the commission;
56 (iii) issued by a school to a taxpayer who pays qualifying education expenses during the
57 taxable year; and
58 (iv) that states the amount of the qualifying education expenses the taxpayer pays during

59 the taxable year.

60 (2) For taxable years beginning on or after January 1, 2001, a taxpayer that pays qualifying
 61 education expenses during a taxable year may claim a nonrefundable credit against the taxes
 62 imposed by this chapter subject to the requirements and limitations of this section.

63 (3) For each qualifying student on whose behalf a taxpayer pays qualifying education
 64 expenses, the credit provided for in this section is an amount equal to the lesser of:

65 (a) the qualifying education expenses the taxpayer pays during the taxable year; or

66 (b) ~~h~~ ~~[\$2,100]~~ ~~\$1,500~~ ~~h~~ .

67 (4) The tax credit provided for in Subsection (2):

68 (a) may be claimed only for the taxable year that the taxpayer pays the qualifying education
 69 expenses; and

70 (b) may not be carried forward or carried back.

71 (5) A school shall issue a school expense certificate to a taxpayer that pays qualifying
 72 education expenses if, with respect to a qualifying student, the taxpayer is the first taxpayer to:

73 (a) request from the school the school expense certificate during a 60-day time period
 74 beginning 30 days after the last day of the calendar year during which the taxpayer paid the
 75 qualifying education expenses; and

76 (b) provide to the school receipts for the taxpayer's qualifying education expenses.

77 (6) A taxpayer shall attach a copy of the qualifying education expenses certificate to any
 78 return upon which the taxpayer claims a tax credit under this section.

78a **h (7) A TAXPAYER MAY NOT CLAIM A TAX CREDIT UNDER THIS SECTION ON BEHALF OF A**
 78b **QUALIFYING STUDENT IF A TAX CREDIT IS CLAIMED ON BEHALF OF THE QUALIFYING STUDENT**
 78c **UNDER SECTION 59-10-133. h**

79 h ~~(7)~~ (8) h In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 79a the

80 commission may make rules defining the following terms:

81 (a) "educational activities"; or

82 (b) "educational functions."

83 Section 2. Section **59-10-133** is enacted to read:

84 **59-10-133. Nonrefundable credit for qualifying education expenses -- Definitions.**

85 (1) As used in this section:

86 (a) "Qualifying education expenses" means the amount a taxpayer pays during a taxable
 87 year on behalf of a qualifying student:

88 (i) for the following expenses:

89 (A) tuition paid to the school at which the qualifying student attends;

90 (B) a textbook that is required for class instruction at the school at which the qualifying
91 student attends; or
92 (C) a qualifying school fee; and
93 (ii) if on behalf of the qualifying student the taxpayer pays a total of \$200 or more:
94 (A) for an expense described in Subsection (1)(a)(i);
95 (B) during the taxable year; and
96 (C) for which the taxpayer does not receive reimbursement from any other person.
97 (b) (i) "Qualifying school fee" means:
98 (A) except as provided in Subsection (1)(b)(ii), a fee paid to the school at which the
99 qualifying student attends that is directly related to the school's or school district's:
100 (I) educational activities; or
101 (II) educational functions.
102 (ii) "Qualifying school fee" does not include amounts paid to participate in:
103 (A) a field trip;
104 (B) a trip; or
105 (C) an activity similar to Subsection (1)(b)(ii)(A) or (B).
106 (c) "Qualifying student" means an individual who is:
107 (i) under 21 years of age on the last day of the taxable year for which the credit provided
108 for in this section is claimed;
109 (ii) born on or after September 1, 1995; and
110 (iii) enrolled at a school as a full-time student during the taxable year for which the credit
111 authorized by this section is claimed.
112 (d) "School" means an elementary school or a secondary school that:
113 (i) is a:
114 (A) public school; or
115 (B) private school;
116 (ii) provides instruction for one or more grades kindergarten through 12;
117 (iii) satisfies the requirements of Title 53A, Chapter 11, Part 1, Compulsory Education
118 Requirements; and
119 (iv) is not a home school.
120 (e) "School expense certificate" means a certificate that is:

- 121 (i) developed by the commission;
 122 (ii) provided to schools by the commission;
 123 (iii) issued by a school to a taxpayer who pays qualifying education expenses during the
 124 taxable year; and
 125 (iv) that states the amount of the qualifying education expenses the taxpayer pays during
 126 the taxable year.

127 (2) For taxable years beginning on or after January 1, 2001, a taxpayer that pays qualifying
 128 education expenses during a taxable year may claim a nonrefundable credit against the taxes
 129 imposed by this chapter subject to the requirements and limitations of this section.

130 (3) For each qualifying student on whose behalf a taxpayer pays qualifying education
 131 expenses, the credit provided for in this section is an amount equal to the lesser of:

132 (a) the qualifying education expenses the taxpayer pays during the taxable year; or

133 (b) ~~h~~ [\$2,100] \$1,500 ~~h~~ .

134 (4) The tax credit provided for in Subsection (2):

135 (a) may be claimed only for the taxable year that the taxpayer pays the qualifying education
 136 expenses; and

137 (b) may not be carried forward or carried back.

138 (5) A school shall issue a school expense certificate to a taxpayer that pays qualifying
 139 education expenses if, with respect to a qualifying student, the taxpayer is the first taxpayer to:

140 (a) request from the school the school expense certificate during a 60-day time period
 141 beginning 30 days after the last day of the calendar year during which the taxpayer paid the
 142 qualifying education expenses; and

143 (b) provide to the school receipts for the taxpayer's qualifying education expenses.

144 (6) A taxpayer shall attach a copy of the qualifying education expenses certificate to any
 145 return upon which the taxpayer claims a tax credit under this section.

145a **h (7) A TAXPAYER MAY NOT CLAIM A TAX CREDIT UNDER THIS SECTION ON BEHALF OF A**
 145b **QUALIFYING STUDENT IF A TAX CREDIT IS CLAIMED ON BEHALF OF THE QUALIFYING STUDENT**
 145c **UNDER SECTION 59-7-614. h**

146 **h [(7)] (8) h** In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 146a the

147 commission may make rules defining the following terms:

148 (a) "educational activities"; or

149 (b) "educational functions."

150 **Section 3. Retrospective operation.**

151 This act has retrospective operation for taxable years beginning on or after January 1, 2001.

Legislative Review Note
as of 2-9-01 6:22 PM

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

Office of Legislative Research and General Counsel