

1 **INCOME TAX - EDUCATION TAX CREDIT**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Howard A. Stephenson**

5 AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING AN INDIVIDUAL
6 INCOME TAX CREDIT FOR EDUCATION COSTS UNDER CERTAIN
7 CIRCUMSTANCES; 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 Subsection 53A-11-101, attendance
18 at which satisfies the state's compulsory education law. It does not include a home school.

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

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

23 (ii) textbooks, workbooks, and personal or consumable items such as those listed in
24 Section 53A-12-202;

25 (iii) extracurricular activities; or

26 (iv) uniforms.

27 (2) For taxable years beginning after December 31, 1998, and beginning before January

1 1, 2004, there is allowed for an individual taxpayer a refundable tax credit against the tax
2 otherwise due under this chapter for tuition costs paid for each qualifying student in grades
3 kindergarten through 12 attending an elementary or secondary school in this state, subject to the
4 provisions of Subsection (3).

5 (3) The credit claimed per dependent under Subsection (2) may not exceed the lesser
6 amount of the tuition paid to the school during the taxable year or the value of the weighted pupil
7 unit used by the State Office of Education in its final accounting for the school year in question.

8 (4) (a) A local public school board may grant certificates of participation in the tax credit
9 program authorized under this section to students as a means of:

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

11 (ii) reducing class size.

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

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

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

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

23 (iii) The school district shall use the money it receives under Subsection (4)(c)(ii) to:

24 (A) reduce class size;

25 (B) purchase textbooks or media materials; or

26 (C) for other one-time expenditures related to managing student enrollment growth.

27 (d) The local school board may only grant certificates of participation to students who:

28 (i) would be entering kindergarten in a public school the board has targeted for growth
29 restrictions; or

30 (ii) were enrolled on a full-time basis for at least six months during the previous school
31 year in a school targeted by the board for growth restrictions; or

1 (iii) attended school under a certificate of participation during the previous school year,
2 so long as the public school the student would otherwise attend remains targeted for growth
3 restrictions.

4 (5) A taxpayer claiming the credit provided for under Subsection (2) shall submit a
5 certificate of participation issued by the local school board under Subsection (4)(a) to the
6 commission for the year in which the credit is claimed.

7 (6) The amount of the credit allowed under Subsection (2) that exceeds the tax shall be
8 refunded to the taxpayer.

9 (7) A school district is not required to provide transportation for students attending a
10 school under a certificate of participation.

Legislative Review Note
as of 2-4-98 1:31 PM

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

Office of Legislative Research and General Counsel