

Representative James A. Ferrin proposes the following substitute bill:

TUITION TAX CREDITS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: James A. Ferrin

LONG TITLE

General Description:

This bill modifies the Individual Income Tax Act to provide for a tax credit for amounts paid to a private school for tuition.

Highlighted Provisions:

This bill:

- ▶ provides a refundable tax credit against individual income tax for amounts paid to a private school for tuition on behalf of a qualifying student;
 - ▶ limits the tax credit to 50% of tuition expenses, up to maximum of \$1,500 for a kindergarten student or \$2,000 for a student in grades one through 12;
 - ▶ defines a qualifying student as an individual who:
 - was not in a private school on January 1, 2004; and
 - is not enrolled in kindergarten in a private school in the 2004-05 school year;
- and
- ▶ defines a private school as an elementary or secondary school that:
 - has a physical location in Utah where, for at least 90% of the days within the school year, the students attend classes and have direct contact with the school's teachers;
 - does not operate in a residence;
 - enrolls at least ~~15~~ **[75]** ~~40~~ **1** students;



- annually assesses the achievement of each qualifying student; and
- provides information to parents on teachers' credentials and school accreditation.

Monies Appropriated in this Bill:

§ [None] THIS BILL APPROPRIATES \$2,000,000 FROM THE GENERAL FUND AND \$3,486,100 FROM THE UNIFORM SCHOOL FUND FOR FISCAL YEAR 2004-05 ONLY TO THE STATE BOARD OF EDUCATION. §

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:

ENACTS:

§ 53A-17a-150, Utah Code Annotated 1953 §
59-10-136, Utah Code Annotated 1953

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

Section 1. Section **59-10-136** is enacted to read:

59-10-136. Refundable tuition tax credit -- Definitions.

(1) As used in this section:

(a) (i) "Private school" means an elementary or secondary school that:

(A) is not owned and controlled by a governmental entity;

(B) has a physical location in Utah where, for at least 90% of the days within the school year, the students attend classes and have direct contact with the school's teachers;

(C) provides instruction for one or more grades kindergarten through 12;

(D) at which the compulsory attendance requirements of Section 53A-11-101 may be met;

(E) (I) annually assesses the achievement of each student by administering a standardized achievement test scored by an independent party that provides a comparison of the student's performance to other students on a national basis;

(II) reports the test results to the student's parents; and

(III) upon request, makes test results available to other persons, in a manner that does not reveal the identity of any student;

(F) provides to parents the relevant credentials of teachers who will be teaching their children; and

(G) provides to parents a statement indicating which, if any, organizations have

57 accredited the private school.

58 (ii) "Private school" does not include a school that:

59 (A) operates in a residence; or

60 (B) has an enrollment of less than ~~75~~ 40 ~~h~~ students.

61 (b) (i) "Qualifying student" means, except as provided in Subsection (1)(b)(ii), an
62 individual:

63 (A) who is enrolled at a private school as a full-time student as determined by the
64 private school and is not participating in a dual enrollment program pursuant to Section
65 53A-11-102.5;

66 (B) who will be under 19 years of age on the last day of the school year as determined
67 by the private school, or, if the individual is disabled and has not graduated from high school
68 with a regular diploma, will be under 22 years of age on the last day of the school year as
69 determined by the private school; and

70 (C) who was not enrolled at a private school on January 1, 2004.

71 (ii) "Qualifying student" does not include a private school student while enrolled in
72 kindergarten during the 2004-05 school year.

73 (2) (a) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a
74 refundable tax credit against the taxes imposed by this chapter as provided in this section for
75 amounts paid to a private school for tuition:

76 (i) on behalf of a qualifying student; and

77 (ii) during the taxable year.

78 (b) The refundable tax credit under Subsection (2)(a) may not exceed 50% of amounts
79 paid to a private school for tuition, up to a maximum of:

80 (i) \$1,500 for tuition payments for a kindergarten student; or

81 (ii) \$2,000 for tuition payments for a student in grades one through 12.

82 (3) The tax credit provided for in this section may not be carried forward or carried
83 back.

83a **H (4)(a) ONLY ONE TAXPAYER MAY CLAIM A REFUNDABLE TAX CREDIT FOR EACH**
83b **QUALIFYING STUDENT EACH TAXABLE YEAR.**

83c **(b) THE TAXPAYER WHO CLAIMS A PERSONAL EXEMPTION FOR THE QUALIFYING STUDENT**
83d **SHALL HAVE THE RIGHT TO CLAIM THE REFUNDABLE TAX CREDIT, UNLESS THAT TAXPAYER**
83e **AUTHORIZES ANOTHER PERSON TO CLAIM THE REFUNDABLE TAX CREDIT.**

83f **(c) IN ACCORDANCE WITH TITLE 63, CHAPTER 46a, UTAH ADMINISTRATIVE RULEMAKING**
83g **ACT, THE COMMISSION SHALL MAKE RULES TO ADMINISTER SUBSECTIONS (4)(a) AND (4)(b).**

83h **(5) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2005, A REFUNDABLE ~~h~~**

83i § TAX CREDIT MAY NOT BE CLAIMED ,IF THE QUALIFYING STUDENT WAS ENROLLED IN A
83j PRIVATE SCHOOL FOR PART OF THE TAXABLE YEAR AND IN A UTAH PUBLIC SCHOOL FOR PART
83k OF THE SAME TAXABLE YEAR.

83l Section 2. Section 53A-17a-150 is enacted to read:

83m 53A-17a-150. Appropriation for school districts affected by tuition tax credits.

83n (1)THERE IS APPROPRIATED \$2,000,000 FROM THE GENERAL FUND AND \$3,486,100 FROM
83o THE UNIFORM SCHOOL FUND FOR FISCAL YEAR 2004-05 ONLY TO THE STATE BOARD OF
83p EDUCATION TO BE DISTRIBUTED TO SCHOOL DISTRICTS THAT SUFFER ANY ACTUAL LOSSES
83q THAT CAN BE ATTRIBUTED TO THE ENACTMENT OF THE TUITION TAX CREDIT UNDER SECTION
83r 59-10-136.

83s (2) THE APPROPRIATION UNDER SUBSECTION (1) SHALL BE NONLAPSING.

83t (3) IN ACCORDANCE WITH TITLE 63, CHAPTER 46a, UTAH ADMINISTRATIVE RULEMAKING
83u ACT, THE BOARD SHALL MAKE RULES ESTABLISHING CRITERIA AND PROCEDURES FOR THE
83v DISTRIBUTION OF FUNDS APPROPRIATED UNDER SUBSECTION (1). §

84 Section ~~§~~ [2] ~~3~~ § . Retrospective operation.

85 This bill has retrospective operation for taxable years beginning on or after January 1,
86 2004.