

**Representative James A. Ferrin** proposes the following substitute bill:

**TUITION TAX CREDITS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: James A. Ferrin**

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**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 75 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

**Other Special Clauses:**

This bill provides for retrospective operation.

**Utah Code Sections Affected:**

ENACTS:

**59-10-136**, Utah Code Annotated 1953

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*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 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.

84 **Section 2. Retrospective operation.**

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