

Representative James A. Ferrin proposes the following substitute bill:

TUITION TAX CREDITS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: James A. Ferrin

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides a refundable tax credit against individual income tax for tuition expenses for private school education received by a qualifying student during the taxable year;
- ▶ provides legislative findings;
- ▶ establishes maximum tax credit amounts based upon a taxpayer's federal adjusted gross income and household size;
- ▶ defines a qualifying student as an individual who:
 - is enrolled at a private school as a full-time student;
 - is not participating in a dual enrollment program; and
 - will be under age 19 on the last day of the school year, or, if the individual is disabled and has not graduated from high school, will be under age 22 on the last day of the school year;
- ▶ 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



26 school year, the students attend classes and have direct contact with the school's teachers;

- 27 • does not operate in a residence;
 - 28 • enrolls at least 25 students;
 - 29 • annually assesses the achievement of each qualifying student; and
 - 30 • provides information to parents on teachers' credentials and school
- 31 accreditation; and

- 32 ▶ requires the parent of a school-age minor who transfers from a public school to a
- 33 private school to notify the school district or charter school of the transfer.

34 **Monies Appropriated in this Bill:**

35 This bill appropriates:

- 36 ▶ \$1,500,000 from the General Fund for fiscal year 2005-06 only, to the State Board
- 37 of Education.

38 **Other Special Clauses:**

39 This bill provides for retrospective operation.

40 **Utah Code Sections Affected:**

41 ENACTS:

- 42 **53A-11-102.3**, Utah Code Annotated 1953
- 43 **53A-17a-152**, Utah Code Annotated 1953
- 44 **59-10-136**, Utah Code Annotated 1953



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

47 Section 1. Section **53A-11-102.3** is enacted to read:

48 **53A-11-102.3. Transfers to private school.**

49 The parent of a school-age minor who transfers from a public school to a private school
50 as defined in Section 59-10-136 shall notify the school district or charter school where the
51 minor was enrolled of the transfer:

52 (1) before the starting date of the school district's or charter school's school year, if the
53 transfer will occur at the beginning of a school year; or

54 (2) before the date the minor transfers to the private school, if the transfer occurs
55 within a school year.

56 Section 2. Section **53A-17a-152** is enacted to read:

57 **53A-17a-152. Appropriation for school districts affected by tuition tax credits.**

58 (1) There is appropriated \$1,500,000 from the General Fund, for fiscal year 2005-06
59 only, to the State Board of Education to be distributed to school districts that demonstrate
60 measurable financial harm that can be attributed to the enactment of the tuition tax credit under
61 Section 59-10-136.

62 (2) The appropriation under Subsection (1) shall be nonlapsing.

63 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
64 board shall make rules establishing criteria and procedures for the distribution of funds
65 appropriated under Subsection (1).

66 Section 3. Section **59-10-136** is enacted to read:

67 **59-10-136. Refundable tuition tax credit.**

68 (1) As used in this section:

69 (a) "Applicable household size" means the household size of the qualifying student.

70 (b) "Disabled" means having a disability and qualifying for special education services
71 pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et. seq.

72 (c) "Income eligibility guideline" means the maximum annual income allowed to
73 qualify for reduced price meals for the applicable household size as published by the U.S.
74 Department of Agriculture by notice in the Federal Register and as established pursuant to
75 Subsection (3).

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

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

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

79 (C) is generally supported, in part at least, by tuition charges;

80 (D) is established to operate indefinitely and independently, not dependent upon the
81 age of students available or upon individual family situations;

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

84 (F) is on file with the Division of Corporations and Commercial Code pursuant to
85 Section 42-2-5;

86 (G) is in compliance with local governmental business licensing requirements;

87 (H) (I) annually assesses the achievement of each student by administering a

88 standardized achievement test scored by an independent party that provides a comparison of
89 the student's performance to other students on a national basis;

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

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

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

95 (J) provides, upon request to any person, a statement indicating which, if any,
96 organizations have accredited the private school.

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

98 (A) operates in a residence; or

99 (B) has an enrollment of less than 25 students.

100 (e) "Qualifying student" means an individual:

101 (i) who is enrolled at a private school as a full-time student as determined by the
102 private school and is not participating in a dual enrollment program pursuant to Section
103 53A-11-102.5; and

104 (ii) who will be under 19 years of age on the last day of the school year as determined
105 by the private school, or, if the individual is disabled and has not graduated from high school
106 with a regular diploma, will be under 22 years of age on the last day of the school year as
107 determined by the private school.

108 (2) The Legislature finds:

109 (a) parents are best equipped to make decisions for their children, including the
110 educational setting that will best serve the interests and educational needs of their children;

111 (b) children, parents, and families are the primary beneficiaries of the tuition tax credit
112 authorized in this section and any benefit to private schools, sectarian or otherwise, is purely
113 incidental; and

114 (c) the tuition tax credit authorized in this section is:

115 (i) enacted for the valid secular purpose of tailoring a student's education to that
116 student's specific needs;

117 (ii) neutral with respect to religion; and

118 (iii) provides tax relief to a broad class of citizens who are then able to direct their

119 resources to religious and secular schools solely as a result of their genuine and independent
120 private choices.

121 (3) The reduced price meals income guidelines in effect on July 1 of the taxable year
122 for which a taxpayer applies for a tax credit under this section shall be used to establish the
123 income eligibility guideline.

124 (4) (a) For taxable years beginning on or after January 1, 2005, a taxpayer may claim,
125 as provided in this section, a refundable tax credit against the taxes imposed by this chapter for
126 tuition expenses for private school education received by a qualifying student during the
127 taxable year.

128 (b) For the purposes of this section, tuition expenses shall be considered to be incurred
129 when the qualifying student receives the private school education.

130 (c) A taxpayer may claim a refundable tax credit under Subsection (4)(a) for tuition
131 expenses incurred for private school education received by one or more qualifying students
132 during the taxable year.

133 (d) The refundable tax credit for each qualifying student's tuition expenses may not
134 exceed the total tuition expenses for the private school education received by the qualifying
135 student during the taxable year, up to the maximum amount shown in the following table,
136 except as provided in Subsections (4)(e) and (4)(f):

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<p>138 <u>If the taxpayer's adjusted gross income</u></p> <p>139 <u>on the taxpayer's federal individual credit</u></p> <p>140 <u>income tax return for the taxable year is:</u></p> <p>141 -----</p>	<p><u>The maximum refundable tax for each</u></p> <p><u>qualifying student's tuition expenses is:</u></p> <p>-----</p>
<p>142 <u>Less than or equal to 100% of the</u></p> <p>143 <u>income eligibility guideline</u></p>	<p><u>\$3750</u></p>
<p>144 <u>Greater than 100% but less than or equal to</u></p> <p>145 <u>125% of the income eligibility guideline</u></p>	<p><u>\$3500</u></p>
<p>146 <u>Greater than 125% but less than or equal to</u></p> <p>147 <u>150% of the income eligibility guideline</u></p>	<p><u>\$3250</u></p>
<p>148 <u>Greater than 150% but less than or equal to</u></p> <p>149 <u>175% of the income eligibility guideline</u></p>	<p><u>\$3000</u></p>

150	<u>Greater than 175% but less than or equal to</u>	
151	<u>200% of the income eligibility guideline</u>	<u>\$2750</u>
152	<u>Greater than 200% but less than or equal to</u>	
153	<u>225% of the income eligibility guideline</u>	<u>\$2500</u>
154	<u>Greater than 225% but less than or equal to</u>	
155	<u>250% of the income eligibility guideline</u>	<u>\$1750</u>
156	<u>Greater than 250% but less than or equal to</u>	
157	<u>275% of the income eligibility guideline</u>	<u>\$1000</u>
158	<u>Greater than 275% but less than or equal to</u>	
159	<u>300% of the income eligibility guideline</u>	<u>\$500</u>

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161 (e) The maximum refundable tax credit amounts shown in the table in Subsection
162 (4)(d) apply to tuition expenses for all grades except kindergarten. The maximum refundable
163 tax credit for tuition expenses for kindergarten shall be .55 times the amounts shown in the
164 table in Subsection (4)(d).

165 (f) The maximum refundable tax credits amounts shown in the table in Subsection
166 (4)(d) apply to tuition expenses of qualifying students who are enrolled in a private school for
167 140 school days or more within the taxable year. For tuition expenses of qualifying students
168 who are enrolled in a private school for fewer than 140 school days within the taxable year, the
169 maximum refundable tax credit amounts are 50% of the amounts shown in the table in
170 Subsection (4)(d), except the maximum refundable tax credit for a kindergarten student is 50%
171 of the amount provided in Subsection (4)(e).

172 (5) The tax credit provided for in this section may not be carried forward or carried
173 back.

174 (6) (a) Only one taxpayer may claim a refundable tax credit for each qualifying student
175 each taxable year.

176 (b) The taxpayer who claims a personal exemption for the qualifying student shall have
177 the right to claim the refundable tax credit, unless that taxpayer authorizes another person to
178 claim the refundable tax credit.

179 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
180 commission shall make rules to administer Subsections (6)(a) and (6)(b).

181 Section 4. **Retrospective operation.**

182 This bill has retrospective operation for taxable years beginning on or after January 1,

183 2005.