

Senator Jim Dabakis proposes the following substitute bill:

HIGHER EDUCATION TAX CREDITS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Dabakis

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts an individual income tax credit.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a nonrefundable tax credit for certain higher education expenses; and
- ▶ provides that the tax credit is subject to apportionment.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2011, Chapter 302

ENACTS:

59-10-1033, Utah Code Annotated 1953

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



26 Section 1. Section 59-10-1002.2 is amended to read:

27 **59-10-1002.2. Apportionment of tax credits.**

28 (1) A nonresident individual or a part-year resident individual that claims a tax credit
29 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022,
30 59-10-1023, 59-10-1024, [or] 59-10-1028, or 59-10-1033 may only claim an apportioned
31 amount of the tax credit equal to:

32 (a) for a nonresident individual, the product of:

33 (i) the state income tax percentage for the nonresident individual; and

34 (ii) the amount of the tax credit that the nonresident individual would have been
35 allowed to claim but for the apportionment requirements of this section; or

36 (b) for a part-year resident individual, the product of:

37 (i) the state income tax percentage for the part-year resident individual; and

38 (ii) the amount of the tax credit that the part-year resident individual would have been
39 allowed to claim but for the apportionment requirements of this section.

40 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
41 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an
42 apportioned amount of the tax credit equal to the product of:

43 (a) the state income tax percentage for the nonresident estate or trust; and

44 (b) the amount of the tax credit that the nonresident estate or trust would have been
45 allowed to claim but for the apportionment requirements of this section.

46 Section 2. Section 59-10-1033 is enacted to read:

47 **59-10-1033. Nonrefundable tax credit for higher education costs.**

48 (1) As used in this section, "qualified higher education expenses" means an expense
49 described in Section 529(e)(3), Internal Revenue Code, except that an expense shall be
50 determined without regard to whether the individual with respect to whom the expense is
51 incurred is a beneficiary under Section 529(e)(3), Internal Revenue Code.

52 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of
53 this section, a claimant may claim a nonrefundable tax credit against a tax under this chapter:

54 (a) if the claimant filing the return on which the tax credit is claimed is allowed to
55 claim any amount of a federal earned income tax credit under Section 32, Internal Revenue

56 Code, on the claimant's federal income tax return for the taxable year, regardless of whether the

57 claimant actually claims the federal earned income tax credit; and

58 (b) equal to the product of:

59 (i) the amount of qualified higher education expenses the claimant pays during the
60 taxable year; and

61 (ii) 5%.

62 (3) A tax credit under this section may not exceed the product of 5% and the maximum
63 amount of a qualified investment under Subsection 53B-8a-106(1), determined without regard
64 to whether:

65 (a) a claimant claims a tax credit under Section 59-10-1017; or

66 (b) the claimant is an account owner as defined in Section 53B-8a-102.

67 (4) For purposes of Subsection (2)(a), whether a claimant is allowed to claim any
68 amount of federal earned income tax credit under Section 32, Internal Revenue Code, shall be
69 determined on the basis of the sum of the adjusted gross incomes of all individuals who file the
70 return.

71 (5) A tax credit under this section may not be claimed with respect to any portion of
72 qualified higher education expenses described in Subsection (2) that a claimant deducts on a
73 federal income tax return.

74 (6) A tax credit under this section may not be carried forward or carried back.

75 **Section 3. Retrospective operation.**

76 This bill has retrospective operation for a taxable year beginning on or after January 1,
77 2015.