

**HIGHER EDUCATION SAVINGS INCENTIVE  
PROGRAM AMENDMENTS**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Patrice M. Arent**

AN ACT RELATING TO HIGHER EDUCATION; INCREASING THE AGE DESIGNATION FOR BENEFICIARIES DESIGNATED IN PARTICIPATION AGREEMENTS FROM BIRTH TO AGE 16 TO BIRTH TO AGE 18 AS A TAX INCENTIVE; AND MAKING CERTAIN TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**53B-8a-106**, as last amended by Chapter 240, Laws of Utah 1999

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

Section 1. Section **53B-8a-106** is amended to read:

**53B-8a-106. Participation agreements for trust.**

The trust may enter into participation agreements with participants on behalf of beneficiaries [~~pursuant to~~] under the following terms and agreements:

(1) (a) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the board.

(b) Participation agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) A participant may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the board.

(d) The maximum amount of investments that may be subtracted from federal taxable income of a resident or nonresident individual under Subsection 59-10-114(2)(j) shall be \$1,200 for each individual beneficiary for the 1996 calendar year and an amount adjusted annually thereafter to reflect increases in the Consumer Price Index.

(2) The participation agreement may include a minimum rate of return for the investment made by the participant.

(3) (a) Beneficiaries designated in participation agreements [~~may~~] must be designated from date of birth through age [~~16~~] 18 for the participant to subtract allowable investments from federal taxable income under Subsection 59-10-114(2)(j).

(b) Participants may designate beneficiaries after age 18, but investments for those beneficiaries are not eligible for subtraction from federal taxable income.

(4) Payment of benefits provided under participation agreements must begin not later than the first full fall academic quarter or semester at an institution of higher education following the 22nd birthday or high school graduation of the beneficiary, whichever is later, unless the participant notifies the program administrator to the contrary.

(5) The execution of a participation agreement by the trust may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:

- (a) be admitted to an institution of higher education;
- (b) if admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;
- (c) be allowed to continue attendance at the institution of higher education following admission; or
- (d) graduate from the institution of higher education.

(6) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education so long as the substitute beneficiary is eligible for participation.

(7) Participation agreements may be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

(8) Each participation agreement shall provide that the participation agreement may be

canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations.