



- 29 • from the General Fund, \$10,000.

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 This bill provides retrospective operation.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **53B-8a-102**, as last amended by Laws of Utah 2015, Chapter 94

36 **59-7-105**, as last amended by Laws of Utah 2015, Chapter 30

37 **59-7-106**, as last amended by Laws of Utah 2015, Chapters 30 and 94

38 **59-10-114**, as last amended by Laws of Utah 2016, Chapter 263

39 **59-10-202**, as last amended by Laws of Utah 2010, Chapter 6

40 **59-10-1017**, as last amended by Laws of Utah 2015, Chapter 94

41 ENACTS:

42 **53B-8a-102.5**, Utah Code Annotated 1953

43 **53B-8a-201**, Utah Code Annotated 1953

44 **53B-8a-202**, Utah Code Annotated 1953

45 **53B-8a-203**, Utah Code Annotated 1953

46 **53B-8a-204**, Utah Code Annotated 1953

47 **53B-8a-205**, Utah Code Annotated 1953

48 **59-10-1017.1**, Utah Code Annotated 1953

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

51 Section 1. Section **53B-8a-102** is amended to read:

52 **Part 1. Utah Educational Savings Plan**

53 **53B-8a-102. Definitions for chapter.**

54 As used in this chapter:

55 (1) "Account agreement" means an agreement between an account owner and the Utah

56 Educational Savings Plan entered into under this chapter.

57 (2) "Account owner" means a person, estate, or trust, if that person, estate, or trust has  
58 entered into an account agreement under this chapter to save for the higher education costs on  
59 behalf of a beneficiary.

60 [~~(3) "Administrative fund" means the money used to administer the Utah Educational  
61 Savings Plan.~~]

62 [~~(4)~~ (3) "Beneficiary" means the individual designated in an account agreement to  
63 benefit from the amount saved for higher education costs.

64 [~~(5) "Board" means the board of directors of the Utah Educational Savings Plan which  
65 is the state Board of Regents acting in its capacity as the Utah Higher Education Assistance  
66 Authority under Title 53B, Chapter 12, Higher Education Assistance Authority.~~]

67 [~~(6) "Endowment fund" means the endowment fund established under Section  
68 53B-8a-107 which is held as a separate fund within the Utah Educational Savings Plan.~~]

69 [(7) "Executive director" means the administrator appointed to administer and manage  
70 the Utah Educational Savings Plan.]

71 [(8) "Federally insured depository institution" means an institution whose deposits and  
72 accounts are to any extent insured by a federal deposit insurance agency, including the Federal  
73 Deposit Insurance Corporation and the National Credit Union Administration.]

74 [(9) "Grantor trust" means a trust, the income of which is for the benefit of the grantor  
75 under Section 677, Internal Revenue Code.]

76 [(10) "Higher education costs" means qualified higher education expenses as defined in  
77 Section 529(e)(3), Internal Revenue Code.]

78 [(11) "Owner of the grantor trust" means one or more individuals who are treated as an  
79 owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.]

80 [(12)] (4) "Plan" means the Utah Educational Savings Plan created in Section  
81 53B-8a-103.

82 [(13) "Program fund" means the program fund created under Section 53B-8a-107,

83 ~~which is held as a separate fund within the Utah Educational Savings Plan.]~~

84 ~~[(14) "Qualified investment" means an amount invested in accordance with an account~~  
85 ~~agreement established under this chapter.]~~

86 ~~[(15) "Tuition and fees" means the quarterly or semester charges imposed to attend an~~  
87 ~~institution of higher education and required as a condition of enrollment.]~~

88 Section 2. Section **53B-8a-102.5** is enacted to read:

89 **53B-8a-102.5. Definitions for part.**

90 As used in this part:

91 (1) "Administrative fund" means the money used to administer the Utah Educational  
92 Savings Plan.

93 (2) "Board" means the board of directors of the Utah Educational Savings Plan, which  
94 is the State Board of Regents acting in the State Board of Regents' capacity as the Utah Higher  
95 Education Assistance Authority under Title 53B, Chapter 12, Higher Education Assistance  
96 Authority.

97 (3) "Endowment fund" means the endowment fund established under Section  
98 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

99 (4) "Executive director" means the administrator appointed to administer and manage  
100 the Utah Educational Savings Plan.

101 (5) "Federally insured depository institution" means an institution whose deposits and  
102 accounts are to any extent insured by a federal deposit insurance agency, including the Federal  
103 Deposit Insurance Corporation and the National Credit Union Administration.

104 (6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor  
105 under Section 677, Internal Revenue Code.

106 (7) "Higher education costs" means qualified higher education expenses as defined in  
107 Section 529(e)(3), Internal Revenue Code.

108 (8) "Owner of the grantor trust" means one or more individuals who are treated as an  
109 owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

110 (9) "Program fund" means the program fund created under Section 53B-8a-107, which  
111 is held as a separate fund within the Utah Educational Savings Plan.

112 (10) "Qualified investment" means an amount invested in accordance with an account  
113 agreement established under this part.

114 (11) "Tuition and fees" means the quarterly or semester charges imposed to attend an  
115 institution of higher education and required as a condition of enrollment.

116 Section 3. Section **53B-8a-201** is enacted to read:

117 **Part 2. Student Prosperity Savings Program**

118 **53B-8a-201. Definitions.**

119 As used in this part:

120 (1) "529 savings account" means a tax-advantaged method of saving for higher  
121 education costs on behalf of a particular individual that:

122 (a) meets the requirements of Section 529, Internal Revenue Code; and

123 (b) is managed by the plan.

124 (2) "Child" means an individual less than 20 years of age.

125 (3) "Community partner" means a nonprofit organization that provide services to a  
126 child who is economically disadvantaged or a family member, legal guardian, or legal  
127 custodian of a child who is economically disadvantaged.

128 (4) "Donation" means a gift, grant, donation, or any other conveyance of money by a  
129 person other than the Legislature that is not made directly for the benefit or on behalf of a  
130 particular individual.

131 (5) "Economically disadvantaged" means that a child is:

132 (a) experiencing intergenerational poverty;

133 (b) a member or foster child of a family with an annual income at or below 185% of  
134 the federal poverty level; or

135 (c) living with a legal custodian or legal guardian with an annual family income at or  
136 below 185% of the federal poverty level.

137 (6) "Eligible individual" means an individual who:  
138 (a) is at least 15 years of age and under 20 years of age;  
139 (b) is a student in grade 10, grade 11, or grade 12 in Utah;  
140 (c) is economically disadvantaged; and  
141 (d) receives, or has a family member, a foster family member, or a legal custodian or  
142 legal guardian who receives, services from a community partner.

143 (7) "Federal poverty level" means the poverty level as defined by the most recently  
144 revised poverty income guidelines published by the United States Department of Health and  
145 Human Services in the Federal Register.

146 (8) "Higher education costs" means the same as that term is defined in Section  
147 53B-8a-102.5, except that the expenses must be incurred at:

148 (a) a credit-granting institution of higher education within the state system of higher  
149 education;

150 (b) a private, nonprofit college or university in the state that is accredited by the  
151 Northwestern Association of Schools and Colleges; or

152 (c) a college within the Utah College of Applied Technology.

153 (9) "Intergenerational poverty" means the same as that term is defined in Section  
154 35A-9-102.

155 (10) "Program" means the Student Prosperity Savings Program created in Section  
156 53B-8a-202.

157 Section 4. Section **53B-8a-202** is enacted to read:

158 **53B-8a-202. Student Prosperity Savings Program.**

159 (1) There is created the Student Prosperity Savings Program.

160 (2) The program is funded by:

161 (a) appropriations from the Legislature; and

162 (b) donations made in accordance with Section [53B-8a-203](#).

163 (3) (a) The plan shall administer the program.

164 (b) The plan shall use the program to create 529 savings accounts in accordance with  
165 this part.

166 Section 5. Section **53B-8a-203** is enacted to read:

167 **53B-8a-203. Donations to the program.**

168 (1) (a) A person may make a donation to the program by:

169 (i) sending the donation to the plan; and

170 (ii) including with the donation, direction that the donation benefit the program.

171 (b) A person making a donation shall include the person's name and mailing address  
172 with the donation.

173 (2) (a) The plan shall mail a receipt to the person that makes the donation.

174 (b) The receipt described in Subsection (2)(a) shall state:

175 (i) the name of the person that made the donation;

176 (ii) the amount of the donation; and

177 (iii) the date on which the person makes the donation.

178 (c) The date on which the person makes a donation to the program is the date on which  
179 the plan receives the donation, unless the plan receives the donation on a Saturday, a Sunday,  
180 or a holiday, in which case the date on which the person makes the donation shall be the first  
181 business day after the day on which the plan receives the donation.

182 (d) A person that receives a receipt described in Subsection (2)(a) shall retain the  
183 receipt for the same time period a person is required to keep books and records under Section  
184 [59-1-1406](#).

185 Section 6. Section **53B-8a-204** is enacted to read:

186 **53B-8a-204. Distribution of program money -- Application process --**

187 **Prioritization -- Account agreements.**

188 (1) The plan shall distribute money in the program by creating a 529 savings account  
189 for an eligible individual identified by a community partner.

190 (2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by

191 establishing a process in which a community partner may apply for an allocation of program  
192 money to designate for eligible individuals.

193 (ii) The State Board of Regents shall establish the application process for a community  
194 partner to apply for an allocation of program money.

195 (iii) The application process described in Subsection (2)(a)(ii) shall include:

196 (A) the criteria for a community partner to apply for an allocation of program money;

197 (B) the criteria that the plan will use to prioritize applications if the dollar amounts  
198 requested in the applications exceed the dollar amount available;

199 (C) the requirements for establishing a 529 savings account in the name of an eligible  
200 individual; and

201 (D) the roles and responsibilities of a community partner that makes a successful  
202 application for an allocation of program money.

203 (b) (i) A community partner that receives an allocation of program money shall enter  
204 into a contract with the plan.

205 (ii) The contract described in Subsection (2)(b)(i) shall:

206 (A) define the roles and responsibilities of the community partner and the plan with  
207 regard to the community partner's allocation of program money; and

208 (B) specify that the individual the community partner identifies to receive a portion of  
209 the community partner's allocation is an eligible individual.

210 (3) If the plan approves a community partner's application for an allocation of program  
211 money, the plan may not promise or otherwise encumber the allocation to any other person  
212 unless the allocation is forfeited under Subsection (5)(b)(ii).

213 (4) (a) A community partner shall identify each eligible individual who will receive a  
214 portion of the community partner's allocation of program money.

215 (b) After a community partner identifies an eligible individual to receive a portion of  
216 the community partner's allocation, the community partner shall notify the plan of:

217 (i) the amount of the community partner's allocation that shall transfer to a 529 savings



218 account in the name of the identified eligible individual; and  
219 (ii) the amount, if any, that the community partner will be contributing in accordance  
220 with Part 1, Utah Educational Savings Plan, to the 529 savings account on behalf of the  
221 identified eligible individual.

222 (5) (a) Upon receiving the information described in Subsection (4)(b), the plan shall  
223 establish a 529 savings account for the identified eligible individual, with the community  
224 partner as the account owner.

225 (b) The community partner shall inform the beneficiary that:

226 (i) within three years after the day on which the beneficiary graduates from high  
227 school, the beneficiary shall enroll in:

228 (A) a credit-granting institution of higher education within the state system of higher  
229 education;

230 (B) a private, nonprofit college or university in the state that is accredited by the  
231 Northwestern Association of Schools and Colleges; or

232 (C) a college within the Utah College of Applied Technology; and

233 (ii) if the beneficiary fails to enroll within three years after the day on which the  
234 beneficiary graduates from high school, any money that remains in the 529 savings account  
235 shall be returned to the program.

236 (c) After entering into the account agreement described in Subsection (5)(a), the plan  
237 shall deposit into the beneficiary's 529 savings account the amount of the allocation described  
238 in Subsection (4)(b)(i).

239 Section 7. Section **53B-8a-205** is enacted to read:

240 **53B-8a-205. Application of other provisions of this chapter.**

241 The provisions of Part 1, Utah Educational Savings Plan, except Subsection  
242 53B-8a-109(3), govern the 529 savings accounts established under the Student Prosperity  
243 Savings Program.

244 Section 8. Section **59-7-105** is amended to read:

245           **59-7-105. Additions to unadjusted income.**

246           In computing adjusted income the following amounts shall be added to unadjusted  
247 income:

248           (1) interest from bonds, notes, and other evidences of indebtedness issued by any state  
249 of the United States, including any agency and instrumentality of a state of the United States;

250           (2) the amount of any deduction taken on a corporation's federal return for taxes paid  
251 by a corporation:

252           (a) to Utah for taxes imposed by this chapter; and

253           (b) to another state of the United States, a foreign country, a United States possession,  
254 or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or  
255 exercising its corporate franchise, including income, franchise, corporate stock and business  
256 and occupation taxes;

257           (3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and  
258 (2)(a);

259           (4) capital losses that have been deducted on a Utah corporate return in previous years;

260           (5) any deduction on the federal return that has been previously deducted on the Utah  
261 return;

262           (6) charitable contributions, to the extent deducted on the federal return when  
263 determining federal taxable income;

264           (7) the amount of gain or loss determined under Section 59-7-114 relating to a target  
265 corporation under Section 338, Internal Revenue Code, unless such gain or loss has already  
266 been included in the unadjusted income of the target corporation;

267           (8) the amount of gain or loss determined under Section 59-7-115 relating to  
268 corporations treated for federal purposes as having disposed of its assets under Section 336(e),  
269 Internal Revenue Code, unless such gain or loss has already been included in the unadjusted  
270 income of the target corporation;

271           (9) adjustments to gains, losses, depreciation expense, amortization expense, and

272 similar items due to a difference between basis for federal purposes and basis as computed  
273 under Section 59-7-107;

274 (10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings  
275 Plan, from the account of a corporation that is an account owner as defined in Section  
276 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn  
277 from the account of the corporation that is the account owner:

278 (a) is not expended for:

279 (i) higher education costs as defined in Section [~~53B-8a-102~~] 53B-8a-102.5; or

280 (ii) a payment or distribution that qualifies as an exception to the additional tax for  
281 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
282 Internal Revenue Code; and

283 (b) is subtracted by the corporation:

284 (i) that is the account owner; and

285 (ii) in accordance with Subsection 59-7-106 (1)(r); and

286 (11) the amount of the deduction for dividends paid, as defined in Section 561, Internal  
287 Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in  
288 computing the taxable income of a captive real estate investment trust, if that captive real estate  
289 investment trust is subject to federal income taxation.

290 Section 9. Section 59-7-106 is amended to read:

291 **59-7-106. Subtractions from unadjusted income.**

292 (1) In computing adjusted income, the following amounts shall be subtracted from  
293 unadjusted income:

294 (a) the foreign dividend gross-up included in gross income for federal income tax  
295 purposes under Section 78, Internal Revenue Code;

296 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the  
297 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the  
298 taxable year for which the net capital loss is incurred;

- 299 (c) the decrease in salary expense deduction for federal income tax purposes due to  
300 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;
- 301 (d) the decrease in qualified research and basic research expense deduction for federal  
302 income tax purposes due to claiming the federal credit for increasing research activities under  
303 Section 41, Internal Revenue Code;
- 304 (e) the decrease in qualified clinical testing expense deduction for federal income tax  
305 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for  
306 rare diseases or conditions under Section 45C, Internal Revenue Code;
- 307 (f) any decrease in any expense deduction for federal income tax purposes due to  
308 claiming any other federal credit;
- 309 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and  
310 (2)(b);
- 311 (h) any income on the federal corporation income tax return that has been previously  
312 taxed by Utah;
- 313 (i) an amount included in federal taxable income that is due to a refund of a tax,  
314 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation  
315 tax:
- 316 (i) if that tax is imposed for the privilege of:  
317 (A) doing business; or  
318 (B) exercising a corporate franchise;
- 319 (ii) if that tax is paid by the corporation to:  
320 (A) Utah;  
321 (B) another state of the United States;  
322 (C) a foreign country;  
323 (D) a United States possession; or  
324 (E) the Commonwealth of Puerto Rico; and  
325 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

- 326 (j) a charitable contribution, to the extent the charitable contribution is allowed as a  
327 subtraction under Section 59-7-109;
- 328 (k) subject to Subsection (3), 50% of a dividend considered to be received or received  
329 from a subsidiary that:
- 330 (i) is a member of the unitary group;
- 331 (ii) is organized or incorporated outside of the United States; and
- 332 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 333 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a  
334 foreign operating company;
- 335 (m) the amount of gain or loss that is included in unadjusted income but not recognized  
336 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as  
337 defined in Section 338, Internal Revenue Code, if an election has been made in accordance  
338 with Section 338(h)(10), Internal Revenue Code;
- 339 (n) the amount of gain or loss that is included in unadjusted income but not recognized  
340 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance  
341 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal  
342 Revenue Code, has been made for federal purposes;
- 343 (o) subject to Subsection (5), an adjustment to the following due to a difference  
344 between basis for federal purposes and basis as computed under Section 59-7-107:
- 345 (i) an amortization expense;
- 346 (ii) a depreciation expense;
- 347 (iii) a gain;
- 348 (iv) a loss; or
- 349 (v) an item similar to Subsections (1)(o)(i) through (iv);
- 350 (p) an interest expense that is not deducted on a federal corporation income tax return  
351 under Section 265(b) or 291(e), Internal Revenue Code;
- 352 (q) 100% of dividends received from a subsidiary that is an insurance company if that

353 subsidiary that is an insurance company is:

354 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and

355 (ii) under common ownership;

356 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as  
357 defined in Section 53B-8a-102 [shall subtract], the amount of a qualified investment as defined  
358 in Section [53B-8a-102] 53B-8a-102.5:

359 (i) that the corporation or a person other than the corporation makes into an account  
360 owned by the corporation during the taxable year;

361 (ii) to the extent that neither the corporation nor the person other than the corporation  
362 described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax  
363 return; and

364 (iii) to the extent the qualified investment does not exceed the maximum amount of the  
365 qualified investment that may be subtracted from unadjusted income for a taxable year in  
366 accordance with Subsection 53B-8a-106(1);

367 (s) for a corporation that makes a donation, as that term is defined in Section  
368 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the  
369 amount of the donation to the extent that the corporation did not deduct the donation on a  
370 federal income tax return;

371 [~~s~~] (t) for purposes of income included in a combined report under Part 4, Combined  
372 Reporting, the entire amount of the dividends a member of a unitary group receives or is  
373 considered to receive from a captive real estate investment trust; and

374 [~~t~~] (u) the increase in income for federal income tax purposes due to claiming a:

375 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

376 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.

377 (2) For purposes of Subsection (1)(b):

378 (a) the subtraction shall be made by claiming the subtraction on a return filed:

379 (i) under this chapter for the taxable year for which the net capital loss is incurred; and

380 (ii) by the due date of the return, including extensions; and  
381 (b) a net capital loss for a taxable year shall be:  
382 (i) subtracted for the taxable year for which the net capital loss is incurred; or  
383 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue  
384 Code.

385 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a  
386 taxpayer shall first subtract from a dividend considered to be received or received an expense  
387 directly attributable to that dividend.

388 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is  
389 considered to be directly attributable to a dividend is calculated by multiplying the interest  
390 expense by a fraction:

391 (i) the numerator of which is the taxpayer's average investment in the dividend paying  
392 subsidiaries; and

393 (ii) the denominator of which is the taxpayer's average total investment in assets.

394 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in  
395 determining income apportionable to this state, a portion of the factors of a foreign subsidiary  
396 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the  
397 combined report factors as provided in this Subsection (3)(c).

398 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign  
399 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be  
400 included in the combined report factors is calculated by multiplying each factor of the foreign  
401 subsidiary by a fraction:

402 (A) not to exceed 100%; and

403 (B) (I) the numerator of which is the amount of the dividend paid by the foreign  
404 subsidiary that is included in adjusted income; and

405 (II) the denominator of which is the current year earnings and profits of the foreign  
406 subsidiary as determined under the Internal Revenue Code.

407 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under  
408 Subsection (1)(l):

409 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
410 59-7-403; or

411 (ii) for the following:

412 (A) income generated from intangible property; or

413 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
414 generated from an asset held for investment and not from a regular business trading activity.

415 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating  
416 company:

417 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

418 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a  
419 transaction that occurs between members of a unitary group.

420 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining  
421 income apportionable to this state, the factors for a foreign operating company shall be  
422 included in the combined report factors in the same percentages as the foreign operating  
423 company's adjusted income is included in the combined adjusted income.

424 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
425 commission may by rule define what constitutes:

426 (i) income generated from intangible property; or

427 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
428 generated from an asset held for investment and not from a regular business trading activity.

429 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of  
430 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax  
431 credit is claimed if:

432 (i) there is a reduction in federal basis for a federal tax credit; and

433 (ii) there is no corresponding tax credit allowed in this state.



434 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
435 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)  
436 through (iv).

437 Section 10. Section **59-10-114** is amended to read:

438 **59-10-114. Additions to and subtractions from adjusted gross income of an**  
439 **individual.**

440 (1) There shall be added to adjusted gross income of a resident or nonresident  
441 individual:

442 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income  
443 on the taxpayer's federal individual income tax return for the taxable year;

444 (b) the amount of a child's income calculated under Subsection (4) that:

445 (i) a parent elects to report on the parent's federal individual income tax return for the  
446 taxable year; and

447 (ii) the parent does not include in adjusted gross income on the parent's federal  
448 individual income tax return for the taxable year;

449 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for  
450 the taxable year if:

451 (A) the resident or nonresident individual does not deduct the amounts on the resident  
452 or nonresident individual's federal individual income tax return under Section 220, Internal  
453 Revenue Code;

454 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

455 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a  
456 return the resident or nonresident individual files under this chapter;

457 (ii) a disbursement required to be added to adjusted gross income in accordance with  
458 Subsection 31A-32a-105(3); or

459 (iii) an amount required to be added to adjusted gross income in accordance with  
460 Subsection 31A-32a-105(5)(c);

461 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,  
462 from the account of a resident or nonresident individual who is an account owner as defined in  
463 Section [53B-8a-102](#), for the taxable year for which the amount is withdrawn, if that amount  
464 withdrawn from the account of the resident or nonresident individual who is the account  
465 owner:

466 (i) is not expended for:

467 (A) higher education costs as defined in Section [~~53B-8a-102~~] [53B-8a-102.5](#); or

468 (B) a payment or distribution that qualifies as an exception to the additional tax for  
469 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
470 Internal Revenue Code; and

471 (ii) is:

472 (A) subtracted by the resident or nonresident individual:

473 (I) who is the account owner; and

474 (II) on the resident or nonresident individual's return filed under this chapter for a  
475 taxable year beginning on or before December 31, 2007; or

476 (B) used as the basis for the resident or nonresident individual who is the account  
477 owner to claim a tax credit under Section [59-10-1017](#);

478 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of  
479 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other  
480 evidences of indebtedness issued by one or more of the following entities:

481 (i) a state other than this state;

482 (ii) the District of Columbia;

483 (iii) a political subdivision of a state other than this state; or

484 (iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through  
485 (iii);

486 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a  
487 resident trust of income that was taxed at the trust level for federal tax purposes, but was

488 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);  
489 (g) any distribution received by a resident beneficiary of a nonresident trust of  
490 undistributed distributable net income realized by the trust on or after January 1, 2004, if that  
491 undistributed distributable net income was taxed at the trust level for federal tax purposes, but  
492 was not taxed at the trust level by any state, with undistributed distributable net income  
493 considered to be distributed from the most recently accumulated undistributed distributable net  
494 income; and  
495 (h) any adoption expense:  
496 (i) for which a resident or nonresident individual receives reimbursement from another  
497 person; and  
498 (ii) to the extent to which the resident or nonresident individual subtracts that adoption  
499 expense:  
500 (A) on a return filed under this chapter for a taxable year beginning on or before  
501 December 31, 2007; or  
502 (B) from federal taxable income on a federal individual income tax return.  
503 (2) There shall be subtracted from adjusted gross income of a resident or nonresident  
504 individual:  
505 (a) the difference between:  
506 (i) the interest or a dividend on an obligation or security of the United States or an  
507 authority, commission, instrumentality, or possession of the United States, to the extent that  
508 interest or dividend is:  
509 (A) included in adjusted gross income for federal income tax purposes for the taxable  
510 year; and  
511 (B) exempt from state income taxes under the laws of the United States; and  
512 (ii) any interest on indebtedness incurred or continued to purchase or carry the  
513 obligation or security described in Subsection (2)(a)(i);  
514 (b) for taxable years beginning on or after January 1, 2000, if the conditions of

515 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:  
516       (i) during a time period that the Ute tribal member resides on homesteaded land  
517 diminished from the Uintah and Ouray Reservation; and  
518       (ii) from a source within the Uintah and Ouray Reservation;  
519       (c) an amount received by a resident or nonresident individual or distribution received  
520 by a resident or nonresident beneficiary of a resident trust:  
521       (i) if that amount or distribution constitutes a refund of taxes imposed by:  
522       (A) a state; or  
523       (B) the District of Columbia; and  
524       (ii) to the extent that amount or distribution is included in adjusted gross income for  
525 that taxable year on the federal individual income tax return of the resident or nonresident  
526 individual or resident or nonresident beneficiary of a resident trust;  
527       (d) the amount of a railroad retirement benefit:  
528       (i) paid:  
529       (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
530 seq.;  
531       (B) to a resident or nonresident individual; and  
532       (C) for the taxable year; and  
533       (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
534 that resident or nonresident individual's federal individual income tax return for that taxable  
535 year; and  
536       (e) an amount:  
537       (i) received by an enrolled member of an American Indian tribe; and  
538       (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
539 part on that amount in accordance with:  
540       (A) federal law;  
541       (B) a treaty; or

542 (C) a final decision issued by a court of competent jurisdiction.

543 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

544 (i) the taxpayer is a Ute tribal member; and

545 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

546 requirements of this Subsection (3).

547 (b) The agreement described in Subsection (3)(a):

548 (i) may not:

549 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

550 (B) provide a subtraction under this section greater than or different from the

551 subtraction described in Subsection (2)(b); or

552 (C) affect the power of the state to establish rates of taxation; and

553 (ii) shall:

554 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

555 (B) be in writing;

556 (C) be signed by:

557 (I) the governor; and

558 (II) the chair of the Business Committee of the Ute tribe;

559 (D) be conditioned on obtaining any approval required by federal law; and

560 (E) state the effective date of the agreement.

561 (c) (i) The governor shall report to the commission by no later than February 1 of each

562 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is

563 in effect.

564 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the

565 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or

566 after the January 1 following the termination of the agreement.

567 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,

568 Utah Administrative Rulemaking Act, the commission may make rules:

569 (i) for determining whether income is derived from a source within the Uintah and  
570 Ouray Reservation; and

571 (ii) that are substantially similar to how adjusted gross income derived from Utah  
572 sources is determined under Section 59-10-117.

573 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

574 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's  
575 Interest and Dividends; or

576 (ii) (A) a form designated by the commission in accordance with Subsection  
577 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal  
578 individual income taxes the information contained on 2000 Form 8814 is reported on a form  
579 other than Form 8814; and

580 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter  
581 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as  
582 being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
583 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
584 8814.

585 (b) The amount of a child's income added to adjusted gross income under Subsection  
586 (1)(b) is equal to the difference between:

587 (i) the lesser of:

588 (A) the base amount specified on Form 8814; and

589 (B) the sum of the following reported on Form 8814:

590 (I) the child's taxable interest;

591 (II) the child's ordinary dividends; and

592 (III) the child's capital gain distributions; and

593 (ii) the amount not taxed that is specified on Form 8814.

594 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences  
595 of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be

596 added to adjusted gross income of a resident or nonresident individual if, as annually  
597 determined by the commission:

598 (a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the  
599 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
600 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

601 (b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do not impose  
602 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of  
603 this state:

604 (i) the entity; or

605 (ii) (A) the state in which the entity is located; or

606 (B) the District of Columbia, if the entity is located within the District of Columbia.

607 Section 11. Section **59-10-202** is amended to read:

608 **59-10-202. Additions to and subtractions from unadjusted income of a resident or**  
609 **nonresident estate or trust.**

610 (1) There shall be added to unadjusted income of a resident or nonresident estate or  
611 trust:

612 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal  
613 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in  
614 determining adjusted gross income;

615 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of  
616 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other  
617 evidences of indebtedness issued by one or more of the following entities:

618 (i) a state other than this state;

619 (ii) the District of Columbia;

620 (iii) a political subdivision of a state other than this state; or

621 (iv) an agency or instrumentality of an entity described in Subsections (1)(b)(i) through  
622 (iii);

623 (c) any portion of federal taxable income for a taxable year if that federal taxable  
624 income is derived from stock:

625 (i) in an S corporation; and  
626 (ii) that is held by an electing small business trust;

627 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,  
628 from the account of a resident or nonresident estate or trust that is an account owner as defined  
629 in Section [53B-8a-102](#), for the taxable year for which the amount is withdrawn, if that amount  
630 withdrawn from the account of the resident or nonresident estate or trust that is the account  
631 owner:

632 (i) is not expended for:

633 (A) higher education costs as defined in Section [~~53B-8a-102~~] [53B-8a-102.5](#); or  
634 (B) a payment or distribution that qualifies as an exception to the additional tax for  
635 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
636 Internal Revenue Code; and

637 (ii) is:

638 (A) subtracted by the resident or nonresident estate or trust:

639 (I) that is the account owner; and  
640 (II) on the resident or nonresident estate's or trust's return filed under this chapter for a  
641 taxable year beginning on or before December 31, 2007; or

642 (B) used as the basis for the resident or nonresident estate or trust that is the account  
643 owner to claim a tax credit under Section [59-10-1017](#); and

644 (e) any fiduciary adjustments required by Section [59-10-210](#).

645 (2) There shall be subtracted from unadjusted income of a resident or nonresident  
646 estate or trust:

647 (a) the interest or a dividend on obligations or securities of the United States and its  
648 possessions or of any authority, commission, or instrumentality of the United States, to the  
649 extent that interest or dividend is included in gross income for federal income tax purposes for



650 the taxable year but exempt from state income taxes under the laws of the United States, but  
651 the amount subtracted under this Subsection (2) shall be reduced by any interest on  
652 indebtedness incurred or continued to purchase or carry the obligations or securities described  
653 in this Subsection (2), and by any expenses incurred in the production of interest or dividend  
654 income described in this Subsection (2) to the extent that such expenses, including amortizable  
655 bond premiums, are deductible in determining federal taxable income;

656 (b) income of an irrevocable resident trust if:

657 (i) the income would not be treated as state taxable income derived from Utah sources  
658 under Section 59-10-204 if received by a nonresident trust;

659 (ii) the trust first became a resident trust on or after January 1, 2004;

660 (iii) no assets of the trust were held, at any time after January 1, 2003, in another  
661 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

662 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

663 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the  
664 settlor or any other person is treated as an owner of any portion of the trust under Subtitle A,  
665 Subchapter J, Subpart E of the Internal Revenue Code; and

666 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on  
667 indebtedness incurred or continued to purchase or carry the assets generating the income  
668 described in this Subsection (2)(b), and by any expenses incurred in the production of income  
669 described in this Subsection (2)(b), to the extent that those expenses, including amortizable  
670 bond premiums, are deductible in determining federal taxable income;

671 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or  
672 nonresident estate or trust derived from a deceased Ute tribal member:

673 (i) during a time period that the Ute tribal member resided on homesteaded land  
674 diminished from the Uintah and Ouray Reservation; and

675 (ii) from a source within the Uintah and Ouray Reservation;

676 (d) any amount:

677 (i) received by a resident or nonresident estate or trust;  
678 (ii) that constitutes a refund of taxes imposed by:  
679 (A) a state; or  
680 (B) the District of Columbia; and  
681 (iii) to the extent that amount is included in total income on that resident or nonresident  
682 estate's or trust's federal tax return for estates and trusts for that taxable year;  
683 (e) the amount of a railroad retirement benefit:  
684 (i) paid:  
685 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
686 seq.;

687 (B) to a resident or nonresident estate or trust derived from a deceased resident or  
688 nonresident individual; and  
689 (C) for the taxable year; and  
690 (ii) to the extent that railroad retirement benefit is included in total income on that  
691 resident or nonresident estate's or trust's federal tax return for estates and trusts;  
692 (f) an amount:  
693 (i) received by a resident or nonresident estate or trust if that amount is derived from a  
694 deceased enrolled member of an American Indian tribe; and  
695 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
696 part on that amount in accordance with:  
697 (A) federal law;  
698 (B) a treaty; or  
699 (C) a final decision issued by a court of competent jurisdiction;  
700 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section  
701 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the  
702 qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for  
703 the taxable year; and

704 (h) any fiduciary adjustments required by Section 59-10-210.

705 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences  
706 of indebtedness issued by an entity described in Subsections (1)(b)(i) through (iv) may not be  
707 added to unadjusted income of a resident or nonresident estate or trust if, as annually  
708 determined by the commission:

709 (a) for an entity described in Subsection (1)(b)(i) or (ii), the entity and all of the  
710 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
711 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

712 (b) for an entity described in Subsection (1)(b)(iii) or (iv), the following do not impose  
713 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of  
714 this state:

715 (i) the entity; or

716 (ii) (A) the state in which the entity is located; or

717 (B) the District of Columbia, if the entity is located within the District of Columbia.

718 (4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:

719 (i) the income is derived from a deceased Ute tribal member; and

720 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
721 requirements of this Subsection (4).

722 (b) The agreement described in Subsection (4)(a):

723 (i) may not:

724 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

725 (B) provide a subtraction under this section greater than or different from the  
726 subtraction described in Subsection (2)(c); or

727 (C) affect the power of the state to establish rates of taxation; and

728 (ii) shall:

729 (A) provide for the implementation of the subtraction described in Subsection (2)(c);

730 (B) be in writing;

731 (C) be signed by:  
732 (I) the governor; and  
733 (II) the chair of the Business Committee of the Ute tribe;  
734 (D) be conditioned on obtaining any approval required by federal law; and  
735 (E) state the effective date of the agreement.

736 (c) (i) The governor shall report to the commission by no later than February 1 of each  
737 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is  
738 in effect.

739 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the  
740 subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or  
741 after the January 1 following the termination of the agreement.

742 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3,  
743 Utah Administrative Rulemaking Act, the commission may make rules:

744 (i) for determining whether income is derived from a source within the Uintah and  
745 Ouray Reservation; and

746 (ii) that are substantially similar to how adjusted gross income derived from Utah  
747 sources is determined under Section [59-10-117](#).

748 Section 12. Section **59-10-1017** is amended to read:

749 **59-10-1017. Utah Educational Savings Plan tax credit.**

750 (1) As used in this section:

751 (a) "Account owner" means the same as that term is defined in Section [53B-8a-102](#).

752 (b) "Grantor trust" means the same as that term is defined in Section [~~53B-8a-102~~]  
753 [53B-8a-102.5](#).

754 (c) "Higher education costs" means the same as that term is defined in Section  
755 [~~53B-8a-102~~] [53B-8a-102.5](#).

756 (d) "Maximum amount of a qualified investment for the taxable year" means, for a  
757 taxable year, the product of 5% and:

758 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account  
759 owner, if that claimant, estate, or trust is other than husband and wife account owners who file  
760 a single return jointly, the maximum amount of a qualified investment:

761 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(ii\)](#); and

762 (B) increased or kept for that taxable year in accordance with Subsections  
763 [53B-8a-106\(1\)\(f\)](#) and (g);

764 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account  
765 owners who file a single return jointly, the maximum amount of a qualified investment:

766 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and

767 (B) increased or kept for that taxable year in accordance with Subsections  
768 [53B-8a-106\(1\)\(f\)](#) and (g); or

769 (iii) for a grantor trust:

770 (A) if the owner of the grantor trust has a single filing status or head of household  
771 filing status as defined in Section [59-10-1018](#), the amount described in Subsection (1)(d)(i); or

772 (B) if the owner of the grantor trust has a joint filing status as defined in Section  
773 [59-10-1018](#), the amount described in Subsection (1)(d)(ii).

774 (e) "Owner of the grantor trust" means the same as that term is defined in Section  
775 [~~53B-8a-102~~] [53B-8a-102.5](#).

776 (f) "Qualified investment" means the same as that term is defined in Section  
777 [~~53B-8a-102~~] [53B-8a-102.5](#).

778 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of  
779 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax  
780 credit equal to the product of:

781 (a) the amount of a qualified investment made:

782 (i) during the taxable year; and

783 (ii) into an account owned by the claimant, estate, or trust; and

784 (b) 5%.

785 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may  
786 make a qualified investment described in Subsection (2).

787 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit  
788 under this section [~~may not be claimed~~] with respect to any portion of a qualified investment  
789 described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3)  
790 deducts on a federal income tax return.

791 (5) A tax credit under this section may not exceed the maximum amount of a qualified  
792 investment for the taxable year.

793 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry  
794 back the tax credit under this section [~~may not be carried forward or carried back~~].

795 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to  
796 the tax credit described in Section [59-10-1017.1](#).

797 Section 13. Section **59-10-1017.1** is enacted to read:

798 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

799 (1) As used in this section, "qualified donation" means an amount donated, in  
800 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in  
801 Section [53B-8a-202](#).

802 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified  
803 donation.

804 (3) The tax credit equals the product of:

805 (a) the qualified donation; and

806 (b) 5%.

807 (4) A claimant, estate, or trust may not claim a tax credit under this section with  
808 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a  
809 federal income tax return.

810 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the  
811 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for

812 the taxable year in which the claimant, estate, or trust claims the tax credit.

813 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to  
814 the tax credit described in Section [59-10-1017](#).

815 Section 14. **Appropriation.**

816 The following sums of money are appropriated for the fiscal year beginning July 1,  
817 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for  
818 fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
819 Act, the Legislature appropriates the following sums of money from the funds or accounts  
820 indicated for the use and support of the government of the state of Utah.

821 ITEM 1

822 To the Board of Regents

823 From General Fund, One-time \$40,000

824 Schedule of Programs:

825 Administration \$40,000

826 ITEM 2

827 To the Board of Regents

828 From General Fund \$10,000

829 Schedule of Programs:

830 Administration \$10,000

831 The Legislature intends that the Board of Regents use the appropriation under this  
832 section to carry out the requirements described in Sections [53B-8a-202](#) through [53B-8a-204](#).

833 Section 15. **Effective date and retrospective operation.**

834 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members  
835 elected to each house, this bill takes effect upon approval by the governor, or the day following  
836 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
837 signature, or in the case of a veto, the date of veto override.

838 (2) The amendments to Sections [59-7-105](#), [59-7-106](#), [59-10-114](#), [59-10-202](#), and

839 [59-10-1017](#) and the enactment of Section [59-10-1017.1](#) have retrospective operation for a  
840 taxable year beginning on or after January 1, 2017.