

Effective 7/1/2023

Part 6
Education Savings Incentive Program

35A-9-601 Definitions.

As used in this part:

- (1) "529 savings account" means a tax-advantaged method of saving for higher education costs that:
 - (a) meets the requirements of Section 529, Internal Revenue Code; and
 - (b) is managed by the plan.
- (2) "Beneficiary" means the individual designated:
 - (a) in a 529 savings account agreement between a person, an estate, or a trust and the plan; and
 - (b) to benefit from the amount saved in a 529 savings account.
- (3) "Commission" means the State Tax Commission.
- (4) "Deposit" means the payment of money from a source other than a match.
- (5) "Eligible 529 savings account" means a 529 savings account for which:
 - (a) a qualifying individual is the account owner; and
 - (b) a qualifying individual or a minor dependent of a qualifying individual is a beneficiary.
- (6) "Federal earned income tax credit" means the federal earned income tax credit:
 - (a) described in Section 32, Internal Revenue Code; and
 - (b) that a qualifying individual claims and is eligible to claim on the federal income tax return for the taxable year.
- (7) "Match" means the monetary amount described in Subsection 35A-9-603(2).
- (8) "Minor dependent" means an individual under 19 years old for whom a qualifying individual can claim a tax credit under Section 24, Internal Revenue Code, on the qualifying individual's federal income tax return for the taxable year.
- (9) "Plan" means the Utah Educational Savings Plan created in Section 53B-8a-103.
- (10) "Program" means the Education Savings Incentive Program created in Section 35A-9-603.
- (11) "Qualifying individual" means an individual who the department identifies as experiencing intergenerational poverty and who has not been disqualified from participating in the program for overclaiming a match in a previous year.

Enacted by Chapter 52, 2023 General Session

35A-9-602 Education Savings Incentive Restricted Account.

- (1) There is created a restricted account within the Income Tax Fund to be known as the Education Savings Incentive Restricted Account.
- (2) The department shall administer the restricted account for the purposes described in this part.
- (3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited into the restricted account.
- (4) The restricted account shall be funded by:
 - (a) appropriations made to the account by the Legislature; and
 - (b) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.
- (5) Subject to appropriation, the department:

- (a) shall use restricted account money for the program; and
- (b) may use a portion of the restricted account money for administration of the program.

Enacted by Chapter 52, 2023 General Session

35A-9-603 Education Savings Incentive Program.

- (1)
 - (a) There is created the Education Savings Incentive Program to provide an annual monetary match to eligible 529 savings accounts.
 - (b) The program is established within the higher education system.
 - (c) The department shall implement the program as early as is practicable, but the department shall begin accepting applications for the program no later than January 1, 2024.
- (2)
 - (a) For each qualifying individual that meets the requirements of Subsection (3), the state shall match, during a calendar year, the amount of a deposit into one or more of the qualifying individual's eligible 529 savings accounts up to \$300.
 - (b) The amount in Subsection (2)(a) is the maximum match amount per family per calendar year.
 - (c)
 - (i) Except as provided in Subsections (2)(c)(ii) and (iii), the match rate is \$1 for each \$1 deposit.
 - (ii) In a fiscal year where the balance of money in the restricted account is insufficient to sustain a \$1 for each \$1 deposit match rate, the department shall reduce the amount of each match proportionately.
 - (iii)
 - (A) Subject to Subsection (2)(c)(iii)(B), in a fiscal year when the balance of the money in the restricted account exceeds the amount needed for a \$1 for each \$1 deposit match rate, the department shall increase the amount of each match proportionately.
 - (B) If a qualifying individual's proportionate share under Subsection (2)(c)(iii)(A) is greater than the amount allowed under Subsections (2)(a) and (b), the qualifying individual shall receive the amount allowed under Subsections (2)(a) and (b).
- (3) To participate in the program, a qualifying individual shall:
 - (a) apply with the department in accordance with Section 35A-9-604;
 - (b) claim and receive a federal earned income tax credit on the qualifying individual's federal income tax return for the previous taxable year; and
 - (c) during the calendar year for which the qualifying individual applies to participate in the program, be the account owner of one or more eligible 529 savings accounts into which a deposit was made.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing:
 - (a) administration of the program; and
 - (b) after consulting with the plan, additional information to request in the application for the program.

Enacted by Chapter 52, 2023 General Session

35A-9-604 Application for program.

- (1) The department shall provide to each qualifying individual:
 - (a) notice of the program;
 - (b) information about the benefits of participating in the program;

- (c) information explaining that participation in the program requires that the qualifying individual:
 - (i) apply for the program in accordance with this section;
 - (ii) be eligible for and claim a federal earned income tax credit for the taxable year before the year in which the qualifying individual applies for the program;
 - (iii) own one or more eligible 529 savings accounts into which a deposit is made during the same year for which the qualifying individual applies for the program; and
 - (iv) sign an information release;
 - (d) information about how to claim a federal earned income tax credit;
 - (e) information about how to open an eligible 529 savings account; and
 - (f) information about how to apply for the program.
- (2)
- (a) To participate in the program, a qualifying individual shall complete annually an online application that includes:
 - (i) a means for a qualifying individual to sign the information release described in Subsection (2)(b);
 - (ii) a statement that the qualifying individual claimed a federal earned income tax credit for the previous taxable year;
 - (iii) the name of the account owner, the name of the beneficiary, and the account number of any of the qualifying individual's eligible 529 savings accounts;
 - (iv) the amount of deposit into one or more of the qualifying individual's eligible 529 savings accounts during the calendar year in which the application is made;
 - (v) the allocation of the match among the qualifying individual's eligible 529 savings accounts; and
 - (vi) any other information required by the department, the plan, or the commission to administer the program.
 - (b) The department, the plan, and the commission shall develop an information release that directs and allows:
 - (i) the department to report to the plan:
 - (A) the name and identifying information of the qualifying individual;
 - (B) contact information for the qualifying individual; and
 - (C) the name of the account owner, the name of the beneficiary, and the account number of any eligible 529 savings account;
 - (ii) the plan to report to the department:
 - (A) the account number, name of the account owner, and the name of the beneficiary for each eligible 529 savings account into which a deposit was made during the calendar year; and
 - (B) the amount of deposit made into each eligible 529 savings account for the calendar year;
 - (iii) the department to disclose to the commission, if the plan lists the qualifying individual on the report described in Section 53B-8a-302, the name and identifying information of the qualifying individual; and
 - (iv) the commission to disclose to the department, whether the qualifying individual claimed a federal earned income tax credit on the qualifying individual's federal income tax return for a taxable year.
- (3)
- (a) The department shall provide to the plan the information described in Subsection (2)(b)
 - (i) for each qualifying individual that the department determines completes the application requirements described in Subsection (2).
 - (b) The department shall provide the information described in Subsection (3)(a):
 - (i) in a single report; and

- (ii) with information about which calendar year the department requests a report under Section 53B-8a-302.
- (4)
 - (a) The department may provide to the commission the information described in Subsection (2)(b)(iii) for each qualifying individual that the plan lists on the report described in Section 53B-8a-302.
 - (b) The department shall provide the information described in Subsection (4)(a):
 - (i) in a single report; and
 - (ii) with information about which calendar year the department requires a disclosure under Subsection 59-1-403(4)(aa).
- (5) The department, the plan, and the commission shall provide for the security and maintenance of confidentiality of any information shared under an information release.
- (6)
 - (a) The department shall determine whether an applicant for the program:
 - (i) is a qualifying individual; and
 - (ii) meets the program requirements described in this section.
 - (b) An applicant may not appeal the department's determination that the applicant is not a qualifying individual.
 - (c) An applicant may reapply if the department later identifies the applicant as a qualifying individual.

Enacted by Chapter 52, 2023 General Session

35A-9-605 Payment of match.

- (1) Subject to the other provisions of this section, the department shall transfer money appropriated from the Education Savings Incentive Restricted Account to the plan in the amount of each qualifying individual's match.
- (2) The department shall send with the transfer described in Subsection (1), for each qualifying individual that is receiving a match:
 - (a) the amount of the match for the qualifying individual;
 - (b) the qualifying individual's allocation of the match among eligible 529 savings accounts; and
 - (c) for each eligible 529 savings account into which the qualifying individual allocates the match:
 - (i) the name of the qualifying individual who is the account owner;
 - (ii) the name of the beneficiary; and
 - (iii) the account number.

Enacted by Chapter 52, 2023 General Session

35A-9-606 Reporting to the department -- Annual report.

- (1) On or before September 1, the plan shall submit to the department the aggregate average balance in eligible 529 savings accounts during the previous calendar year.
- (2) The department shall include in the annual report required by Section 35A-1-109 the following information for the previous calendar year:
 - (a) the number of qualifying individuals to whom the department provides notice of the program;
 - (b) the number of applications for the program;
 - (c) the number of applications for the program from qualifying individuals;
 - (d) the number of qualifying individuals participating in the program;
 - (e) the number of eligible 529 savings accounts that receive a match;

- (f) the total dollar amount provided as a match; and
- (g) the aggregate average balance in eligible 529 savings accounts as reported by the plan.

Enacted by Chapter 52, 2023 General Session