

**HIGHER EDUCATION SAVINGS INCENTIVE**

**PROGRAM AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Katherine M. Bryson**

**This act modifies State System of Higher Education Code and Revenue and Taxation Code provisions relating to Higher Education Savings Incentive Programs, including refund provisions. <sup>h</sup> [This act also repeals the Higher Education Supplemental Savings Incentive Program.] <sup>h</sup>**

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

AMENDS:

**53B-8a-108**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session

**53B-8a-109**, as enacted by Chapter 4, Laws of Utah 1996, Second Special Session

**59-7-105**, as last amended by Chapter 4, Laws of Utah 1996, Second Special Session

**59-7-106**, as last amended by Chapter 4, Laws of Utah 1996, Second Special Session

**59-10-114**, as last amended by Chapters 7 and 9, Laws of Utah 2001, First Special Session

<sup>h</sup> **[REPEALS:**

~~53B-8b-101, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-102, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-103, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-104, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-105, as last amended by Chapter 240, Laws of Utah 1999~~

~~53B-8b-106, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-107, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-108, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-109, as enacted by Chapter 390, Laws of Utah 1997~~

~~53B-8b-110, as enacted by Chapter 390, Laws of Utah 1997] <sup>h</sup>~~



28           ~~h [53B-8b-111, as enacted by Chapter 390, Laws of Utah 1997~~  
 29           ~~53B-8b-112, as enacted by Chapter 390, Laws of Utah 1997~~  
 30           ~~59-10-901, as enacted by Chapter 390, Laws of Utah 1997] h~~

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

32           Section 1. Section **53B-8a-108** is amended to read:

33           **53B-8a-108. Cancellation of agreements.**

34           (1) Any participant may cancel a participation agreement at will.

35           (2) If the participation agreement is canceled by a participant prior to the expiration of two  
 36 years from the date of original execution of the participation agreement, the participant shall  
 37 receive 100% of the principal amount of all contributions made by the participant, up to the current  
 38 account balance, but any investment income which has been credited to the participant's account  
 39 ~~h [shall] MAY h~~ be retained by the trust to cover administration expenses.

40           (3) After a participation agreement has been in effect for two years, [~~participants~~] a  
 41 participant shall be entitled to the return upon cancellation of the agreement of the principal  
 42 amount of all contributions made by [~~participants~~] the participant, up to the current account  
 43 balance, plus actual investment income on the contributions less a reasonable administrative refund  
 44 fee to be levied by the trust, which shall be sufficient to reasonably compensate the trust for its  
 45 administrative costs incident to the participation agreement.

46           (4) (a) Upon the occurrence of any of the following circumstances, [~~no~~] a reasonable  
 47 administration refund fee may not be levied by the trust in the event of termination of a  
 48 participation agreement:

49           (i) death of the beneficiary; or

50           (ii) permanent disability or mental incapacity of the beneficiary.

51           (b) In the event of cancellation of a participation agreement for any of the causes listed in  
 52 Subsection (4)(a), the participant shall be entitled to receive the principal amount of all payments  
 53 made by the participant under the participation agreement, up to the current account balance, and  
 54 the actual investment income earned on the payments.

55           Section 2. Section **53B-8a-109** is amended to read:

56           **53B-8a-109. Repayment and ownership of payments and investment income --**  
 57 **Transfer of ownership rights.**

58           (1) (a) The participant retains ownership of all payments made under any participation

59 agreement up to the date of utilization for payment of higher education costs for the beneficiary.

60 (b) All income derived from the investment of the payments made by the participant shall  
61 be considered to be held in trust for the benefit of the beneficiary.

62 (2) (a) In the event the participation agreement is terminated prior to payment of higher  
63 education costs for the beneficiary, the participant is entitled to a full refund of all payments made  
64 under the participation agreement, up to the current account balance, and all investment income  
65 credited on all the payments[-], less:

66 (i) a reasonable administrative fee which may be levied by the trust; and

67 (ii) any penalty or tax required to be withheld by the Internal Revenue Code.

68 (b) No right to receive investment income shall exist in cases of voluntary participant  
69 termination except as provided in Section 53B-8a-108.

70 (3) If the beneficiary graduates from an institution of higher education, and a balance  
71 remains in the participant's account, then the program administrator shall pay the balance to the  
72 participant.

73 (4) The institution of higher education shall obtain ownership of the payments made for  
74 the higher education costs paid to the institution at the time each payment is made to the  
75 institution.

76 (5) Any amounts which may be paid pursuant to the Utah Educational Savings Plan Trust  
77 which are not listed in this section are owned by the trust.

78 (6) (a) A participant may transfer ownership rights to another eligible participant, including  
79 a gift of the ownership rights to a minor beneficiary.

80 (b) The transfer shall be affected and the property distributed in accordance with  
81 administrative regulations promulgated by the board or the terms of the participation agreement.

82 Section 3. Section **59-7-105** is amended to read:

83 **59-7-105. Additions to unadjusted income.**

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

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

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

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

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

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

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

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

98 (6) the amount of contributions claimed as a tax credit pursuant to Section 59-7-602;

99 (7) the amount of the deduction taken pursuant to Section 59-7-603 for sophisticated  
100 technological equipment;

101 (8) charitable contributions, to the extent deducted on the federal return when determining  
102 federal taxable income;

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

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

110 (11) adjustments to gains, losses, depreciation expense, amortization expense, and similar  
111 items due to a difference between basis for federal purposes and basis as computed under Section  
112 59-7-107; and

113 (12) the amount refunded to a participant or beneficiary under Title 53B, Chapter 8a,  
114 Higher Education Savings Incentive Program, to the extent deducted on a Utah return in previous  
115 years and not used for qualified higher education costs of the beneficiary, in the year in which the  
116 amount is refunded.

117 Section 4. Section **59-7-106** is amended to read:

118 **59-7-106. Subtractions from unadjusted income.**

119 In computing adjusted income the following amounts shall be subtracted from unadjusted  
120 income:

- 121 (1) the foreign dividend gross-up included in gross income for federal income tax purposes  
122 under Section 78, Internal Revenue Code;
- 123 (2) the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the  
124 loss on the current Utah return. The deduction shall be made by claiming the deduction on the  
125 current Utah return which shall be filed by the due date of the return, including extensions. For  
126 the purposes of this subsection all capital losses in a given year must be:
- 127 (a) deducted in the year incurred; or  
128 (b) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code;
- 129 (3) the decrease in salary expense deduction for federal income tax purposes due to  
130 claiming the federal jobs credit under Section 51, Internal Revenue Code;
- 131 (4) the decrease in qualified research and basic research expense deduction for federal  
132 income tax purposes due to claiming the federal research and development credit under Section  
133 41, Internal Revenue Code;
- 134 (5) the decrease in qualified clinical testing expense deduction for federal income tax  
135 purposes due to claiming the federal orphan drug credit under Section 28, Internal Revenue Code;
- 136 (6) any decrease in any expense deduction for federal income tax purposes due to claiming  
137 any other federal credit;
- 138 (7) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);
- 139 (8) any income on the federal corporate return that has been previously taxed by Utah;
- 140 (9) amounts included in federal taxable income that are due to refunds of taxes imposed  
141 for the privilege of doing business, or exercising a corporate franchise, including income,  
142 franchise, corporate stock and business and occupation taxes paid by the corporation to Utah,  
143 another state of the United States, a foreign country, a United States possession, or the  
144 Commonwealth of Puerto Rico to the extent that the taxes were added to unadjusted income under  
145 Section 59-7-105;
- 146 (10) charitable contributions, to the extent allowed as a subtraction under Section  
147 59-7-109;
- 148 (11) (a) 50% of the dividends deemed received or received from subsidiaries which are  
149 members of the unitary group and are organized or incorporated outside of the United States unless  
150 such subsidiaries are included in a combined report under Section 59-7-402 or 59-7-403. In  
151 arriving at the amount of the dividend exclusion, the taxpayer shall first deduct from the dividends

152 deemed received or received, the expense directly attributable to those dividends. Interest expense  
153 attributable to excluded dividends shall be determined by multiplying interest expense by a  
154 fraction, the numerator of which is the taxpayer's average investment in such dividend paying  
155 subsidiaries, and the denominator of which is the taxpayer's average total investment in assets;

156 (b) in determining income apportionable to this state, a portion of the factors of a foreign  
157 subsidiary whose dividends are partially excluded under Subsection (11)(a) shall be included in  
158 the combined report factors. The portion to be included shall be determined by multiplying each  
159 factor of the foreign subsidiary by a fraction, but not to exceed 100%, the numerator of which is  
160 the amount of the dividend paid by the foreign subsidiary which is included in adjusted income,  
161 and the denominator of which is the current year earnings and profits of the foreign subsidiary as  
162 determined under the Internal Revenue Code;

163 (12) (a) 50% of the adjusted income of a foreign operating company unless the taxpayer  
164 has elected to file a worldwide combined report as provided in Section 59-7-403. For purposes  
165 of this subsection, when calculating the adjusted income of a foreign operating company, a foreign  
166 operating company may not deduct the subtractions allowable under this subsection and  
167 Subsection (11);

168 (b) in determining income apportionable to this state, the factors for a foreign operating  
169 company shall be included in the combined report factors in the same percentage its adjusted  
170 income is included in the combined adjusted income;

171 (13) the amount of gain or loss which is included in unadjusted income but not recognized  
172 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as  
173 defined in Section 338, Internal Revenue Code, if an election has been made pursuant to Section  
174 338(h)(10), Internal Revenue Code;

175 (14) the amount of gain or loss which is included in unadjusted income but not recognized  
176 for federal purposes on stock sold, exchanged, or distributed by a corporation pursuant to Section  
177 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has  
178 been made for federal purposes;

179 (15) (a) adjustments to gains, losses, depreciation expense, amortization expense, and  
180 similar items due to a difference between basis for federal purposes and basis as computed under  
181 Section 59-7-107; and

182 (b) if there has been a reduction in federal basis for a federal tax credit where there is no

183 corresponding Utah tax credit, the amount of the reduction in basis shall be allowed as an expense  
184 in the year of the federal credit;

185 (16) any interest expense not deducted on the federal corporate return under Section 265(b)  
186 or 291(e), Internal Revenue Code;

187 (17) 100% of the dividends received from subsidiaries which are insurance companies  
188 exempt from this chapter under Subsection 59-7-102(1)(c) and are under "common ownership"  
189 as defined by Subsection 59-7-101(7); and

190 (18) any amount included in unadjusted income that was derived from money paid by the  
191 taxpayer to the program fund and investment income earned on those payments under Title 53B,  
192 Chapter 8a, Higher Education Savings Incentive Program, that is included in federal taxable  
193 income, but only when the monies are used for qualified higher education costs of the beneficiary.

194 Section 5. Section **59-10-114** is amended to read:

195 **59-10-114. Additions to and subtractions from federal taxable income of an**  
196 **individual.**

197 (1) There shall be added to federal taxable income of a resident or nonresident individual:

198 (a) the amount of any income tax imposed by this or any predecessor Utah individual  
199 income tax law and the amount of any income tax imposed by the laws of another state, the District  
200 of Columbia, or a possession of the United States, to the extent deducted from federal adjusted  
201 gross income, as defined by Section 62, Internal Revenue Code, in determining federal taxable  
202 income;

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

205 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's income  
206 calculated under Subsection (5) that:

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

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

211 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue  
212 Code;

213 (e) a withdrawal from a medical care savings account and any penalty imposed in the

214 taxable year if:

215 (i) the taxpayer did not deduct or include the amounts on his federal tax return pursuant  
216 to Section 220, Internal Revenue Code; and

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

218 (f) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education  
219 Savings Incentive Program, in the year in which the amount is refunded; and

220 (g) except as provided in Subsection (6), for taxable years beginning on or after January  
221 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after January 1,  
222 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more  
223 of the following entities:

224 (i) a state other than this state;

225 (ii) the District of Columbia;

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

227 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through  
228 (iii).

229 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
230 individual:

231 (a) the interest or dividends on obligations or securities of the United States and its  
232 possessions or of any authority, commission, or instrumentality of the United States, to the extent  
233 includable in gross income for federal income tax purposes but exempt from state income taxes  
234 under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall  
235 be reduced by any interest on indebtedness incurred or continued to purchase or carry the  
236 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the  
237 production of interest or dividend income described in this Subsection (2)(a) to the extent that such  
238 expenses, including amortizable bond premiums, are deductible in determining federal taxable  
239 income;

240 (b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income tax  
241 paid or payable to the United States after all allowable credits, as reported on the United States  
242 individual income tax return of the taxpayer for the same taxable year; and

243 (ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after January  
244 1, 2001, the amount of a credit or an advance refund amount reported on a resident or nonresident



245 individual's United States individual income tax return allowed as a result of the acceleration of  
246 the income tax rate bracket benefit for 2001 in accordance with Section 101, Economic Growth  
247 and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be used in calculating the  
248 amount described in Subsection (2)(b)(i);

249 (c) the amount of adoption expenses which, for purposes of this Subsection (2)(c), means  
250 any actual medical and hospital expenses of the mother of the adopted child which are incident to  
251 the child's birth and any welfare agency, child placement service, legal, and other fees or costs  
252 relating to the adoption;

253 (d) amounts received by taxpayers under age 65 as retirement income which, for purposes  
254 of this section, means pensions and annuities, paid from an annuity contract purchased by an  
255 employer under a plan which meets the requirements of Section 404(a)(2), Internal Revenue Code,  
256 or purchased by an employee under a plan which meets the requirements of Section 408, Internal  
257 Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District  
258 of Columbia, to the employee involved or the surviving spouse;

259 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500 personal  
260 retirement exemption;

261 (f) 75% of the amount of the personal exemption, as defined and calculated in the Internal  
262 Revenue Code, for each dependent child with a disability and adult with a disability who is  
263 claimed as a dependent on a taxpayer's return;

264 (g) any amount included in federal taxable income that was received pursuant to any  
265 federal law enacted in 1988 to provide reparation payments, as damages for human suffering, to  
266 United States citizens and resident aliens of Japanese ancestry who were interned during World  
267 War II;

268 (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the  
269 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

270 (i) for:

271 (A) the taxpayer;

272 (B) the taxpayer's spouse; and

273 (C) the taxpayer's dependents; and

274 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or 213,  
275 Internal Revenue Code, in determining federal taxable income for the taxable year;

276 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a contribution  
277 made during the taxable year on behalf of the taxpayer to a medical care savings account and  
278 interest earned on a contribution to a medical care savings account established pursuant to Title  
279 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is accepted  
280 by the account administrator as provided in the Medical Care Savings Account Act, and if the  
281 taxpayer did not deduct or include amounts on the taxpayer's federal individual income tax return  
282 pursuant to Section 220, Internal Revenue Code; and

283 (ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the  
284 following:

285 (A) the maximum contribution allowed under the Medical Care Savings Account Act for  
286 the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by  
287 health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other  
288 spouse, and each spouse has a medical care savings account; or

289 (B) the maximum contribution allowed under the Medical Care Savings Account Act for  
290 the tax year for taxpayers:

291 (I) who do not file a joint return; or

292 (II) who file a joint return, but do not qualify under Subsection (2)(i)(i)(A); and

293 (j) the amount included in federal taxable income that was derived from money paid by  
294 the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings Incentive  
295 Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d), and investment  
296 income earned on participation agreements under Subsection 53B-8a-106(1) ~~[when used for]~~ that  
297 is included in federal taxable income, but only when the funds are used for qualified higher  
298 education costs of the beneficiary;

299 (k) for taxable years beginning on or after January 1, 2000, any amounts paid for premiums  
300 for long-term care insurance as defined in Section 31A-1-301 to the extent the amounts paid for  
301 long-term care insurance were not deducted under Section 213, Internal Revenue Code, in  
302 determining federal taxable income; and

303 (l) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection  
304 (4)(a) are met, the amount of income derived by a Ute tribal member:

305 (i) during a time period that the Ute tribal member resides on homesteaded land  
306 diminished from the Uintah and Ouray Reservation; and

307 (ii) from a source within the Uintah and Ouray Reservation.

308 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted for  
309 taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or \$4,800,  
310 except that:

311 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned  
312 over \$32,000, the amount of the retirement income exemption that may be subtracted shall be  
313 reduced by 50 cents;

314 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
315 earned over \$16,000, the amount of the retirement income exemption that may be subtracted shall  
316 be reduced by 50 cents; and

317 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,  
318 the amount of the retirement income exemption that may be subtracted shall be reduced by 50  
319 cents.

320 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption  
321 shall be further reduced according to the following schedule:

322 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned  
323 over \$32,000, the amount of the personal retirement exemption shall be reduced by 50 cents;

324 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
325 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50  
326 cents; and

327 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,  
328 the amount of the personal retirement exemption shall be reduced by 50 cents.

329 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated  
330 by adding to federal adjusted gross income any interest income not otherwise included in federal  
331 adjusted gross income.

332 (d) For purposes of determining ownership of items of retirement income common law  
333 doctrine will be applied in all cases even though some items may have originated from service or  
334 investments in a community property state. Amounts received by the spouse of a living retiree  
335 because of the retiree's having been employed in a community property state are not deductible as  
336 retirement income of such spouse.

337 (e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care

338 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

339 (i) for an amount that is reimbursed or funded in whole or in part by the federal  
340 government, the state, or an agency or instrumentality of the federal government or the state; and

341 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in  
342 whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

343 (4) (a) A subtraction for an amount described in Subsection (2)(1) is allowed only if:

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

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

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

348 (i) may not:

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

350 (B) provide a subtraction under this section greater than or different from the subtraction  
351 described in Subsection (2)(1); or

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

353 (ii) shall:

354 (A) provide for the implementation of the subtraction described in Subsection (2)(1);

355 (B) be in writing;

356 (C) be signed by:

357 (I) the governor; and

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

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

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

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

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

366 (d) For purposes of Subsection (2)(1) and in accordance with Title 63, Chapter 46a, Utah  
367 Administrative Rulemaking Act, the commission may make rules:

368 (i) for determining whether income is derived from a source within the Uintah and Ouray

369 Reservation; and

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

372 (5) (a) For purposes of this Subsection (5), "Form 8814" means:

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

375 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by the  
376 commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000  
377 Form 8814 if for purposes of federal individual income taxes the information contained on 2000  
378 Form 8814 is reported on a form other than Form 8814; and

379 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a,  
380 Utah Administrative Rulemaking Act, the commission may make rules designating a form as being  
381 substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the  
382 information contained on 2000 Form 8814 is reported on a form other than Form 8814.

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

385 (i) the lesser of:

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

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

388 (I) the child's taxable interest;

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

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

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

392 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences of  
393 indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be added  
394 to federal taxable income of a resident or nonresident individual if, as annually determined by the  
395 commission:

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

399 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose a

400 tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this  
401 state:

- 402 (i) the entity; or
- 403 (ii) (A) the state in which the entity is located; or
- 404 (B) the District of Columbia, if the entity is located within the District of Columbia.

405 **h** [Section 6. Repealer:

406 ~~———— This act repeals:~~

407 ~~———— Section 53B-8b-101, Purpose.~~

408 ~~———— Section 53B-8b-102, Definitions.~~

409 ~~———— Section 53B-8b-103, Creation of Utah Supplemental Educational Savings Plan Trust.~~

410 ~~———— Section 53B-8b-104, Additional powers of board as to the trust.~~

411 ~~———— Section 53B-8b-105, Participation agreements -- Content.~~

412 ~~———— Section 53B-8b-106, Program and administrative funds -- Transfer between funds.~~

413 ~~———— Section 53B-8b-107, Ownership of contributions and earnings.~~

414 ~~———— Section 53B-8b-108, Effect of payments on determination of need and eligibility for~~  
415 ~~student aid.~~

416 ~~———— Section 53B-8b-109, Annual audited financial report.~~

417 ~~———— Section 53B-8b-110, Tax considerations.~~

418 ~~———— Section 53B-8b-111, Property rights to assets in trust.~~

419 ~~———— Section 53B-8b-112, Liberal construction.~~

420 ~~———— Section 59-10-901, Tax considerations for Utah Supplemental Educational Savings~~  
421 ~~Plan Trust.] h~~

**Legislative Review Note**  
**as of 11-27-01 4:01 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Revenue and Taxation Interim Committee recommended this bill.