

SB0262S02 compared with SB0262S01

~~deleted text~~ shows text that was in SB0262S01 but was deleted in SB0262S02.

inserted text shows text that was not in SB0262S01 but was inserted into SB0262S02.

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Senator Aaron Osmond proposes the following substitute bill:

INTERGENERATIONAL POVERTY EDUCATION

AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

LONG TITLE

General Description:

This bill provides education funding for persons in intergenerational poverty by enacting the Intergenerational Poverty Education Act, the Income Tax for Intergenerational Poverty Education Act, and the Intergenerational Poverty Education Funding Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a process for issuing an eligibility certificate to a qualified person who is in intergenerational poverty;

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- ▶ provides that an eligibility certificate may be used for qualified educational expenses for dependent children 18 years of age and younger;
- ▶ creates the Intergenerational Poverty Restricted Special Revenue Fund;
- ▶ provides for the creation of individual education accounts for each qualified person who holds an eligibility certificate; and
- ▶ addresses:
 - issuing eligibility certificates;
 - depositing money into the Intergenerational Poverty Restricted Special Revenue Fund;
 - allocating of funds to pay for qualified education expenses;
 - reporting; and
 - rulemaking.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-403, as last amended by Laws of Utah 2014, Chapter 320

ENACTS:

35A-5-401, Utah Code Annotated 1953

35A-5-402, Utah Code Annotated 1953

35A-5-403, Utah Code Annotated 1953

35A-5-404, Utah Code Annotated 1953

35A-5-405, Utah Code Annotated 1953

53A-31-101, Utah Code Annotated 1953

53A-31-102, Utah Code Annotated 1953

53A-31-201, Utah Code Annotated 1953

53A-31-202, Utah Code Annotated 1953

59-1-1701, Utah Code Annotated 1953

59-1-1702, Utah Code Annotated 1953

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59-1-1703, Utah Code Annotated 1953

59-1-1704, Utah Code Annotated 1953

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

Section 1. Section 35A-5-401 is enacted to read:

Part 4. Intergenerational Poverty Education Eligibility Act

35A-5-401. Title.

This part is known as the "Intergenerational Poverty Education Eligibility Act."

Section 2. Section 35A-5-402 is enacted to read:

35A-5-402. Definitions.

As used in this part:

(1) "Child" or "children" means the same as that term is defined in Section 78B-12-102.

(~~1~~~~1~~~~2~~) "Eligibility certificate" means a certificate the department issues to a person under this part to authorize the person to receive payment for qualified education expenses in accordance with Title 53A, Chapter 31, Intergenerational Poverty Education Act.

(~~2~~~~2~~~~3~~) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(~~3~~~~3~~~~4~~) "Qualified education expense" means the same as that term is defined in Section 53A-31-102.

Section 3. Section 35A-5-403 is enacted to read:

35A-5-403. Application for eligibility certificate.

(1) (a) ~~1A~~One person per household may apply to the department annually for an eligibility certificate under this part to qualify for ~~1a~~funds to pay for qualified education ~~1expense~~expenses.

(b) The applicant shall file an application for an eligibility certificate on or after October 1 but on or before December 31 of a calendar year to receive an eligibility certificate for that calendar year.

(2) The application shall be on a form created by the department.

(3) The application:

(a) shall require:

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- (i) the applicant's name;
- (ii) the applicant's date of birth;
- (iii) the applicant's Social Security number;
- (iv) the applicant's current address;
- (v) a document signed by the applicant that expressly directs and authorizes the State Tax Commission to disclose the applicant's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or 26 U.S.C. Sec. 6103 ~~to~~ to the department; and
- (vi) a statement signed by the applicant that attests that the applicant:
 - (A) is ~~18~~21 years of age or older; and
 - (B) has dependent children 18 years of age or younger living in the household; and
 - (b) may require additional information as determined by the department.
- (4) The department may require the person to submit documentation to support the information contained in an application under Subsection (3).
- (5) The department shall:
 - (a) evaluate the application required by Subsection (3) to determine whether the information contained in the application is accurate and complete; and
 - (b) make a finding as to whether the applicant is experiencing intergenerational poverty by considering the following factors:
 - (i) whether the applicant resides in a household having a gross family income that is at or below 150% of the federal poverty level;
 - (ii) whether the applicant received public assistance in the state for not less than 12 months as a dependent child in one or more of the public assistance programs described in Subsection (5)(b)(iii);
 - (~~iii~~iii) whether the applicant received public assistance in the state for not less than ~~12~~30 months in the previous five years from one or more of the following public assistance programs:
 - (A) the Family Employment Program under Chapter 3, Part 3, Family Employment Program;
 - (B) General Assistance under Chapter 3, Part 4, General Assistance;
 - (C) SNAP as defined in Section 35A-1-102;

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(D) the Medicaid program as defined in Section 26-18-2; or

(E) the Utah Children's Health Insurance Program created in Section 26-40-103; and

~~(fiii)~~iv) whether the applicant was receiving public assistance described in Subsection

(5)(b)~~(fii)iii~~ as of the date of the application~~f.i~~; and

~~(v) whether the applicant resides in a household with one or more dependent children of the applicant residing in the same household.~~

(6) The department shall issue the person an eligibility certificate in accordance with Section 35A-5-404, if the department:

(a) determines that the information contained in the application is accurate and complete;~~f and~~

(b) finds that the person is experiencing intergenerational poverty in accordance with Subsection (5)(b)~~f.i~~; and

~~(c) finds that the person has dependent children residing in the household.~~

(7) If the department denies the issuance of an eligibility certificate under this part, the department shall, within 60 days after the date of denial:

(a) notify the person in writing of the denial; and

(b) allow the person 30 days to submit new or additional information that would support the issuance of an eligibility certificate.

Section 4. Section **35A-5-404** is enacted to read:

35A-5-404. Eligibility certificate.

(1) An eligibility certificate under this part:

(a) shall list the name, Social Security number, and current address of the person to whom the eligibility certificate is issued;

~~(b) list the name and Social Security numbers of the applicant's dependent children residing in the applicant's household; and~~

~~(f)b~~c) may include other information required by the department.

(2) Within 10 business days after issuing an eligibility certificate to an applicant under this part, the department shall provide a copy of the eligibility certificate to:

(a) the State Board of Education; and

(b) the State Tax Commission.

Section 5. Section **35A-5-405** is enacted to read:

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35A-5-405. Reporting.

(1) The department shall provide a report for inclusion in the department's annual written report required by Section 35A-1-109.

(2) The report shall provide:

(a) the number of applicants, **applicants' dependent children**, and eligibility certificates issued by calendar year;

(b) information made available to the department from the State Tax Commission and the State Board of Education regarding the revenue and expenditures from the Intergenerational Poverty Restricted Special Revenue Fund, including the total number of individual education accounts created under Section 53A-31-201; and

(c) an analysis of the program, including recommendations to the governor and the Legislature.

Section 6. Section **53A-31-101** is enacted to read:

CHAPTER 31. INTERGENERATIONAL POVERTY EDUCATION ACT

Part 1. General Provisions

53A-31-101. Title.

This chapter is known as the "Intergenerational Poverty Education Act."

Section 7. Section **53A-31-102** is enacted to read:

53A-31-102. Definitions.

As used in this chapter:

(1) "Eligibility certificate" means the same as that term is defined in Section 35A-5-402.

(2) "Individual education account" means an account in the name of an eligibility certificate holder, who has entered into an account agreement under this chapter, ~~and~~ that is funded through contributions from the Education Fund under Section 59-1-1704.

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

(4) (a) "Qualified education expense" includes:

(i) tuition, required fees, and course materials paid to an institution of higher education for the enrollment or attendance at an institution of higher education listed in Section 53B-2-101;

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(ii) tuition, required fees, and course materials paid to a school district, a school within a school district, or a charter school for enrollment or attendance in a public education course or program under this title including:

(A) a child literacy program described in Section 53A-1-801;

(B) the concurrent enrollment program created in Section 53A-15-101;

(C) a high quality school readiness program described in Section 53A-1b-105;

(D) a reading clinic established in Section 53A-3-402.10 that provides instructional intervention to enable a student to overcome reading difficulties;

(E) a statewide online education program created in Section 53A-15-1203; and

(F) remediation programs for secondary students under Section 53A-13-104;

(iii) tuition, required fees, and course materials paid to a qualified provider of a community-based prevention program described in Section 35A-3-207;

(iv) fees paid to take a college entrance exam or to submit a college admission application; and

(v) expenses for course-related books, supplies, and equipment.

(b) "Qualified education expense" does not include:

(i) room and board;

(ii) transportation;

(iii) insurance;

(iv) medical expenses;

(v) student fees unless required as a condition of enrollment or attendance;

(vi) an education expense paid from funds withdrawn from an account created in accordance with Title 53B, Chapter 8a, Utah Educational Savings Plan; or

(vii) an amount with respect to which a deduction credit is claimed on a state or federal income tax return.

Section 8. Section **53A-31-201** is enacted to read:

Part 2. Allocation of Intergenerational Poverty Funds

53A-31-201. Allocation of funds -- Board duties for individual education accounts -- Rulemaking.

(1) The State Board of Education shall allocate revenue deposited into the Intergenerational Poverty Restricted Special Revenue Fund created in Section 59-1-1703 in

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accordance with this chapter.

(2) The State Board of Education shall:

(a) establish an individual education account for a person who has obtained an eligibility certificate for which the board receives:

(i) notice from the Department of Workforce Services under Section 35A-5-404; and

(ii) notice of a deposit from the State Tax Commission under Section 59-1-1704;

(b) allocate \$1,500 for each eligibility certificate received for an individual education account under Subsection (2)(a);

(c) enter into agreements with each individual education account holder, which shall allow the account holder to name beneficiaries of the account, which beneficiaries shall include each child ~~under~~ 18 years of age or younger as required under Section 53A-31-202;

(d) keep a record of receipts and expenditures for each individual education account;

(e) provide a process for making payments from an individual education account, which payments may only be made for a qualified educational expense as requested by an individual education account holder;

(f) ensure the appropriate use of, and accounting for, money in the Intergenerational Poverty Restricted Special Revenue Fund; and

(g) prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the program, including revenues to and expenditures from the Intergenerational Poverty Restricted Special Revenue Fund.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules for managing each account and ensuring that each individual education account is only used for a qualified education expense.

Section 9. Section **53A-31-202** is enacted to read:

53A-31-202. Fund restrictions.

(1) (a) Unused funds deposited into an individual education account under this chapter expire 12 months from the date of deposit.

(b) ~~The unused~~ Unused funds that expire under Subsection (1)(a) shall be reported to the Division of Finance and the Division of Finance shall transfer the unused funds into the Education Fund.

(2) The State Board of Education shall notify each account holder of the date:

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(a) new funds are deposited into an individual education account; and

(b) unused funds will expire and be withdrawn from the account under Subsection (1).

(3) (a) Upon establishing an individual education account, the account holder shall name each child **18 years of age or younger** in the account holder's household as a beneficiary as provided under Subsection 53A-31-201(2)(c).

(b) ~~{Except as provided under Subsection (3)(c), not more than 25% of the}~~ **The** funds deposited into an individual education account under this chapter may **only** be used for qualified education expenses ~~{of an}~~ **for the** account ~~{holder or a}~~ **holder's** named ~~{beneficiary}~~ **beneficiaries** who ~~{is}~~ **are** 18 years of age or ~~{older}~~

~~—— (c) The provisions of Subsection (3)(b) do not apply if the individual education account does not have a named beneficiary who is under 18 years of age attached to the account}~~ **younger.**

Section 10. Section **59-1-403** is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

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(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

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(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Solid and Hazardous Waste, as defined in Section 19-6-102, as requested by the director of the Division of Solid and Hazardous Waste, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

- (A) reported to the commission under Section 59-14-212; or
- (B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues

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collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a

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person's:

- (I) address;
- (II) name;
- (III) Social Security number; or
- (IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

- (A) as:
 - (I) a fiscal estimate;
 - (II) fiscal note information; or
 - (III) statistical information; and
- (B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

- (i) the following relating to an agreement sales and use tax:
 - (A) information contained in a return filed with the commission;
 - (B) information contained in a report filed with the commission;
 - (C) a schedule related to Subsection (3)(p)(i)(A) or (B); or
 - (D) a document filed with the commission; or
- (ii) a report of an audit or investigation made with respect to an agreement sales and

use tax.

(q) Notwithstanding Subsection (1), the commission may provide information

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concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah 911 Committee the information requested by the Utah 911 Committee under Subsection 63H-7-303(4).

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(v) Notwithstanding Subsection (1), the commission shall provide to the Department of Workforce Services and the State Board of Education the information required by Section 59-1-1704.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state,

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the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

- (i) is not guilty of a class A misdemeanor; and
 - (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (5)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (5)(b).
 - (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
- Section 11. Section **59-1-1701** is enacted to read:

Part 17. Income Tax for Intergenerational Poverty Education Act

59-1-1701. Title.

This part is known as the "Income Tax for Intergenerational Poverty Education Act."

Section 12. Section **59-1-1702** is enacted to read:

59-1-1702. Definitions.

As used in this part:

- (1) "Eligibility certificate" means the same as that term is defined in Section 35A-5-402.
 - (2) "Fund" means the Intergenerational Poverty Restricted Special Revenue Fund created in Section 59-1-1703.
- Section 13. Section **59-1-1703** is enacted to read:
- #### **59-1-1703. Intergenerational Poverty Restricted Special Revenue Fund.**
- (1) There is created within the Education Fund an expendable special revenue fund known as the Intergenerational Poverty Restricted Special Revenue Fund.
 - (2) (a) The fund shall be funded by transfers the commission makes in accordance with Section 59-1-1704.
 - (b) No legislative appropriation is required to fund the fund.
 - (3) The fund shall earn interest.
 - (4) Interest described in Subsection (3) shall be deposited into the fund.
 - (5) The State Board of Education shall expend revenues deposited into the fund for

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qualified education expenses as provided in Section 53A-31-201 and actual administrative costs associated with the:

- (a) State Board of Education's administration of the fund;
- (b) Department of Workforce Services' administration of the eligibility certificates; and
- (c) commission's administration related to the fund.

Section 14. Section **59-1-1704** is enacted to read:

59-1-1704. Commission transfers into Intergenerational Poverty Restricted Special Revenue Fund.

(1) (a) If an individual indicates on a return filed under Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, or Chapter 10, Part 2, Trusts and Estates, that the individual has received an eligibility certificate under Section 35A-5-404, the commission shall transfer \$1,500 from the Education Fund into the Intergenerational Poverty Restricted Special Revenue Fund.

(b) An individual may only list one eligibility certificate per return for a taxable year.

(2) If the commission makes a transfer described in Subsection (1), the commission shall provide to the Department of Workforce Services and the State Board of Education for each individual with respect to whom the commission makes the transfer:

- (a) the amount the commission transfers;
- (b) the individual's name;
- (c) the individual's Social Security number or taxpayer identification number; and
- (d) the individual's address.

(~~4~~3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the Education Fund into the Intergenerational Poverty Restricted Special Revenue Fund.

Section 15. **Effective date.**

This bill takes effect on January 1, 2016.