

1 **529 SAVINGS PLAN AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Adam Robertson

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to 529 savings plans.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ permits the Utah Educational Savings Plan to use another related name for business;
13 and
14 ▶ modifies the eligibility criteria for a beneficiary of the Student Prosperity Savings
15 Program.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides retrospective operation.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **53B-8a-103**, as last amended by Laws of Utah 2011, Chapters 46 and 342

23 **53B-8a-201**, as enacted by Laws of Utah 2017, Chapter 389 and last amended by
24 Coordination Clause, Laws of Utah 2017, Chapter 382

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

27 Section 1. Section **53B-8a-103** is amended to read:

28 **53B-8a-103. Creation of Utah Educational Savings Plan -- Powers and duties of**

29 **plan -- Certain exemptions.**

30 (1) There is created the Utah Educational Savings Plan, which may also be known and
31 ~~[function as]~~ do business as:

32 (a) the Utah Educational Savings Plan Trust[-]; or

33 (b) another related name.

34 (2) The plan:

35 (a) is a non-profit, self-supporting agency that administers a public trust;

36 (b) shall administer the various programs, funds, trusts, plans, functions, duties, and
37 obligations assigned to the plan:

38 (i) consistent with sound fiduciary principles; and

39 (ii) subject to review of the board; and

40 (c) shall be known as and managed as a qualified tuition program in compliance with
41 Section 529, Internal Revenue Code, that is sponsored by the state.

42 (3) The plan may:

43 (a) make and enter into contracts necessary for the administration of the plan payable
44 from plan money, including:

45 (i) contracts for goods and services; and

46 (ii) contracts to engage personnel, with demonstrated ability or expertise, including
47 consultants, actuaries, managers, counsel, and auditors for the purpose of rendering
48 professional, managerial, and technical assistance and advice;

49 (b) adopt a corporate seal and change and amend ~~[it from time to time]~~ the corporate
50 seal;

51 (c) invest money within the program, administrative, and endowment funds in
52 accordance with the provisions under Section 53B-8a-107;

53 (d) enter into agreements with account owners, any institution of higher education, any
54 federal or state agency, or other entity as required to implement this chapter;

55 (e) solicit and accept any grants, gifts, legislative appropriations, and other money from

- 56 the state, any unit of federal, state, or local government, or any other person, firm, partnership,
57 or corporation for deposit to the administrative fund, endowment fund, or the program fund;
- 58 (f) make provision for the payment of costs of administration and operation of the plan;
 - 59 (g) carry out studies and projections [~~in order~~] to advise account owners regarding:
 - 60 (i) present and estimated future higher education costs; and
 - 61 (ii) levels of financial participation in the plan required [~~in order~~] to enable account
62 owners to achieve their educational funding objective;
 - 63 (h) participate in federal, state, local governmental, or private programs;
 - 64 (i) create public and private partnerships, including investment or management
65 relationships with other 529 plans or entities;
 - 66 (j) promulgate, impose, and collect administrative fees and charges in connection with
67 transactions of the plan, and provide for reasonable service charges;
 - 68 (k) procure insurance:
 - 69 (i) against any loss in connection with the property, assets, or activities of the plan; and
 - 70 (ii) indemnifying any member of the board from personal loss or accountability arising
71 from liability resulting from a member's action or inaction as a member of the plan's board;
 - 72 (l) administer outreach efforts to:
 - 73 (i) market and publicize the plan and [~~its~~] the plan's products to existing and
74 prospective account owners; and
 - 75 (ii) encourage economically challenged populations to save for post-secondary
76 education;
 - 77 (m) adopt, trademark, and copyright names and materials for use in marketing and
78 publicizing the plan and [~~its~~] the plan's products;
 - 79 (n) administer the funds of the plan;
 - 80 (o) sue and be sued in [~~its~~] the plan's own name;
 - 81 (p) own institutional accounts in the plan to establish and administer:
 - 82 (i) scholarship programs; or

83 (ii) other college savings incentive programs, including programs designed to enhance
84 the savings of low income account owners investing in the plan; and

85 (q) have and exercise any other powers or duties that are necessary or appropriate to
86 carry out and effectuate the purposes of this chapter.

87 (4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions
88 of Title 63G, Chapter 2, Government Records Access and Management Act.

89 (b) (i) The annual audited financial statements of the plan described in Section
90 [53B-8a-111](#) are public records.

91 (ii) Financial information that is provided by the plan to the Division of Finance and
92 posted on the Utah Public Finance Website in accordance with Section [63A-3-402](#) is a public
93 record.

94 Section 2. Section **53B-8a-201** is amended to read:

95 **53B-8a-201. Definitions.**

96 As used in this part:

97 (1) "529 savings account" means a tax-advantaged method of saving for higher
98 education costs on behalf of a particular individual that:

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

100 (b) is managed by the plan.

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

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

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

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

109 (a) experiencing intergenerational poverty;

110 (b) a member or foster child of a family with an annual income at or below 185% of
111 the federal poverty level; [or]

112 (c) living with a legal custodian or legal guardian with an annual family income at or
113 below 185% of the federal poverty level[-]; or

114 (d) living with a legal custodian or legal guardian who can attest that the child or the
115 child's household is receiving services benefitting low-income households or individuals.

116 (6) "Eligible individual" means an individual who:

117 (a) is at least 15 years of age and under 20 years of age;

118 (b) is a student in grade 10, grade 11, or grade 12 in Utah;

119 (c) is economically disadvantaged; and

120 (d) receives, or has a family member, a foster family member, or a legal custodian or
121 legal guardian who receives, services from a community partner.

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

125 (8) "Higher education costs" means the same as that term is defined in Section
126 [53B-8a-102.5](#), except that the expenses must be incurred at:

127 (a) a credit-granting institution of higher education within the state system of higher
128 education;

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

131 (c) a technical college.

132 (9) "Intergenerational poverty" means the same as that term is defined in Section
133 [35A-9-102](#).

134 (10) "Program" means the Student Prosperity Savings Program created in Section
135 [53B-8a-202](#).

136 Section 3. **Retrospective operation and effective date.**

- 137 (1) Except as provided in Subsection (2), this bill has retrospective operation to
138 January 1, 2018.
- 139 (2) The amendments to Section [53B-8a-201](#) take effect on May 8, 2018.