

59 (i) higher education costs as defined in Section 53B-8a-102.5; or
 60 (ii) a payment or distribution that qualifies as an exception to the additional tax for
 61 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
 62 Internal Revenue Code; and

63 (b) is subtracted by the corporation:

64 (i) that is the account owner; and

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

66 (11) the amount of the deduction for dividends paid, as defined in Section 561, Internal
 67 Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in
 68 computing the taxable income of a captive real estate investment trust, if that captive real estate
 69 investment trust is subject to federal income taxation; and

70 (12) any deduction on a return filed under this chapter for a royalty or other expense
 71 ~~[paid to a captive insurance company] that a corporation pays to an entity related by common~~
 72 ~~ownership for the use of an intangible asset where the intangible asset is owned by the [captive~~
 73 ~~insurance company and used, in exchange for a royalty or other fee, by an entity related by~~
 74 ~~common ownership to the captive insurance company.]~~ entity related by common ownership
 75 unless the corporation can demonstrate to the satisfaction of the commission or a court on
 76 judicial review in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial
 77 Review, that ~~§~~ **→** :

77a (a) ~~←~~§ for the same taxable year, the entity related by common ownership is subject to
 78 income taxes on the royalty or other expense:

79 ~~§~~ **→** ~~[(a)] (i) ~~←~~§~~ under this chapter;

80 ~~§~~ **→** ~~[(b)] (ii) ~~←~~§~~ under the laws of another state; or

81 ~~§~~ **→** ~~[(c)] (iii) ~~←~~§~~ by a foreign government that has in force an income tax treaty with the

81a United

82 States ~~§~~ **→** [;] ; or

82a (b) if Subsection (12)(a) does not apply, the corporation paying the royalty or other
 82b expenses never owned the intangible asset. ~~←~~ **§**

83 Section 2. **Retrospective operation.**

84 This bill has retrospective operation for a taxable year beginning on or after January 1,

85 2020.