

1                   **UTAH EDUCATIONAL SAVINGS PLAN AMENDMENTS**

2                                   2016 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Stewart Barlow**

5                           Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends provisions relating to the Utah Uniform Probate Code.

10 **Highlighted Provisions:**

11       This bill:

12           ▶ amends the Utah Uniform Probate Code so that custodial property is created and a  
13 transfer is made when contributions are made into a custodial account at the Utah  
14 Educational Savings Plan; and

15           ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17       None

18 **Other Special Clauses:**

19       This bill provides a special effective date.

20 **Utah Code Sections Affected:**

21 AMENDS:

22       **75-5a-110**, as enacted by Laws of Utah 1990, Chapter 272

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

25       Section 1. Section **75-5a-110** is amended to read:

26       **75-5a-110. Manner of creating custodial property and effecting transfer --**

27 **Designation of initial custodian -- Control.**



- 28 (1) Custodial property is created and a transfer is made when:
- 29 (a) an uncertificated security or a certificated security in registered form is either:
- 30 (i) registered in the name of the transferor, an adult other than the transferor, or a trust
- 31 company, followed in substance by the words: "as custodian for ..... (name of minor)
- 32 under the Uniform Transfers to Minors Act"; or
- 33 (ii) delivered if in certificated form, or any document necessary for the transfer of an
- 34 uncertificated security is delivered, together with any necessary endorsement, to an adult other
- 35 than the transferor or to a trust company as custodian, accompanied by an instrument in
- 36 substantially the form in Subsection (2);
- 37 (b) money is paid or delivered, or a security held in the name of a broker, financial
- 38 institution, or its nominee is transferred to a broker, or financial institution for credit to an
- 39 account in the name of the transferor, an adult other than the transferor, or a trust company,
- 40 followed in substance by the words: "as custodian for ..... (name of minor) under the
- 41 Uniform Transfers to Minors Act";
- 42 (c) the ownership of a life or endowment insurance policy or annuity contract is either:
- 43 (i) registered with the issuer in the name of the transferor, an adult other than the
- 44 transferor, or a trust company, followed in substance by the words: "as custodian for .....
- 45 (name of minor) under the Uniform Transfers to Minors Act"; or
- 46 (ii) assigned in a writing delivered to an adult other than the transferor or to a trust
- 47 company whose name in the assignment is followed in substance by the words: "as custodian
- 48 for ..... (name of minor) under the Uniform Transfers to Minors Act";
- 49 (d) an irrevocable exercise of a power of appointment or an irrevocable present right to
- 50 future payment under a contract is the subject of a written notification delivered to the payor,
- 51 issuer, or other obligor that the right is transferred to the transferor, an adult other than the
- 52 transferor, or a trust company, whose name in the notification is followed in substance by the
- 53 words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors
- 54 Act";
- 55 (e) an interest in real property is recorded in the name of the transferor, an adult other
- 56 than the transferor, or a trust company, followed in substance by the words: "as custodian for
- 57 ..... (name of minor) under the Uniform Transfers to Minors Act";
- 58 (f) a certificate of title issued by a department or agency of a state or of the United

59 States which evidences title to tangible personal property is either:

60 (i) issued in the name of the transferor, an adult other than the transferor, or a trust  
61 company, followed in substance by the words: "as custodian for ..... (name of minor)  
62 under the Uniform Transfers to Minors Act"; or

63 (ii) delivered to an adult other than the transferor or to a trust company, endorsed to  
64 that person followed in substance by the words: "as custodian for ..... (name of minor)  
65 under the Uniform Transfers to Minors Act"; [~~or~~]

66 (g) an interest in any property not described in Subsections (1)(a) through (f) is  
67 transferred to an adult other than the transferor or to a trust company by a written instrument in  
68 substantially the form set forth in Subsection (2)[~~;~~]; or

69 (h) contributions are made into a custodial account at the Utah Educational Savings  
70 Plan in accordance with Title 53B, Chapter 8a, Utah Educational Savings Plan.

71 (2) An instrument in the following form satisfies the requirements of Subsections  
72 (1)(a)(ii) and (1)(g): "Transfer Under the Uniform Transfers to Minors Act

73 I, ..... (name of transferor or name and representative capacity if a fiduciary)  
74 hereby transfer to ..... (name of custodian), as custodian for ..... (name of minor)  
75 under the Uniform Transfers to Minors Act, the following: (insert a description of the custodial  
76 property sufficient to identify it).

77 Dated: .....

78 .....

79 (Signature)

80 ..... (name of custodian) acknowledges receipt of the property described above  
81 as custodian for the minor named above under the Uniform Transfers to Minors Act.

82 Dated: .....

83 .....

84 (Signature of Custodian)"

85 (3) A transferor shall place the custodian in control of the custodial property as soon as  
86 practicable.

87 Section 2. **Effective date.**

88 If approved by two-thirds of all the members elected to each house, this bill takes effect  
89 upon approval by the governor, or the day following the constitutional time limit of Utah

90 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
91 the date of veto override.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**