

**EDUCATION VOUCHERS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill creates a program to award scholarships to students to attend a private school.

**Highlighted Provisions:**

This bill:

- ▶ specifies criteria for qualifying for a scholarship;
- ▶ specifies criteria for private schools to enroll scholarship students;
- ▶ specifies the amount, timing, and form of scholarship payments;
- ▶ requires the State Board of Education to make rules;
- ▶ gives the State Board of Education enforcement authority;
- ▶ requires the Legislature to annually appropriate money from the General Fund for

scholarship payments; ~~H→~~ and ~~←H~~

▶ allows a school district to retain in enrollment a student that transfers to a private school for a period of five years, with a deduction equal to the average scholarship

amount ~~H→~~ [~~;~~ ~~and~~

~~→ allows the State Board of Education to transfer unused scholarship monies to the~~

~~Minimum School Program] ←H .~~

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ as on ongoing appropriation subject to future budget constraints, \$100,000 from the General Fund for fiscal year 2006-07 to the State Board of Education.

H.B. 148



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **53A-1a-801**, Utah Code Annotated 1953

33 **53A-1a-802**, Utah Code Annotated 1953

34 **53A-1a-803**, Utah Code Annotated 1953

35 **53A-1a-804**, Utah Code Annotated 1953

36 **53A-1a-805**, Utah Code Annotated 1953

37 **53A-1a-806**, Utah Code Annotated 1953

38 **53A-1a-807**, Utah Code Annotated 1953

39 **53A-1a-808**, Utah Code Annotated 1953

40 **53A-1a-809**, Utah Code Annotated 1953

41 **53A-1a-810**, Utah Code Annotated 1953

42 **53A-1a-811**, Utah Code Annotated 1953

43 ~~H→ [53A-1a-812, Utah Code Annotated 1953] ←H~~



44  
45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **53A-1a-801** is enacted to read:

47 **Part 8. Parent Choice in Education Act**

48 **53A-1a-801. Title.**

49 This part is known as the "Parent Choice in Education Act."

50 Section 2. Section **53A-1a-802** is enacted to read:

51 **53A-1a-802. Findings and purpose.**

52 The Legislature finds that:

53 (1) parents are presumed best informed to make decisions for their children, including  
54 the educational setting that will best serve their children's interests and educational needs;

55 (2) the establishment of this choice in education program is justified on the basis of  
56 funding the educational needs of school-age children as determined by their parents;

57 (3) school-age children are the primary beneficiaries of the choice in education  
58 program authorized in this part, and any benefit to private schools, whether sectarian or secular,

59 is indirect and incidental:

60 (4) the choice in education program authorized by this part is available to the parents of  
61 school-age children, solely on the basis of income level for the year immediately preceding the  
62 year for which a scholarship is sought, and not on the basis of sex, race, religion, national  
63 origin, or any other criteria; and

64 (5) the choice in education program authorized in this part is:

65 (a) enacted for the valid secular purpose of tailoring a child's education to that child's  
66 specific needs as determined by the parent;

67 (b) neutral with respect to religion; and

68 (c) limited in its assistance to a parent, who may choose to use the scholarship to offset  
69 tuition or fees charged by a private school, either sectarian or secular, in which enrollment of  
70 the parent's child is sought, solely as a result of the parent's genuine and independent private  
71 choices.

72 Section 3. Section **53A-1a-803** is enacted to read:

73 **53A-1a-803. Definitions.**

74 As used in this part:

75 (1) "Board" means the State Board of Education.

76 (2) "Eligible private school" means a private school that meets the requirements of  
77 Section 53A-1a-805.

78 (3) "Income eligibility guideline" means the maximum annual income allowed to  
79 qualify for reduced price meals for the applicable household size as published by the U.S.  
80 Department of Agriculture by notice in the Federal Register.

81 (4) "Parent" includes a legal guardian.

82 (5) "Scholarship student" means a student who receives a scholarship under this part.

83 (6) "Tuition" means amounts charged for attending a private school, excluding fees for  
84 extracurricular activities or transportation to the private school.

85 Section 4. Section **53A-1a-804** is enacted to read:

86 **53A-1a-804. Scholarship program created -- Qualifications -- Application.**

87 (1) The Parent Choice in Education Program is created to award scholarships to  
88 students to attend a private school.

89 (2) To qualify for a scholarship under this part:

90 (a) the student's custodial parent or legal guardian shall reside within Utah;

91 (b) the student shall be at least five years of age before September 2 of the year in  
 92 which admission to a private school is sought and under 19 years of age on the last day of the  
 93 school year as determined by the private school, or, if the individual has not graduated from  
 94 high school, will be under 22 years of age on the last day of the school year as determined by  
 95 the private school;

96 (c) the student shall meet one or more of the following criteria:

97 (i) the student was born after September 1, 2001;

98 (ii) the student was enrolled as a full-time student in a Utah public school on January 1,  
 99 2007;

100 (iii) the individual was not a Utah resident on January 1, 2007; or

101 (iv) the student's parents had an annual income less than or equal to 100% of the  
 102 income eligibility guideline in the calendar year immediately preceding the school year for  
 103 which a scholarship is sought; and

104 (d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part  
 105 7, Carson Smith Scholarships for Students with Special Needs Act.

106 (3) (a) To receive a scholarship, the parent of a student shall submit an application for  
 107 the scholarship to the board by the June 1 preceding the school year for which a scholarship is  
 108 sought, except the deadline for submitting an application for the 2007-08 school years is  
 108a July ~~1~~ **15** ,

109 2007. Along with the application, the student's parent shall submit documentation verifying  
 110 income as required by board rule.

111 (b) The board may waive the application deadline.

112 (4) The board shall award scholarships by the July 1 preceding the school year for  
 113 which a scholarship is sought, except the deadline for awarding scholarships for the 2007-08  
 114 school year is August ~~1~~ **15** , 2007.

115 (5) (a) The scholarship application form shall contain the following statement:

116 "I acknowledge that:

117 (1) A private school may not provide the same level of services that are provided in a  
 118 public school.

119 (2) The private school in which I have chosen to enroll my child has disclosed to me  
 120 the teaching credentials of the school's teachers and the school's accreditation status.

121 (3) I will assume full financial responsibility for the education of my scholarship  
122 student if I accept this scholarship.

123 (4) Acceptance of this scholarship has the same effect as a parental refusal to consent  
124 to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20  
125 U.S.C. Sec. 1400 et seq."

126 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility  
127 for the education of the scholarship student for the period in which the student receives the  
128 scholarship.

129 (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to  
130 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20  
131 U.S.C. Sec. 1400 et seq.

132 (6) A student's parent, at any time, may remove the student from a private school and  
133 place the student in another eligible private school and retain the scholarship.

134 Section 5. Section **53A-1a-805** is enacted to read:

135 **53A-1a-805. Eligible private schools.**

136 (1) To be eligible to enroll a scholarship student, a private school shall:

137 (a) have a physical location in Utah where the scholarship students attend classes and  
138 have direct contact with the school's teachers;

139 (b) contract with an independent certified public accountant to perform the agreed upon  
140 procedures specified in Subsection (2) and produce a report of the results which shall be  
141 submitted to the board at the times specified in Subsection (2);

142 (c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

143 (d) meet state and local health and safety laws and codes;

144 (e) disclose to the parent of each prospective student, before the student is enrolled, the  
145 special education services that will be provided to the student, if any, including the cost of  
146 those services;

147 (f) (i) annually assess the achievement of each student by administering:

148 (A) a norm-referenced test scored by an independent party that provides a comparison  
149 of the student's performance to other students on a national basis; or

150 (B) an alternative assessment of the student's achievement, if the student:

151 (I) has a disability or limited English proficiency; and

152 (II) would be exempt from taking a nationally norm-referenced achievement test if  
153 enrolled in a Utah public school;

154 (ii) report the test results to the student's parents; and

155 (iii) upon request, make test results available to other persons, in a manner that does  
156 not reveal the identity of any student;

157 (g) employ or contract with teachers who:

158 (i) hold baccalaureate or higher degrees; or

159 (ii) have special skills, knowledge, or expertise that qualifies them to provide  
160 instruction in the subjects taught;

161 (h) provide to parents the teaching credentials of the school's teachers; and

162 (i) provide, upon request to any person, a statement indicating which, if any,  
163 organizations have accredited the private school.

164 (2) (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are  
165 as follows:

166 (i) (A) determine that working capital is at least 80% of average quarterly expenditures  
167 by taking total expenditures for a year and dividing it by four and then dividing average  
168 quarterly expenditures into working capital; and

169 (B) for a school in the first year of operations, use the estimated budget to estimate  
170 average quarterly expenditures;

171 (ii) (A) determine that scholarship payments are accounted for separately and  
172 reconciled to student records; and

173 (B) for the first year of operations, determine that procedures are in place for this  
174 accounting; and

175 (iii) (A) determine that expenditure of scholarship funds have been made for education  
176 expenses and is consistent with other tuition expenditures; and

177 (B) for the first year of operations, determine that procedures are in place for this  
178 accounting.

179 (b) (i) The independent certified public accountant's report on the agreed upon  
180 procedures specified in Subsection (2)(a) shall be submitted to the board when the private  
181 school applies to accept scholarship students and every four years thereafter, except as  
182 provided in Subsection (2)(b)(ii).

183 (ii) The board may, by rule, delay the date when the independent certified public  
184 accountant's report shall be submitted for private schools applying to accept scholarship  
185 students in the 2007-08 school year.

186 (3) The following are not eligible to enroll scholarship students:

187 (a) a school with an enrollment of fewer than 40 students;

188 (b) a school that operates in a residence; or

189 (c) a residential treatment facility licensed by the state.

190 (4) (a) Except as provided in Subsection (4)(b), a private school intending to enroll  
191 scholarship students shall submit an application to the board by April 1 of the school year  
192 preceding the school year in which it intends to enroll scholarship students.

193 (b) A private school intending to enroll scholarship students in the 2007-08 school year  
194 shall submit an application by June 15, 2007.

195 (5) The board shall:

196 (a) approve a private school's application to enroll scholarship students if the private  
197 school meets the eligibility requirements of this section; and

198 (b) make available to the public a list of the eligible private schools:

199 (i) for the 2008-09 school year and each school year thereafter, by the April 30  
200 preceding the school year; and

201 (ii) for the 2007-08 school year, by July 1, 2007.

202 Section 6. Section **53A-1a-806** is enacted to read:

203 **53A-1a-806. Scholarship payments.**

204 (1) (a) Scholarships shall be awarded by the board subject to the availability of money  
205 appropriated by the Legislature for that purpose.

206 (b) The Legislature shall annually appropriate money to the board from the General  
207 Fund to make scholarship payments for all students projected to apply for scholarships.

208 (c) (i) If monies are not available to pay for all scholarships requested, the scholarships  
209 shall be allocated on a random basis except that preference shall be given to students who  
210 received scholarships in the previous year.

211 (ii) If monies are insufficient in a school year to pay for all the continuing scholarships:

212 (A) new scholarships may not be awarded during that school year;

213 (B) the monies available for scholarships shall be prorated among the eligible students

214 who received scholarships in the previous year; and

215 (C) the board shall request a supplemental appropriation from the Legislature to make  
216 full scholarship payments as provided in Subsection (4) or (5).

217 (2) (a) Scholarships shall be awarded based upon the income of a scholarship student's  
218 parents in the calendar year immediately preceding the school year for which a scholarship is  
219 sought.

220 (b) (i) The board shall make rules specifying how the income of a prospective  
221 scholarship student's parents shall be determined.

222 (ii) The rules shall provide that the scholarship shall be based upon parental income as  
223 follows:

224 (A) if the parents are married, the income of both parents;

225 (B) if a parent is widowed, the income of the widowed parent;

226 (C) if a parent is widowed and has remarried, the income of the parent and stepparent;

227 (D) if the parents are divorced, the income of the parent with whom the scholarship  
228 student resided for the greatest amount of time during the past 12 months;

229 (E) if the parents are divorced and the scholarship student resided with each parent an  
230 equal amount of time, the income of the parent who provided more financial support during the  
231 past 12 months;

232 (F) if the divorced parent with whom the scholarship student resided for the greatest  
233 amount of time or who provided the greatest financial support has remarried, the income of the  
234 parent and stepparent; and

235 (G) if the scholarship student resides with a guardian, the income of the guardian,  
236 unless the guardian's income is exempt by board rule.

237 (iii) The rules shall provide that:

238 (A) if a parent filed federal or state income tax forms, income shall be based upon  
239 adjusted gross income as listed on the income tax forms;

240 (B) if a parent was exempt from filing federal and state income tax forms, income shall  
241 be based on income earned from work; and

242 (C) a parent shall submit documentation verifying income.

243 (3) (a) The board shall compare the income of a scholarship student's parents to the  
244 maximum annual incomes listed in the income eligibility guideline as defined in Section



245 53A-1a-803 to set the scholarship amount.

246 (b) In determining scholarship amounts, the board shall use:

247 (i) the income eligibility guideline in effect for the school year immediately preceding  
248 the school year for which a scholarship is sought; and

249 (ii) the scholarship student's household size as the applicable household size for the  
250 purpose of determining maximum annual income under the income eligibility guideline.

251 (4) Full-year scholarships shall be awarded in the amounts shown in the following  
252 table, or for the amount of tuition for a full year, whichever is less.

253 If the annual income of a scholarship  
254 student's parents is:

The full-year scholarship amount is:

255 Less than or equal to 100% of the  
256 income eligibility guideline \$3,000

257 Greater than 100% but less than or equal  
258 to 125% of the income eligibility guideline \$2,750

259 Greater than 125% but less than or equal to  
260 150% of the income eligibility guideline \$2,500

261 Greater than 150% but less than or equal to  
262 175% of the income eligibility guideline \$2,250

263 Greater than 175% but less than or equal to  
264 200% of the income eligibility guideline \$2,000

265 Greater than 200% but less than or equal to  
266 225% of the income eligibility guideline \$1,750

267 Greater than 225% but less than or equal to  
268 250% of the income eligibility guideline \$1,000

269 Greater than 250% of the income eligibility guideline \$500

270 (5) The full-year scholarship amounts shown in the table in Subsection (4) apply to  
271 scholarships for all grades except kindergarten. The full-year scholarship amount for  
272 kindergarten shall be .55 times the amounts shown in the table in Subsection (4).

273 (6) The board shall annually increase the full-year scholarship amounts shown in the  
274 table in Subsection (4) by the same percentage annual increase in the value of the weighted  
275 pupil unit established in Section 53A-17a-103.

276 (7) (a) Except as provided in Subsection (7)(b), upon review and receipt of  
277 documentation that verifies a student's admission to, or continuing enrollment and attendance  
278 at, a private school, the board shall make scholarship payments in four equal amounts no later  
279 than September 1, November 1, February 1, and April 15 of each school year in which a  
280 scholarship is in force.

281 (b) In accordance with board rule, the board shall make a scholarship payment before  
282 the first quarterly payment of the school year, if a private school requires partial payment of  
283 tuition before the start of the school year to reserve space for a student admitted to the school.

284 (8) A parent of a scholarship student and the student's private school shall notify the  
285 board if the student does not have continuing enrollment and attendance at the private school.

286 (9) Before scholarship payments are made, the board shall cross-check enrollment lists  
287 of scholarship students, school districts, and youth in custody to ensure that scholarship  
288 payments are not erroneously made.

289 (10) (a) Scholarship payments shall be made by the board by individual warrant made  
290 payable to the student's parent and mailed by the board to the private school. The parent shall  
291 restrictively endorse the warrant to the private school for deposit into the account of the private  
292 school.

293 (b) A person, on behalf of a private school, may not accept a power of attorney from a  
294 parent to sign a warrant referred to in Subsection (10)(a), and a parent of a scholarship student  
295 may not give a power of attorney designating a person, on behalf of a private school, as the  
296 parent's attorney in fact.

297 Section 7. Section **53A-1a-807** is enacted to read:

298 **53A-1a-807. Mitigation monies.**

299 (1) As provided in this section, a school district shall receive monies to mitigate  
300 potential impacts due to the unplanned reduction in revenues resulting from the transfer of  
301 scholarship students from the district to a private school.

302 (2) A school district shall retain in enrollment for purposes of receiving funds under  
303 the minimum school program each scholarship student that:

304 (a) transfers from the school district to a private school; and

305 (b) resides within the boundaries of the school district.

306 (3) Each transferred scholarship student meeting the criteria of Subsection (2) shall be

307 retained in enrollment:

308 (a) for five years following the transfer or until the student would have graduated from  
 309 high school if within five years of the date of transfer; or

310 (b) until the student transfers back to the school district, if the student transfers back to  
 311 the school district within five years.

312 (4) For each year a school district retains in enrollment transferred scholarship students  
 313 as provided in this section, the board shall deduct from minimum school program funds  
 314 distributed to the school district an amount equal to the number of transferred scholarship  
 315 students retained in enrollment times the average scholarship amount for scholarship students  
 316 statewide.

316a **Ĥ→ (5) The monies deducted from a school district's minimum school program funds as**  
 316b **provided in Subsection (4) shall be deposited into the Uniform School Fund.**

317 ~~[Section 8. Section 53A-1a-808 is enacted to read:~~

318 ~~—— 53A-1a-808. Transfer of balance.~~

319 ~~—— After awarding the scholarships and budgeting for mitigation monies under this part,~~  
 320 ~~the board shall transfer any remaining balance appropriated for scholarships or mitigation~~  
 321 ~~monies to the kindergarten and grades 1-12 basic programs established under Chapter 17a,~~  
 322 ~~Minimum School Program Act.] ←Ĥ~~

323 Section ~~Ĥ→ [9] 8 ←Ĥ~~ . Section 53A-1a- ~~Ĥ→ [809] 808 ←Ĥ~~ is enacted to read:

324 **53A-1a- Ĥ→ [809] 808 ←Ĥ . Board to make rules.**

325 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 326 board shall make rules consistent with this part:

327 (a) establishing the application process for the scholarship program, including  
 328 procedures to allow a parent to apply for a scholarship online;

329 (b) establishing how the income of a scholarship student's parents shall be determined;  
 330 and

331 (c) implementing Section 53A-1a-807.

332 (2) By May 15, 2007, the board shall adopt rules establishing:

333 (a) the application process for private schools and scholarship students; and

334 (b) how the income of a scholarship student's parents shall be determined.

335 Section ~~Ĥ→ [10] 9 ←Ĥ~~ . Section 53A-1a- ~~Ĥ→ [810] 809 ←Ĥ~~ is enacted to read:

336 **53A-1a- Ĥ→ [810] 809 ←Ĥ . Enforcement and penalties.**

337 (1) (a) The board shall require private schools to submit signed affidavits assuring the

338 private school will comply with the requirements of this part.

339 (b) If a school fails to submit a signed affidavit after having an opportunity to provide  
 340 explanations and request delays, the board may:

341 (i) deny the private school permission to enroll scholarship students; and

342 (ii) interrupt disbursement of or withhold scholarship payments.

343 (2) The board may investigate complaints and convene administrative hearings for an  
 344 alleged violation of this part.

345 (3) Upon a finding that this part was violated, the board may:

346 (a) deny a private school permission to enroll scholarship students;

347 (b) interrupt disbursement of or withhold scholarship payments; or

348 (c) issue an order for repayment of scholarship payments fraudulently obtained.

349 Section ~~H~~→ [H] 10 ←~~H~~ . Section 53A-1a- ~~H~~→ [81H] 810 ←~~H~~ is enacted to read:

350 **53A-1a- ~~H~~→ [81H] 810 ←~~H~~ . Limitation on regulation of private schools.**

351 Nothing in this part grants additional authority to any state agency or school district to  
 352 regulate private schools except as expressly set forth in this part.

353 Section ~~H~~→ [12] 11 ←~~H~~ . Section 53A-1a- ~~H~~→ [812] 811 ←~~H~~ is enacted to read:

354 **53A-1a- ~~H~~→ [812] 811 ←~~H~~ . Review by legislative auditor general.**

355 The legislative auditor general shall conduct a review and issue a report on the Parent  
 356 Choice in Education Program after the conclusion of the 2013-14 school year.

357 Section ~~H~~→ [13] 12 ←~~H~~ . **Appropriation.**

358 As an ongoing appropriation subject to future budget constraints, \$100,000 is  
 359 appropriated from the General Fund for fiscal year 2006-07 to the State Board of Education for  
 360 the administration of the Parent Choice in Education Act created in Title 53A, Chapter 1a, Part  
 361 8.

### Legislative Review Note

as of 1-4-07 10:59 AM

Office of Legislative Research and General Counsel

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**H.B. 148 - Education Vouchers**

**Revised  
Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Section 6 of this bill will require an estimated \$9,200,000 in FY 2008 and \$12,300,000 in FY 2009 for scholarships to students attending private schools. The bill appropriates an additional \$100,000 ongoing beginning in FY 2007 for administrative expenses. Average scholarship amounts withheld from districts under Section 7 of the bill will remain in the Minimum School Program budget as nonlapsing balances.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund	\$100,000	\$9,300,000	\$12,400,000	\$0	\$0	\$0
Nonlapsing Funds	\$0	(\$3,900,000)	(\$3,600,000)	\$0	\$0	\$0
<b>Total</b>	<b>\$100,000</b>	<b>\$5,400,000</b>	<b>\$8,800,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Individuals may benefit from scholarships awarded under this bill in amounts ranging from \$500 to \$3,000 depending upon income level. Private businesses may benefit from increased demand for educational services. Local school districts may experience less than anticipated growth in enrollment numbers and in associated state education funding.