

**RESULTS-BASED FINANCING FOR EARLY CHILDHOOD
EDUCATION**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill creates the Results-based Early Education Board, which may enter into certain contracts with private investors to provide funding for early childhood education programs for at-risk students.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Results-based Early Education Restricted Account;
- ▶ creates the Results-based Early Education Board (board) to negotiate contracts with private investors to fund certain early education programs;
 - ▶ requires the repayment to private investors to be conditioned on meeting performance outcomes set in the contract;
 - ▶ requires an independent evaluation of the performance outcomes;
 - ▶ requires the Department of Workforce Services to staff the board;
 - ▶ allows the board no more than \$10,000,000 of outstanding obligations at any one time;
 - ▶ details components of a high quality preschool program that may be funded through a results-based contract between the board and private investors;
 - ▶ describes a home-based technology program that may be funded through a



28 results-based contract between the board and private investors; and

29 ▶ establishes reporting requirements.

30 **Money Appropriated in this Bill:**

31 This bill appropriates in fiscal year 2014:

32 ▶ to the General Fund Restricted - Results-based Early Education Restricted Account,
33 as an ongoing appropriation:

34 • from the General Fund, \$1,000,000

35 ▶ to Department of Workforce Services - Administration,

36 • from the Results-based Early Education Restricted Account, \$75,000

37 ▶ to Department of Workforce Services - Administration,

38 • from the Results-based Early Education Restricted Account, \$100,000.

39 **Other Special Clauses:**

40 This bill provides an effective date.

41 **Utah Code Sections Affected:**

42 ENACTS:

43 **35A-11-101**, Utah Code Annotated 1953

44 **35A-11-102**, Utah Code Annotated 1953

45 **35A-11-103**, Utah Code Annotated 1953

46 **35A-11-104**, Utah Code Annotated 1953

47 **35A-11-105**, Utah Code Annotated 1953

48 **35A-11-106**, Utah Code Annotated 1953



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

51 Section 1. Section **35A-11-101** is enacted to read:

52 **CHAPTER 11. RESULTS-BASED FINANCING**

53 **Part 1. Results-based Early Education Act**

54 **35A-11-101. Title.**

55 This chapter is known as "Results-based Financing."

56 Section 2. Section **35A-11-102** is enacted to read:

57 **35A-11-102. Definitions.**

58 As used in this part:

59 (1) "Board" means the Results-based Early Education Board, created in Section
60 35A-11-104.

61 (2) "Department" means the Department of Workforce Services, created in Section
62 35A-1-103.

63 (3) "Economically disadvantaged" means a student who:

64 (a) is eligible to receive free lunch;

65 (b) is eligible to receive reduced price lunch; or

66 (c) (i) is not otherwise accounted for in Subsection (3)(a) or (b); and

67 (ii) (A) is enrolled in a Provision 2 or Provision 3 school, as defined by the United
68 States Department of Agriculture;

69 (B) has a Declaration of Household Income on file;

70 (C) is eligible for a fee waiver; or

71 (D) is enrolled at a school that does not offer a lunch program and is a sibling of a
72 student accounted for in Subsection (3)(a) or (b).

73 (4) "Eligible home-based educational technology provider" means a provider that:

74 (a) intends to offer a home-based educational technology program through a
75 results-based contract; and

76 (b) has entered into a contract and signed a memorandum of understanding with the
77 State Board of Education for the purpose of accessing student data for eligible students served
78 by the home-based educational technology provider.

79 (5) "Eligible LEA" means an LEA that:

80 (a) receives federal money under Title I of the No Child Left Behind Act of 2001, 20
81 U.S.C. Sec. 6301-6578, for a school-wide or targeted assistance program;

82 (b) agrees to fund a portion of its preschool program funded under this part with
83 federal funds described in Subsection (5)(a); and

84 (c) has a data system capacity to collect longitudinal academic outcome data, including
85 special education use by student, by identifying each student with a statewide unique student
86 identifier.

87 (6) (a) "Eligible private provider" means a child care program that:

88 (i) (A) except as provided in Subsection (6)(b), is licensed under Title 26, Chapter 39,
89 Utah Child Care Licensing Act; or

90 (B) is exempt from licensure under Section 26-39-403; and
91 (ii) meets other criteria as established by the board, consistent with Utah Constitution
92 Article X, Section 1.

93 (b) "Eligible private provider" does not include a residential child care, as defined in
94 Section 26-39-102.

95 (7) "Eligible student" means a student who:

96 (a) lives in the attendance boundaries of an eligible LEA; and

97 (b) (i) is economically disadvantaged; or

98 (ii) is classified as an English language learner.

99 (8) "Local Education Agency" or "LEA" means a school district or charter school.

100 (9) "Results-based contract" means a contract entered into by the board, a private
101 investor, and a provider of early childhood education that may result in repayment to a private
102 investor if certain performance outcome measures are achieved.

103 Section 3. Section **35A-11-103** is enacted to read:

104 **35A-11-103. Results-based Early Education Restricted Account -- Creation --**
105 **Funding -- Distribution of funds.**

106 (1) There is created a restricted account in the General Fund known as the
107 "Results-based Early Education Restricted Account" to fund results-based contracts for eligible
108 students to participate in:

109 (a) a high quality preschool program described in Section 35A-11-105; or

110 (b) a home-based educational technology program described in Section 35A-11-106.

111 (2) The restricted account consists of:

112 (a) money appropriated to the restricted account by the Legislature;

113 (b) all income and interest derived from the deposit and investment of money in the
114 account;

115 (c) federal grants; and

116 (d) private donations.

117 (3) The board shall distribute funds in the restricted account in accordance with
118 Subsection (4) to one or more investors that the board has entered into a contract with under
119 this part if the independent evaluator determines that the performance-based results have been
120 met.

121 (4) (a) At the end of each year of a contract, the independent evaluator shall determine
122 whether the performance outcome measures set in the contract have been met.

123 (b) If the independent evaluator determines under Subsection (4)(a) that the
124 performance outcome measures have been met, the board shall determine what the repayment
125 to the private investor for that year would be, but not pay the private investor until the end of
126 the fourth year of the contract.

127 (c) The fourth year payment described in Subsection (4)(b) shall include each annual
128 accrued payment plus interest.

129 (d) After the fourth year, the board may pay the private investor on an annual basis, if
130 the independent evaluator determines that the performance outcome measures set in the
131 contract have been met.

132 (5) The Legislature may appropriate no more than:

133 (a) \$75,000 annually from the restricted account for administrative purposes; and

134 (b) \$100,000 annually from the restricted account for the independent evaluation of the
135 performance-based results by an independent evaluator required under Section 35A-11-104.

136 Section 4. Section **35A-11-104** is enacted to read:

137 **35A-11-104. Establishment of the Results-based Early Education Board --**
138 **Membership -- Duties.**

139 (1) There is created a Results-based Early Education Board composed of:

140 (a) the director of the Department of Workforces Services or the director's designee;

141 (b) the state treasurer or the treasurer's designee;

142 (c) the superintendent of public instruction or the superintendent's designee; and

143 (d) the following individuals appointed by the governor:

144 (i) two representatives of nonprofit entities that study or advocate for early childhood
145 education;

146 (ii) an attorney with expertise in financial contracts; and

147 (iii) a child development expert.

148 (2) (a) A member described in Subsection (1)(d) shall serve for a term of two years.

149 (b) If a vacancy occurs for a member described in Subsection (1)(d), the governor shall
150 appoint a replacement to serve the remainder of the member's term.

151 (3) A member may not receive compensation or benefits for the member's service.

- 152 (4) Upon request, the department shall provide staff support to the board.
- 153 (5) (a) The board members shall elect a chair of the board from the board's
- 154 membership.
- 155 (b) The board shall meet upon the call of the chair or a majority of the board members.
- 156 (6) (a) The board may enter into a contract with a private investor to fund a high
- 157 quality preschool program described in Section 35A-11-105 or a home-based education
- 158 technology program described in Section 35A-11-106.
- 159 (b) The board may provide for a repayment to a private investor to include an
- 160 additional return on investment, dependent on achievement of specific performance outcome
- 161 measures set in the contract.
- 162 (7) A contract shall include:
- 163 (a) a requirement that the repayment to the private investor be conditioned on specific
- 164 performance outcome measures set in the contract;
- 165 (b) a requirement for an independent evaluator to determine whether the performance
- 166 outcomes have been achieved; and
- 167 (c) a provision that repayment to the private investor is:
- 168 (i) based upon available money in the Results-based Early Education Restricted
- 169 Account; and
- 170 (ii) subject to legislative appropriation.
- 171 (8) The board may not issue a contract if the total outstanding obligations of contracts
- 172 issued by the board under this part exceed \$10,000,000.
- 173 (9) The board shall contract with an independent, nationally-recognized early
- 174 childhood education evaluator, selected through a request for proposals, to annually evaluate
- 175 performance outcome measures set in a results-based contract of the board.
- 176 (10) The board shall determine a uniform assessment that:
- 177 (a) is a nationally norm-based measure of age-appropriate cognitive or language skills;
- 178 (b) has established reliability; and
- 179 (c) has established validity with other similar measures and with later school outcomes.
- 180 (11) The board may contract with an independent entity to provide project management
- 181 and ensure required implementation.

182 Section 5. Section **35A-11-105** is enacted to read:

183 **35A-11-105. High quality preschool.**

184 (1) To receive funding pursuant to a contract awarded under Section 35A-11-104, an
185 eligible LEA shall establish or currently operate a high quality preschool, and pursuant to
186 Subsection (7) partner with a private entity providing high quality preschool, with the
187 following components:

188 (a) a research-based curriculum that addresses the following developmental domains
189 through explicit instruction in whole and small group settings:

190 (i) oral language and listening comprehension;

191 (ii) phonological awareness and prereading;

192 (iii) alphabet and word knowledge;

193 (iv) prewriting, fine motor, and visual arts;

194 (v) book knowledge and print awareness;

195 (vi) numeracy;

196 (vii) social and emotional;

197 (viii) gross motor and performing arts;

198 (ix) science and technology; and

199 (x) social studies, health, and safety;

200 (b) ongoing, focused, and intensive professional development for staff of the preschool
201 program;

202 (c) ongoing assessment of a student's educational growth and developmental progress
203 to inform instruction;

204 (d) a pre- and post-assessment, designated by the board in accordance with Section
205 35A-11-104, of each student;

206 (e) a class size that does not exceed 20 students, with one adult for every 10 students in
207 the class;

208 (f) ongoing program evaluation and data collection to monitor program goal
209 achievement and implementation of required program components;

210 (g) monthly family involvement, including class participation, frequent communication
211 between home and school, and parent education opportunities based on each family's
212 circumstances; and

213 (h) teachers with at least a bachelor's degree or a child development associate

214 certification.

215 (2) An eligible LEA shall work in conjunction with the State Board of Education to
216 assign a statewide unique student identifier to each eligible student funded pursuant to a
217 contract issued under this part.

218 (3) An eligible LEA may not use funds awarded pursuant to a contract issued under
219 this part to supplant funds for an existing high quality preschool program, but may use the
220 funds to supplement an existing high quality preschool program.

221 (4) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec.
222 6301-6578, an LEA may charge a sliding scale fee to a student participating in a high quality
223 preschool program under this section, based on household income.

224 (5) A student funded pursuant to a contract under this part may not exceed the
225 following amount of time in the classroom:

- 226 (a) 16 hours per week for a four-year-old student; and
- 227 (b) 12 hours per week for a three-year-old student.

228 (6) (a) An LEA that receives funds under this section shall report annually to the board
229 the following information for eligible students funded in whole or in part pursuant to contracts
230 issued under this part:

231 (i) number of eligible students served by the LEA's preschool, reported by
232 economically disadvantaged status and English language learner status;

233 (ii) attendance;

234 (iii) cost per eligible student;

235 (iv) assessment results; and

236 (v) longitudinal data on each eligible student currently receiving funding under this
237 part and any eligible students who previously received funding under this part, including:

238 (A) academic achievement outcomes;

239 (B) special education use; and

240 (C) English language learner services.

241 (b) For each year of a contract, the board shall report to the Economic Development
242 and Workforce Services Interim Committee the following:

243 (i) information collected under Subsection (6)(a) for each participating LEA; and

244 (ii) the terms of the contract, including:

- 245 (A) the name of each private investor;
246 (B) the amount of money each private investor has invested;
247 (C) the performance outcome measures set in the contract by which repayment will be
248 determined; and
249 (D) the repayment schedule to the private investor if the performance outcomes are
250 met.
- 251 (7) (a) Except as provided in Subsection (11), an eligible LEA shall contract with an
252 eligible private provider, located within the LEA's attendance boundaries, to provide the high
253 quality preschool program to a portion of the LEA's eligible students funded by a results-based
254 contract.
- 255 (b) The board shall determine in the contract the portion of an LEA's eligible students
256 funded by a results-based contract to be served by an eligible private provider.
- 257 (8) (a) Except as provided in Subsection (8)(b), to receive funding pursuant to a
258 contract under this part, an eligible private provider shall:
- 259 (i) offer a preschool program that contains the components described in Section
260 35A-11-105;
- 261 (ii) align its assessments, early learning standards, and professional development with
262 the contracting LEA;
- 263 (iii) allow classroom visits by the contracting LEA, the evaluator chosen in accordance
264 with Section 35A-11-104, the board, the private investor, or a project manager to ensure the
265 components described in Subsection (8)(a) are being implemented;
- 266 (iv) (A) allow the contracting LEA to administer the required pre- and
267 post-assessments to eligible students funded under this part; or
268 (B) at the discretion of the contracting LEA, administer the required pre- and
269 post-assessments to students funded under this part; and
- 270 (v) report the information described in Subsection (6)(a) to the contracting LEA.
- 271 (b) An eligible private provider is not required to meet the requirements of Subsection
272 (1)(e).
- 273 (9) An LEA may provide the eligible private provider with:
- 274 (a) professional development;
275 (b) staffing or staff support;

276 (c) materials; and

277 (d) assessments.

278 (10) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C.
279 Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student
280 participating in a high quality preschool program under this section, based on household
281 income.

282 (b) The eligible private provider may use grants, scholarships, or other funds to help
283 fund the preschool program.

284 (11) If there is no eligible private provider that is willing to contract with an eligible
285 LEA, the eligible LEA is not required to contract with an eligible private provider.

286 (12) A contractual partnership established under Subsection (1) shall be consistent with
287 Utah Constitution Article X, Section 1.

288 (13) The evaluator selected pursuant to Section 35A-11-104 shall annually evaluate the
289 quality and outcomes of the high quality preschool program funded by a contract between a
290 private investor and the board, including:

291 (a) adherence to required components described in Subsection (1); and

292 (b) the pre- and post-assessment results of the assessment, designated by the board
293 under Section 35A-11-104, of eligible students in the high quality preschool program.

294 Section 6. Section **35A-11-106** is enacted to read:

295 **35A-11-106. Home-based educational technology for school readiness.**

296 (1) To receive funding pursuant to a contract awarded under Section 35A-11-104, an
297 eligible home-based educational technology provider shall administer a home-based
298 educational technology program designed to prepare eligible students for kindergarten.

299 (2) A program described in Subsection (1) shall:

300 (a) be an evidence-based and age appropriate interactive computer program that
301 teaches eligible students early literacy and numeracy skills needed to be successful upon entry
302 into kindergarten;

303 (b) require regular parental engagement with the student in the student's use of the
304 home-based technology program;

305 (c) be aligned to the Utah early childhood core standards in language arts and
306 mathematics; and

307 (d) have a component to provide the pre- and post-assessment, designated by the board
308 in accordance with Section 35A-11-104, of each eligible student.

309 (3) An eligible home-based educational technology provider shall work in conjunction
310 with the State Board of Education to assign a statewide unique student identifier to each
311 eligible student funded pursuant to a contract issued under this part.

312 (4) An eligible home-based educational technology provider may not use funds
313 awarded pursuant to a contract issued under this part to supplant funds for an existing
314 home-based educational technology program, but may use the funds to supplement an existing
315 home-based educational technology program.

316 (5) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec.
317 6301-6578, an eligible home-based educational technology provider may charge a sliding scale
318 fee to a student participating in a home-based educational technology program under this
319 section, based on household income.

320 (6) (a) An eligible home-based educational technology provider that receives funds
321 under this section shall report annually to the board the following information for eligible
322 students funded in whole or in part pursuant to contracts issued under this part:

323 (i) number of eligible students served by the home-based educational technology
324 program, reported by economically disadvantaged status and English language learner status;

325 (ii) average time, and range of time usage, an eligible student spent using the program
326 per week;

327 (iii) cost per eligible student;

328 (iv) assessment results;

329 (v) longitudinal data on each eligible student currently receiving funding under this
330 section and any eligible students who previously received funding under this section, including:

331 (A) academic achievement outcomes;

332 (B) special education use; and

333 (C) English language learner services; and

334 (vi) number of eligible students served by the home-based educational technology
335 program who participated in any other public or private preschool program, including the type
336 of preschool attended.

337 (b) For each year of a contract, the board shall report to the Economic Development

338 and Workforce Services Interim Committee the following:

339 (i) information collected under Subsection (6)(a) for each participating eligible

340 home-based educational technology provider; and

341 (ii) the terms of the contract, including:

342 (A) the name of each private investor;

343 (B) the amount of money each private investor has invested;

344 (C) the performance outcome measures set in the contract, by which repayment will be
345 determined; and

346 (D) the repayment schedule to the private investor if the performance outcomes are
347 met.

348 (7) The evaluator selected pursuant to Section 35A-11-104 shall annually evaluate the
349 quality and outcomes of a home-based technology program funded by a contract between a
350 private investor and the board, including the pre- and post-assessment results, of the
351 assessment designated by the board under Section 35A-11-104, of eligible students in the
352 program.

353 **Section 7. Appropriation.**

354 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
355 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
356 are appropriated from resources not otherwise appropriated, or reduced from amounts
357 previously appropriated, out of the funds or accounts indicated. These sums of money are in
358 addition to any amounts previously appropriated for fiscal year 2014.

359 To General Fund Restricted - Results-based Early

360 Education Restricted Account

361 From General Fund \$1,000,000

362 Schedule of Programs:

363 General Fund Restricted - Results-based Early Education

364 Restricted Account \$1,000,000

365 To Department of Workforce Services - Administration

366 From Results-based Early Education Restricted Account \$75,000

367 Schedule of Programs:

368 Executive Director's Office \$75,000

369 To Department of Workforce Services - Administration
370 From Results-based Early Education Restricted Account \$100,000
371 Schedule of Programs:
372 Executive Director's Office \$100,000
373 The Legislature intends that:
374 (1) the \$75,000 appropriation under this section be used to carry out administrative
375 duties pursuant to Subsection 35A-11-104(4); and
376 (2) the \$100,000 appropriation under this section be used to carry out the requirements
377 of Subsection 35A-11-104(9).
378 Section 8. **Effective date.**
379 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.
380 (2) Uncodified Section 7, Appropriation, takes effect on July 1, 2013.

Legislative Review Note
as of 2-11-13 5:58 PM

Office of Legislative Research and General Counsel