

**EDUCATION VOUCHER AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley G. Last**

Senate Sponsor: Peter C. Knudson

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ modifies criteria for qualifying for a scholarship;
- ▶ modifies criteria for private schools to enroll scholarship students;
- ▶ modifies provisions relating to the State Board of Education; and
- ▶ modifies the review by the legislative auditor general.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ as an ongoing appropriation subject to future budget constraints, ~~⌘~~→ [\$200,000]

19a ~~⌘~~← **\$100,000** from the

General Fund for fiscal year 2007-08 to the State Board of Education.

**Other Special Clauses:**

This bill coordinates with H.B. 148, Education Vouchers, by providing substantively superseding amendments.

**Utah Code Sections Affected:**

ENACTS:

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

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



- 28           **53A-1a-806**, Utah Code Annotated 1953
- 29           **53A-1a-808**, Utah Code Annotated 1953
- 30           **53A-1a-811**, Utah Code Annotated 1953

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

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

34           **53A-1a-804. Scholarship program created -- Qualifications -- Application.**

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

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

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

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

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

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

46           (ii) the student was enrolled as a full-time student in a Utah public school on January 1,  
47 2007;

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

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

52           (d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part  
53 7, Carson Smith Scholarships for Students with Special Needs Act.

54           (3) (a) To receive a scholarship, the parent of a student shall submit an application for  
55 the scholarship to the board by the June 1 preceding the school year for which a scholarship is  
56 sought, except the deadline for submitting an application for the 2007-08 school year is July  
57 15, 2007. Along with the application, the student's parent shall submit documentation  
58 verifying income as required by board rule.

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

60 (4) The board shall award scholarships by the July 1 preceding the school year for  
61 which a scholarship is sought, except the deadline for awarding scholarships for the 2007-08  
62 school year is August 15, 2007.

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

64 "I acknowledge that:

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

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

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

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

74 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility  
75 for the education of the scholarship student for the period in which the student receives the  
76 scholarship, including costs associated with transportation.

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

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

82 Section 2. Section **53A-1a-805** is enacted to read:

83 **53A-1a-805. Eligible private schools.**

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

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

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

- 90 (c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;  
 91 (d) meet state and local health and safety laws and codes;  
 92 (e) disclose to the parent of each prospective student, before the student is enrolled, the  
 93 special education services that will be provided to the student, if any, including the cost of  
 94 those services;  
 95 (f) (i) annually assess the achievement of each student by administering:  
 96 (A) a norm-referenced test scored by an independent party that provides a comparison  
 97 of the student's ~~H~~→ **academic** ←~~H~~ performance to other students on a national basis; or  
 98 (B) an alternative assessment of the student's achievement, if the student:  
 99 (I) has a disability or limited English proficiency; and  
 100 (II) would be exempt from taking a nationally norm-referenced achievement test if  
 101 enrolled in a Utah public school;  
 102 (ii) report the test results to the student's parents; and  
 103 (iii) upon request, make test results available to other persons, in a manner that does  
 104 not reveal the identity of any student;  
 105 (g) employ or contract with teachers who have completed a criminal background check  
 106 that complies with the requirements of Section 53A-3-410 and:  
 107 (i) hold baccalaureate or higher degrees; or  
 108 (ii) have special skills, knowledge, or expertise that qualifies them to provide  
 109 instruction in the subjects taught;  
 110 (h) provide to parents the teaching credentials of the school's teachers; and  
 111 (i) provide, upon request to any person, a statement indicating which, if any,  
 112 organizations have accredited the private school.  
 113 (2) (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are  
 114 as follows:  
 115 (i) (A) determine that working capital is at least 80% of average quarterly expenditures  
 116 by taking total expenditures for a year and dividing it by four and then dividing average  
 117 quarterly expenditures into working capital; and  
 118 (B) for a school in the first year of operations, use the estimated budget to estimate  
 119 average quarterly expenditures;  
 120 (ii) (A) determine that scholarship payments are accounted for separately and

121 reconciled to student records; and

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

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

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

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

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

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

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

137 (b) a school that operates in a residence; ~~H~~→ [or]

137a (c) a school that encourages illegal conduct; or

138 [~~c~~] (d) ~~H~~ a residential treatment facility licensed by the state.

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

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

144 (5) The board shall:

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

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

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

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

151 Section 3. Section **53A-1a-806** is enacted to read:

152 53A-1a-806. Scholarship payments.

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

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

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

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

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

162 (B) the monies available for scholarships shall be prorated among the eligible students  
163 who received scholarships in the previous year; and

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

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

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

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

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

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

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

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

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

181 (F) if the divorced parent with whom the scholarship student resided for the greatest  
182 amount of time or who provided the greatest financial support has remarried, the income of the

183 parent and stepparent; and

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

186 (iii) The rules shall provide that:

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

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

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

192 (3) (a) The board shall compare the income of a scholarship student's parents to the  
193 maximum annual incomes listed in the income eligibility guideline as defined in Section  
194 53A-1a-803 to set the scholarship amount.

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

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

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

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

202 If the annual income of a scholarship  
203 student's parents is:

The full-year scholarship amount is:

204 Less than or equal to 100% of the

205 income eligibility guideline

\$3,000

206 Greater than 100% but less than or equal

207 to 125% of the income eligibility guideline

\$2,750

208 Greater than 125% but less than or equal to

209 150% of the income eligibility guideline

\$2,500

210 Greater than 150% but less than or equal to

211 175% of the income eligibility guideline

\$2,250

212 Greater than 175% but less than or equal to

213 200% of the income eligibility guideline

\$2,000

214 Greater than 200% but less than or equal to  
215 225% of the income eligibility guideline \$1,750

216 Greater than 225% but less than or equal to  
217 250% of the income eligibility guideline \$1,000

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

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

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

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

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

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

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

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

242 (b) A person, on behalf of a private school, may not accept a power of attorney from a  
243 parent to sign a warrant referred to in Subsection (10)(a), and a parent of a scholarship student  
244 may not give a power of attorney designating a person, on behalf of a private school, as the

245 parent's attorney in fact.

246 Section 4. Section **53A-1a-808** is enacted to read:

247 **53A-1a-808. Board to make rules.**

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

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

252 (b) establishing how the income of a scholarship student's parents shall be determined  
253 and verified; and

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

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

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

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

258 Section 5. Section **53A-1a-811** is enacted to read:

259 **53A-1a-811. Review by legislative auditor general.**

260 The legislative auditor general shall conduct a review and issue a report on the Parent  
261 Choice in Education Program after the conclusion of the 2011-12 school year.

262 Section 6. **Appropriation.**

263 As an ongoing appropriation subject to future budget constraints, there is appropriated  
264 from the General Fund for fiscal year 2007-08, ~~Ĥ~~→ [\$200,000] \$100,000 ←~~Ĥ~~ to the State Board  
264a of Education for  
265 the administration of the Parent Choice in Education Act created in Title 53A, Chapter 1a, Part  
266 8.

267 Section 7. **Coordinating H.B. 174 with H.B. 148 -- Substantively superseding**  
268 **amendments.**

269 If this H.B. 174 and H.B. 148, Education Vouchers, both pass, it is the intent of the  
270 Legislature that the amendments to the sections in this bill supersede the amendments to the  
271 same numbered sections in H.B. 148 when the Office of Legislative Research and General  
272 Counsel prepares the Utah Code database for publication.

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**Legislative Review Note**  
as of 2-15-07 2:37 PM

**Office of Legislative Research and General Counsel**

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**H.B. 174 - Education Voucher Amendments - As Amended**

**Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill will appropriate \$100,000 in ongoing General Fund revenues to the State Board of Education for administration of scholarships.

Given the coordination clause in Section 7 of H.B. 174 and given that "Education Vouchers" (H.B. 148, 2007 General Session) has already passed and been signed by the Governor, H.B. 174 will not require appropriations in addition to those contained in H.B. 174 itself. Had H.B. 174 passed in absence of the H.B. 148 or without a coordination clause, H.B. 174 would have had an estimated fiscal impact of \$9.4 million in FY 2008 and \$12.5 million in FY 2009.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$100,000	\$100,000	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Due to coordination of this bill with "Education Vouchers" (HB148, 2007 General Session), enactment of H.B. 174 alone likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.