

Senator Aaron Osmond proposes the following substitute bill:

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 entities 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 entities to fund certain early education programs;
- ▶ requires the State Board of Education to approve contracts of the board;
- ▶ requires the repayment to private entities to be conditioned on meeting performance outcomes set in the contract;
- ▶ requires an independent evaluation of the performance outcomes;
- ▶ requires the State Board of Education to staff the board;
- ▶ allows the board no more than \$10,000,000 of outstanding obligations or the funding of more than 3% of the total public school enrollment at any one time;



26 ▶ details components of a high quality preschool program that may be funded through
27 a results-based contract between the board and private entities;

28 ▶ describes a home-based technology program that may be funded through a
29 results-based contract between the board and private entities; and

30 ▶ establishes reporting requirements.

31 **Money Appropriated in this Bill:**

32 This bill appropriates in fiscal year 2014:

33 ▶ to the ~~§~~→ [General] Education ←~~§~~ Fund Restricted - Results-based Early Education
33a Restricted Account,
34 as an ongoing appropriation:

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

36 ▶ to State Board of Education - Utah State Office of Education

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

38 ▶ to State Board of Education - Utah State Office of Education - Initiative Programs

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

40 **Other Special Clauses:**

41 This bill provides an effective date.

42 **Utah Code Sections Affected:**

43 ENACTS:

44 **53A-1b-101**, Utah Code Annotated 1953

45 **53A-1b-102**, Utah Code Annotated 1953

46 **53A-1b-103**, Utah Code Annotated 1953

47 **53A-1b-104**, Utah Code Annotated 1953

48 **53A-1b-105**, Utah Code Annotated 1953

49 **53A-1b-106**, Utah Code Annotated 1953

50 **53A-1b-107**, Utah Code Annotated 1953

51

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

53 Section 1. Section **53A-1b-101** is enacted to read:

54 **CHAPTER 1b. RESULTS-BASED FINANCING**

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

56 **53A-1b-101. Title.**

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

58 Section 2. Section **53A-1b-102** is enacted to read:

59 **53A-1b-102. Legislative findings.**

60 (1) The Legislature reaffirms its findings in Section 53A-6-102 and states that the
61 primary responsibility for the education of children within the state resides with parents or
62 guardians and that the role of state and local governments is to support and assist parents in
63 fulfilling that responsibility.

64 (2) The Legislature finds that:

65 (a) most preschool-age children are better off when educated at home by the child's
66 parent or guardian;

67 (b) there is evidence that some targeted at-risk preschool-age children do benefit from
68 access to high quality early education programs;

69 (c) high quality early education programs for at-risk children represent special and
70 limited services, which are only appropriate when they are voluntary educational options to
71 parents or guardians of at-risk children; and

72 (d) in establishing these special and limited services, state and local governments
73 should emphasize the importance of the parent as the child's first and most important teacher,
74 and should encourage parents to engage in the education of children at home.

75 Section 3. Section **53A-1b-103** is enacted to read:

76 **53A-1b-103. Definitions.**

77 As used in this part:

78 (1) "Board" means the Results-based Early Education Board, created in Section
79 53A-1b-104.

80 (2) "Economically disadvantaged" means a student who:

81 (a) is eligible to receive free lunch;

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

83 (c) (i) is not otherwise accounted for in Subsection (2)(a) or (b); and

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

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

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

88 (D) is enrolled at a school that does not offer a lunch program and is a sibling of a
 89 student accounted for in Subsection (2)(a) or (b).

90 (3) "Eligible home-based educational technology provider" means a provider that
 91 intends to offer a home-based educational technology program through a results-based contract.

92 (4) "Eligible LEA" means an LEA that:

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

95 (b) agrees to fund a portion of its preschool program funded under this part with
 96 federal funds described in Subsection (4)(a); and

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

100 (5) (a) "Eligible private provider" means a child care program that:

101 (i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39,
 102 Utah Child Care Licensing Act; or

103 (B) is exempt from licensure under Section 26-39-403; and

104 (ii) meets other criteria as established by the board, consistent with Utah Constitution
 105 Article X, Section 1.

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

108 (6) "Eligible student" means a student who:

109 (a) lives in the attendance boundaries of an eligible LEA; ~~§~~ → [and] ← ~~§~~

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

111 (ii) is classified as an English language learner ~~§~~ → [;] ; and

111a (c) scores below average on an age-appropriate pre-assessment selected by an eligible
 111b LEA. ← ~~§~~

112 (7) "Local Education Agency" or "LEA" means a school district or charter school.

113 (8) "Performance outcome measure" means:

114 (a) a cost avoidance in special education use for a student funded pursuant to a contract
 115 under this part; and

116 (b) an academic achievement outcome for a student funded pursuant to a contract
 117 under this part.

118 (9) "Results-based contract" means a contract entered into by the board, a private

119 entity, and a provider of early childhood education that may result in repayment to a private
120 entity if certain performance outcome measures are achieved.

121 Section 4. Section **53A-1b-104** is enacted to read:

122 **53A-1b-104. Results-based Early Education Restricted Account -- Creation --**
123 **Funding -- Distribution of funds.**

124 (1) There is created a restricted account in the ~~§~~ → [General] Education ← ~~§~~ Fund known
124a as the

125 "Results-based Early Education Restricted Account" to fund results-based contracts for eligible
126 students to participate in:

127 (a) a high quality preschool program described in Section 53A-1b-106; or

128 (b) a home-based educational technology program described in Section 53A-1b-107.

129 (2) The restricted account consists of:

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

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

133 (c) federal grants; and

134 (d) private donations.

135 (3) The board shall distribute funds in the restricted account in accordance with
136 Subsection (4) to one or more private entities that the board has entered into a results-based
137 contract with if the independent evaluator determines that the performance-based results have
138 been met.

139 (4) (a) At the end of each year of a results-based contract, the independent evaluator
140 shall determine whether the performance outcome measures set in the results-based contract
141 have been met.

142 (b) If the independent evaluator determines under Subsection (4)(a) that the
143 performance outcome measures have been met, the board shall determine what the repayment
144 to the private entity for that year would be, but not pay the private entity until the end of the
145 fourth year of the results-based contract.

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

148 (d) After the fourth year, the board may pay the private entity on an annual basis, if the
149 independent evaluator determines that the performance outcome measures set in the

150 results-based contract have been met.

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

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

153 (b) \$100,000 annually from the restricted account for the independent evaluation of the

154 performance outcome measures by an independent evaluator required under Section

155 53A-1b-105.

156 Section 5. Section **53A-1b-105** is enacted to read:

157 **53A-1b-105. Establishment of the Results-based Early Education Board --**

158 **Membership -- Duties.**

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

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

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

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

163 (d) two members of the State Board of Education, appointed by the chair of the State

164 Board of Education; and

165 (e) the following individuals appointed by the governor:

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

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

169 (iii) a child development expert.

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

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

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

174 (4) Upon request, the State Board of Education shall provide staff support to the board.

175 (5) (a) The board members shall elect a chair of the board from the board's

176 membership.

177 (b) The board shall meet upon the call of the chair or a majority of the board members.

178 (6) (a) The board may negotiate and enter into a results-based contract with a private
179 entity, selected through a competitive process, to fund a high quality preschool program

180 described in Section 53A-1b-106 or a home-based education technology program described in

181 Section 53A-1b-107.

182 (b) The board may provide for a repayment to a private entity to include a return of
 183 investment and an additional return on investment, dependent on achievement of specific
 184 performance outcome measures set in the results-based contract.

185 (c) Funding obtained for an early education program under this part is not a
 186 procurement item under Section 63G-6a-103.

187 (7) A contract shall include:

188 (a) a requirement that the repayment to the private entity be conditioned on specific
 189 performance outcome measures set in the results-based contract;

190 (b) a requirement for an independent evaluator to determine whether the performance
 191 outcomes have been achieved;

192 (c) a provision that repayment to the private entity is:

193 (i) based upon available money in the Results-based Early Education Restricted
 194 Account; and

195 (ii) subject to legislative appropriation;

196 (d) that the contract is subject to final approval by the State Board of Education; and

197 (e) ~~that~~ the private entity is not eligible to receive or view any
 197a personally-identifiable

198 student data ~~of students~~ funded through a results-based contract.

199 (8) The board may not issue a results-based contract if:

200 (a) the total outstanding obligations of results-based contracts issued by the board
 201 under this part would exceed \$10,000,000; or

202 (b) the total number of ~~at-risk~~ students ~~currently being~~ funded
 202a ~~under this part~~ by results-based contracts would

203 exceed 3% of the state's total enrollment of students in public schools.

204 (9) The State Board of Education shall, by majority vote, approve or deny a
 205 results-based contract within 30 days after the day on which the board submits the results-based
 206 contract to the State Board of Education for approval.

207 (10) (a) Subject to Subsection (10)(b), the board shall select an independent,
 208 nationally-recognized early childhood education evaluator, selected through a request for
 209 proposals process, to annually evaluate performance outcome measures set in a results-based
 210 contract of the board.

211 (b) The State Board of Education shall approve or deny the selection of the

212 independent evaluator chosen in accordance with Subsection (10)(a).

213 (c) If the State Board of Education approves the selection of the independent evaluator
214 chosen in accordance with Subsection (10)(a), the State Board of Education shall contract with
215 the independent evaluator to evaluate performance outcome measures set in a results-based
216 contract of the board.

217 (11) The board shall select a uniform assessment that:

218 (a) is a nationally norm-based measure of age-appropriate cognitive or language skills;

219 (b) has established reliability; and

220 (c) has established validity with other similar measures and with later school outcomes.

221 (12) The private entity may attain capital from a private investor or third party funding
222 source.

223 (13) (a) The board shall ensure that a parent or guardian of an eligible student
224 participating in a program funded pursuant to a results-based contract has given permission and
225 signed an annual acknowledgment that the student's data may be shared with an independent
226 evaluator for research and evaluation purposes.

227 (b) The board shall maintain documentation of parental permission required in
228 Subsection (13)(a).

229 Section 6. Section **53A-1b-106** is enacted to read:

230 **53A-1b-106. High quality preschool.**

231 (1) To receive funding pursuant to a results-based contract awarded under Section
232 53A-1b-105, an eligible LEA shall establish or currently operate a high quality preschool, and
233 pursuant to Subsection (7) partner with a private entity providing high quality preschool, with
234 the following components:

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

237 (i) oral language and listening comprehension;

238 (ii) phonological awareness and prereading;

239 (iii) alphabet and word knowledge;

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

241 (v) book knowledge and print awareness;

242 (vi) numeracy;

- 243 (vii) social and emotional;
244 (viii) gross motor and performing arts;
245 (ix) science and technology; and
246 (x) social studies, health, and safety;
247 (b) ongoing, focused, and intensive professional development for staff of the preschool
248 program;
249 (c) ongoing assessment of a student's educational growth and developmental progress
250 to inform instruction;
251 (d) a pre- and post-assessment, selected by the board in accordance with Section
252 53A-1b-105, of each student;
253 (e) a class size that does not exceed 20 students, with one adult for every 10 students in
254 the class;
255 (f) ongoing program evaluation and data collection to monitor program goal
256 achievement and implementation of required program components;
257 (g) monthly family involvement, including class participation, frequent communication
258 between home and school, and parent education opportunities based on each family's
259 circumstances; and
260 (h) teachers with at least a bachelor's degree or a child development associate
261 certification.
262 (2) An eligible LEA shall assign a statewide unique student identifier to each eligible
263 student funded pursuant to a results-based contract issued under this part.
264 (3) An eligible LEA may not use funds awarded pursuant to a results-based contract to
265 supplant funds for an existing high quality preschool program, but may use the funds to
266 supplement an existing high quality preschool program.
267 (4) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec.
268 6301-6578, an LEA may charge a sliding scale fee to a student participating in a high quality
269 preschool program under this section, based on household income.
270 (5) A student funded pursuant to a results-based contract may not exceed the following
271 amount of time in the classroom:
272 (a) 16 hours per week for a four-year-old student; and
273 (b) 12 hours per week for a three-year-old student.

274 (6) (a) An LEA that receives funds under this section shall report annually to the board
275 the following de-identified information for eligible students funded in whole or in part pursuant
276 to a results-based contracts:

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

279 (ii) attendance;

280 (iii) cost per eligible student;

281 (iv) assessment results of the pre- and post-assessments selected by the board; and

282 (v) aggregated longitudinal data on eligible students currently receiving funding under
283 this part and any eligible students who previously received funding under this part, including:

284 (A) academic achievement outcomes;

285 (B) special education use; and

286 (C) English language learner services.

287 (b) For each year of a results-based contract, the board shall report to the Education
288 Interim Committee the following:

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

290 (ii) the terms of the results-based contract, including:

291 (A) the name of each private entity and funding source;

292 (B) the amount of money each private entity has invested;

293 (C) the performance outcome measures set in the results-based contract by which
294 repayment will be determined; and

295 (D) the repayment schedule to the private entity if the performance outcomes are met.

296 (7) (a) Except as provided in Subsection (11), an eligible LEA shall contract with an
297 eligible private provider, located within the LEA's attendance boundaries, to provide the high
298 quality preschool program to a portion of the LEA's eligible students funded by a results-based
299 contract.

300 (b) The board shall determine in ~~§~~ → [the] ← ~~§~~ a results-based contract the portion of an
300a LEA's

301 eligible students funded by the results-based contract to be served by an eligible private
302 provider.

303 (8) (a) Except as provided in Subsection (8)(b), to receive funding pursuant to a
304 results-based contract, an eligible private provider shall:

- 305 (i) offer a preschool program that contains the components described in Section
306 53A-1b-106;
- 307 (ii) align its assessments, early learning standards, and professional development with
308 the contracting LEA;
- 309 (iii) allow classroom visits by the contracting LEA, the evaluator chosen in accordance
310 with Section 53A-1b-105, the board, the private entity, or the State Board of Education, to
311 ensure the components described in Subsection (8)(a) are being implemented;
- 312 (iv) (A) allow the contracting LEA to administer the required pre- and
313 post-assessments to eligible students funded under this part; or
- 314 (B) at the discretion of the contracting LEA, administer the required pre- and
315 post-assessments to students funded under this part; and
- 316 (v) report the information described in Subsection (6)(a) to the contracting LEA.
- 317 (b) (i) An eligible private provider is not required to meet the requirements of
318 Subsection (1)(e).
- 319 (ii) An eligible private provider is not required to meet the requirements of Subsection
320 (1)(h) for each teacher the first year the teacher teaches in the preschool, but an eligible private
321 provider shall ensure that a teacher meet the requirements of Subsection (1)(h) by the teacher's
322 second year.
- 323 (9) An LEA may provide the eligible private provider with:
- 324 (a) professional development;
- 325 (b) staffing or staff support;
- 326 (c) materials; and
- 327 (d) assessments.
- 328 (10) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C.
329 Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student
330 participating in a high quality preschool program under this section, based on household
331 income.
- 332 (b) The eligible private provider may use grants, scholarships, or other funds to help
333 fund the preschool program.
- 334 (11) If there is no eligible private provider that is willing to contract with an eligible
335 LEA, the eligible LEA is not required to contract with an eligible private provider.

336 (12) A contractual partnership established under Subsection (7) shall be consistent with
337 Utah Constitution Article X, Section 1.

338 (13) The evaluator selected pursuant to Section 53A-1b-105 shall annually evaluate:

339 (a) the quality and outcomes of the high quality preschool program funded by a

340 results-based contract between a private entity and the board, including:

341 (i) adherence to required components described in Subsection (1); and

342 (ii) the pre- and post-assessment results of the assessment, designated by the board

343 under Section 53A-1b-105, of eligible students in the high quality preschool program; and

344 (b) whether or not the performance outcome measures set in the results-based contract
345 have been met, using de-identified data reported in Subsection (6).

346 Section 7. Section **53A-1b-107** is enacted to read:

347 **53A-1b-107. Home-based educational technology for school readiness.**

348 (1) To receive funding pursuant to a results-based contract awarded under Section

349 53A-1b-105, an eligible home-based educational technology provider shall administer a

350 home-based educational technology program designed to prepare eligible students for

351 kindergarten.

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

353 (a) be an evidence-based and age appropriate interactive computer program that

354 teaches eligible students early literacy and numeracy skills needed to be successful upon entry
355 into kindergarten;

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

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

360 (d) have a component requiring the pre- and post-assessment, designated by the board
361 in accordance with Section 53A-1b-105, of each eligible student;

362 (e) provide technical support to families for the installation and operation of the
363 instructional software; and

364 (f) provide for the installation of computer and Internet access in homes of families that
365 cannot afford the equipment or service.

366 (3) An eligible home-based educational technology provider shall work in conjunction

367 with the State Board of Education to assign a statewide unique student identifier to each
368 eligible student funded pursuant to a results-based contract.

369 (4) An eligible home-based educational technology provider may not use funds
370 awarded pursuant to a results-based contract to supplant funds for an existing home-based
371 educational technology program funded by the state, but may use the funds to supplement an
372 existing home-based educational technology program.

373 (5) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec.
374 6301-6578, an eligible home-based educational technology provider may charge a sliding scale
375 fee to a student participating in a home-based educational technology program under this
376 section, based on household income.

377 (6) (a) An eligible home-based educational technology provider that receives funds
378 under this section shall report annually to the board the following de-identified information for
379 eligible students funded in whole or in part pursuant to a results-based contract:

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

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

384 (iii) cost per eligible student;

385 (iv) assessment results of the pre- and post-assessments selected by the board; and

386 (v) number of eligible students served by the home-based educational technology
387 program who participated in any other public or private preschool program, including the type
388 of preschool attended.

389 (b) For each year of a results-based contract, the board shall report to the Education
390 Interim Committee the following:

391 (i) information collected under Subsection (6)(a) for each participating eligible
392 home-based educational technology provider; and

393 (ii) the terms of the results-based contract, including:

394 (A) the name of each private entity and funding source;

395 (B) the amount of money each private entity has invested;

396 (C) the performance outcome measures set in the results-based contract, by which
397 repayment will be determined; and

398 (D) the repayment schedule to the private entity if the performance outcomes are met.

399 (7) The State Board of Education shall report annually to the board aggregated
 400 longitudinal data on eligible students currently receiving funding under this section and any
 401 eligible students who previously received funding under this section, including:

402 (a) academic achievement outcomes;

403 (b) special education use; and

404 (c) English language learner services.

405 (8) The evaluator selected pursuant to Section 53A-1b-105 shall annually evaluate:

406 (a) the quality and outcomes of a home-based technology program funded by a
 407 results-based contract between a private entity and the board, including the pre- and
 408 post-assessment results, of the assessment designated by the board under Section 53A-1b-105,
 409 of eligible students in the program; and

410 (b) whether or not the performance outcome measures set in the results-based contract
 411 have been met, using de-identified data reported in Subsections (6) and (7).

412 **Section 8. Appropriation.**

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

418 To ~~§~~→ [General] Education ←~~§~~ Fund Restricted - Results-based Early
 419 Education Restricted Account

420 From General Fund \$1,000,000

421 Schedule of Programs:

422 ~~§~~→ [-General] Education ←~~§~~ Fund Restricted - Results-based Early Education
 423 Restricted Account \$1,000,000

424 To State Board of Education - State Office of Education

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

426 Schedule of Programs:

427 Board and Administration \$75,000

428 To State Board of Education - State Office of Education - Initiative Programs

429 From Results-based Early Education Restricted Account \$100,000

430 Schedule of Programs:

431 Contracts and Grants \$100,000

432 The Legislature intends that:

433 (1) the \$75,000 appropriation under this section be used to carry out administrative
434 duties pursuant to Subsection 53A-1b-105(4); and

435 (2) the \$100,000 appropriation under this section be used to carry out the requirements
436 of Subsection 53A-1b-105(10).

437 Section 9. **Effective date.**

438 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

439 (2) Uncodified Section 8, Appropriation, takes effect on July 1, 2013.