

## HB0380S01 compared with HB0380

~~{deleted text}~~ shows text that was in HB0380 but was deleted in HB0380S01.

Inserted text shows text that was not in HB0380 but was inserted into HB0380S01.

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Representative Bradley G. Last proposes the following substitute bill:

### UTAH SCHOOL READINESS INITIATIVE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley G. Last**

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

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#### LONG TITLE

##### General Description:

This bill amends provisions related to the School Readiness Initiative.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ moves the School Readiness Board (board) from the Governor's Office of Management and Budget to the Department of Workforce Services;
- ▶ requires the State Board of Education to develop a school readiness program entry assessment;
- ▶ requires certain school readiness programs to administer school readiness program entry and exit assessments;
- ▶ modifies the membership of the board;

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- requires the board to award a contract to a nonprofit entity to provide program support for results-based contracts;
- enacts a prioritization for funding school readiness programs;
- enacts and consolidates provisions related to requirements for recipients of funding through results-based contracts;
- permits the board to fund a high quality school readiness program directly, if the high quality school readiness program meets certain requirements;
- requires the board to select at least three independent evaluators;
- requires the operator of a high quality school readiness program that participates in a results-based contract to select an evaluator to evaluate the high quality school readiness program; and
- makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{None}~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**53E-9-301**, as renumbered and amended by Laws of Utah 2018, Chapter 1

**53F-6-301**, as renumbered and amended by Laws of Utah 2018, Chapter 2

**53F-6-303**, as enacted by Laws of Utah 2018, Chapter 2

**53F-6-305**, as renumbered and amended by Laws of Utah 2018, Chapter 2

**53F-6-309**, as renumbered and amended by Laws of Utah 2018, Chapter 2

**53F-6-310**, as renumbered and amended by Laws of Utah 2018, Chapter 2

~~{53F-9-402}~~ **63J-1-602.2**, as ~~{renumbered and}~~ last amended by Laws of Utah

~~{2018}~~ 2015, ~~{Chapter 2}~~ Chapters 86, 93, and 189

**63J-1-602.3**, as last amended by Laws of Utah 2017, Chapters 396 and 423

RENUMBERS AND AMENDS:

**35A-3-209**, (Renumbered from 53F-6-302, as renumbered and amended by Laws of Utah 2018, Chapter 2)

**35A-3-210**, (Renumbered from 53F-9-402, as renumbered and amended by Laws of

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### Utah 2018, Chapter 2)

#### ENACTS:

**53E-4-314**, Utah Code Annotated 1953

#### REPEALS AND REENACTS:

**53F-6-306**, as renumbered and amended by Laws of Utah 2018, Chapter 2

#### REPEALS:

**53F-6-307**, as renumbered and amended by Laws of Utah 2018, Chapter 2

**53F-6-308**, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section **35A-3-209**, which is renumbered from Section 53F-6-302 is renumbered and amended to read:

~~[53F-6-302].~~        **35A-3-209. Establishment of the School Readiness Board --**

**Membership -- Program intermediary -- Funding prioritization.**

(1) The terms defined in Section 53F-6-301 apply to this section.

~~[(1)]~~ (2) There is created [a] the School Readiness Board within the [Governor's Office of Management and Budget] Department of Workforce Services composed of:

- (a) the director of the Department of Workforces Services or the director's designee;
- (b) one member appointed by the State Board of Education;
- (c) one member appointed by the chair of the State Charter School Board;
- (d) one member who has research experience in the area of early childhood

development, including special education, appointed by the speaker of the House of Representatives; and

(e) one member, appointed by the president of the Senate~~[-]~~, who:

(i) has expertise in pay for success programs; or

(ii) represents a financial institution that has experience managing a portfolio that meets the requirements of the Community Reinvestment Act, 12 U.S.C. Sec. 2901 et seq.

~~[(2)]~~ (3) (a) A member described in [Subsections (1)] Subsection (2)(c), (d), [and] or  
(e) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection ~~[(1)]~~ (2)(c), (d), or (e), the person appointing the member shall appoint a replacement to serve the remainder of the

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member's term.

~~[(3)]~~ (4) A member may not receive compensation or benefits for the member's service.

~~[(4) Upon request, the Governor's Office of Management and Budget shall provide staff support to the board.]~~

(5) The department shall provide staff support to the board.

~~[(5)]~~ (6) (a) The board members shall elect a chair of the board from the board's membership.

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

(7) In accordance with Title 63G, Chapter 6a, ~~{Part 7, Requests for Proposals}~~ Utah Procurement Code, and subject to Subsection (8), the board shall:

(a) select a program intermediary that:

(i) is a nonprofit entity; and

(ii) has experience:

(A) developing and executing contracts;

(B) structuring the terms and conditions of a pay for success program;

(C) coordinating the funding and management of a pay for success program; and

(D) raising private investment capital necessary to fund program services related to a pay for success program; and

(b) enter into a contract with the program intermediary.

(8) The board may not enter into a contract described in Subsection (7) without the consent of the department regarding:

(a) the program intermediary selected; and

(b) the terms of the contract.

(9) A contract described in Subsection (7)(b) shall:

(a) require the program intermediary to:

(i) seek out participants for results-based contracts;

(ii) advise the board on results-based contracts; and

(iii) make recommendations directly to the board on:

(A) when to enter a results-based contract; and

(B) the terms of a results-based contract; and

(b) include a provision that the program intermediary is not eligible to receive or view

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personally identifiable student data of eligible students funded under ~~(this part)~~ the School Readiness Initiative described in this part and Title 53F, Chapter 6, Part 3, School Readiness Initiative.

(10) In allocating funding, the board shall:

(a) give first priority to a results-based contract described in Subsection 53F-6-309(3)

to fund a high quality school readiness program directly;

(b) give second priority to a results-based contract that includes an investor; and

(c) give third priority to a grant described in Section 53F-6-305.

(11) Other powers and duties of the board are described in Title 53F, Chapter 6, Part 3,

School Readiness Initiative.

Section 2. Section 35A-3-210, which is renumbered from Section 53F-9-402 is renumbered and amended to read:

**[53F-9-402]. 35A-3-210. School Readiness Restricted Account -- Creation**

**-- Funding -- Distribution of funds.**

(1) The terms defined in Section 53F-6-301 apply to this section.

(2) There is created in the General Fund a restricted account known as the "School Readiness Restricted Account" ~~[to fund:]~~.

~~[(a) the High Quality School Readiness Grant Program described in Section 53F-6-305; and]~~

~~[(b) results-based school readiness contracts for eligible students to participate in:]~~

~~[(i) a high quality preschool program described in:]~~

~~[(A) Section 53F-6-306; or]~~

~~[(B) Section 53F-6-307; or]~~

~~[(ii) an eligible home-based educational technology program described in Section 53F-6-308.]~~

(3) The ~~[restricted account]~~ School Readiness Restricted Account consists of:

(a) money appropriated ~~[to the restricted account]~~ by the Legislature;

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

(c) federal grants; and

(d) private donations.

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(4) Subject to legislative appropriations, money in the restricted account may be used [for the following purposes]:

(a) to award [grants] a grant under the High Quality School Readiness Grant Program described in Section 53F-6-305;

(b) to contract with [an independent evaluator as required in Subsection 53F-6-309(3)] an evaluator;

[(c) in accordance with Section 53F-6-309, to make payments to one or more private entities that the board has entered into a results-based contract with if the independent evaluator selected by the board determines that the performance-based results have been met; and]

(c) to fund the participation of eligible students in a high quality school readiness program through a results-based contract; and

(d) for administration costs and to monitor the programs described in [this part] Section 35A-3-209 and Title 53F, Chapter 6, Part 3, School Readiness Initiative.

Section ~~{2}~~3. Section **53E-4-314** is enacted to read:

### **53E-4-314. School readiness assessment.**

(1) As used in this section:

(a) "School readiness assessment" ~~{mean}~~means the preschool entry assessment described in this section.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under:

(A) Title 53F, Chapter 5, Part 3, High Quality School Readiness Program; or

(B) Title 53F, Chapter 6, Part 3, School Readiness Initiative.

(2) The State Board of Education shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section 53F-4-205.

(3) A school readiness program shall:

(a) administer to each student who participates in a school readiness program:

(i) the school readiness assessment at the beginning of the student's participation in the school readiness program; and

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(ii) the kindergarten entry assessment described in Section 53F-4-205 at the end of the student's participation in the school readiness program; and

(b) report the results of the ~~{school readiness assessment}~~ assessments described in Subsection (3)(a) to:

(i) the State Board of Education; and

(ii) the Department of Workforce Services.

Section ~~{3}~~4. Section **53E-9-301** is amended to read:

### **53E-9-301. Definitions.**

As used in this part:

(1) "Adult student" means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance

Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with board rule.

(3) (a) "Biometric identifier" means a:

(i) retina or iris scan;

(ii) fingerprint;

(iii) human biological sample used for valid scientific testing or screening; or

(iv) scan of hand or face geometry.

(b) "Biometric identifier" does not include:

(i) a writing sample;

(ii) a written signature;

(iii) a voiceprint;

(iv) a photograph;

(v) demographic data; or

(vi) a physical description, such as height, weight, hair color, or eye color.

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(4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:

- (a) based on an individual's biometric identifier; and
- (b) used to identify the individual.

(5) "Board" means the State Board of Education.

(6) "Cumulative disciplinary record" means disciplinary student data that is part of a cumulative record.

(7) "Cumulative record" means physical or electronic information that the education entity intends:

- (a) to store in a centralized location for 12 months or more; and
- (b) for the information to follow the student through the public education system.

(8) "Data authorization" means written authorization to collect or share a student's student data, from:

- (a) the student's parent, if the student is not an adult student; or
- (b) the student, if the student is an adult student.

(9) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) provides for necessary technical assistance, training, support, and auditing;

(c) describes the process for sharing student data between an education entity and another person;

(d) describes the process for an adult student or parent to request that data be expunged; and

(e) is published annually and available on the education entity's website.

(10) "Education entity" means:

- (a) the board;
- (b) a local school board;
- (c) a charter school governing board;
- (d) a school district;
- (e) a charter school;



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(f) the Utah Schools for the Deaf and the Blind; or

(g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section [~~53F-6-302~~] 35A-3-209.

(11) "Expunge" means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.

(12) "External application" means a general audience:

(a) application;

(b) piece of software;

(c) website; or

(d) service.

(13) "Individualized education program" or "IEP" means a written statement:

(a) for a student with a disability; and

(b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(14) "Internal application" means an Internet website, online service, online application, mobile application, or software, if the Internet website, online service, online application, mobile application, or software is subject to a third-party contractor's contract with an education entity.

(15) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school;

(c) the Utah Schools for the Deaf and the Blind; or

(d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section [~~53F-6-302~~] 35A-3-209.

(16) "Metadata dictionary" means a complete list of an education entity's student data elements and other education-related data elements, that:

(a) defines and discloses all data collected, used, stored, and shared by the education entity, including:

(i) who uses a data element within an education entity and how a data element is used

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within an education entity;

(ii) if a data element is shared externally, who uses the data element externally and how a data element is shared externally;

(iii) restrictions on the use of a data element; and

(iv) parent and student rights to a data element;

(b) designates student data elements as:

(i) necessary student data; or

(ii) optional student data;

(c) designates student data elements as required by state or federal law; and

(d) without disclosing student data or security information, is displayed on the education entity's website.

(17) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:

(a) name;

(b) date of birth;

(c) sex;

(d) parent contact information;

(e) custodial parent information;

(f) contact information;

(g) a student identification number;

(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;

(i) courses taken and completed, credits earned, and other transcript information;

(j) course grades and grade point average;

(k) grade level and expected graduation date or graduation cohort;

(l) degree, diploma, credential attainment, and other school exit information;

(m) attendance and mobility;

(n) drop-out data;

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

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- (r) tribal affiliation;
  - (s) remediation efforts;
  - (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;
  - (u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;
  - (v) student injury information;
  - (w) a cumulative disciplinary record created and maintained as described in Section 53E-9-306;
  - (x) juvenile delinquency records;
  - (y) English language learner status; and
  - (z) child find and special education evaluation data related to initiation of an IEP.
- (18) (a) "Optional student data" means student data that is not:
- (i) necessary student data; or
  - (ii) student data that an education entity may not collect under Section 53E-9-305.
- (b) "Optional student data" includes:
- (i) information that is:
    - (A) related to an IEP or needed to provide special needs services; and
    - (B) not necessary student data;
  - (ii) biometric information; and
  - (iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.
- (19) "Parent" means a student's parent or legal guardian.
- (20) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.
- (b) "Personally identifiable student data" includes:
    - (i) a student's first and last name;
    - (ii) the first and last name of a student's family member;
    - (iii) a student's or a student's family's home or physical address;
    - (iv) a student's email address or other online contact information;
    - (v) a student's telephone number;

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- (vi) a student's social security number;
  - (vii) a student's biometric identifier;
  - (viii) a student's health or disability data;
  - (ix) a student's education entity student identification number;
  - (x) a student's social media user name and password or alias;
  - (xi) if associated with personally identifiable student data, the student's persistent identifier, including:
    - (A) a customer number held in a cookie; or
    - (B) a processor serial number;
  - (xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;
  - (xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and
  - (xiv) other information that is linked to a specific student that would allow a reasonable person in the school community, who does not have first-hand knowledge of the student, to identify the student with reasonable certainty.
- (21) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.
- (22) (a) "Student data" means information about a student at the individual student level.
- (b) "Student data" does not include aggregate or de-identified data.
- (23) "Student data disclosure statement" means a student data disclosure statement described in Section 53E-9-305.
- (24) "Student data manager" means:
- (a) the state student data officer; or
  - (b) an individual designated as a student data manager by an education entity under Section 53E-9-303.
- (25) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

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(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(26) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

Section ~~{4}~~5. Section **53F-6-301** is amended to read:

### **53F-6-301. Definitions.**

As used in this part:

(1) "Board" means the School Readiness Board, created in Section ~~[53F-6-302]~~  
35A-3-209.

(2) "Economically disadvantaged" means ~~[a student who:]~~ to be eligible to receive free or reduced price lunch.

~~[(a) is eligible to receive free lunch;]~~

~~[(b) is eligible to receive reduced price lunch; or]~~

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

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

~~[(B) has a Declaration of Household Income on file;]~~

~~[(C) is eligible for a fee waiver; or]~~

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

(3) "Eligible home-based educational technology provider" means a provider that intends to offer a home-based educational technology program.

(4) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying

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each student with a statewide unique student identifier.

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

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

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

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

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

(6) "Eligible student" means a student:

(a) who is economically disadvantaged[;]; and

(b) whose parent or legal guardian reports that the student has experienced at least one risk factor.

(7) "Evaluator" means an independent evaluator selected in accordance with Section 53F-3-309.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 53F-6-304.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 53F-6-309 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

[(7)] (10) "Local Education Agency" or "LEA" means a school district or charter school.

(11) "Pay for success program" means a program funded through a model in which the program is initially funded through private funding and the entity providing the private funding receives repayment through public funding if the program ~~meets~~ achieves certain ~~goals~~ outcomes.

[(8)] (12) "Performance outcome measure" means a cost avoidance in special education

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use for a student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based [school readiness] contract.

~~[(9)(a) "Private entity" means a private investor or investors that enter into a results-based school readiness contract.]~~

~~[(b) "Private entity" includes an authorized representative of the private investor or investors.]~~

(13) "Program intermediary" means an entity selected by the board under Section 35A-3-209 to coordinate with the Department of Workforce Services to provide program support to the board.

~~[(10)] (14) "Results-based [school readiness] contract" means a contract [entered into by the board, a private entity, and a provider of early childhood education that may result in repayment to a private entity if certain performance outcome measures are achieved:] that:~~

(a) is entered into in accordance with Section 53F-3-309;

(b) includes a performance outcome measure; and

(c) is between:

(i) the board, a provider of a high quality school readiness program, and an investor; or

(ii) the board and a provider of a high quality school readiness program.

(15) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

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(i) the primary language spoken in a child's home is a language other than English; or

(j) having at least one parent who has not completed high school.

~~[(11)]~~ (16) "Student at-risk for later special education placement" means ~~[a preschool]~~  
an eligible student who, at preschool entry, scores ~~[at or below]~~ at least two standard deviations  
below the mean on the assessment selected by the board under Section 53F-6-309.

Section 6. Section 53F-6-303 is amended to read:

### **53F-6-303. School Readiness Restricted Account.**

As described in Section ~~[53F-9-402]~~ 35A-3-210, the School Readiness Restricted  
Account provides funding for this part.

Section ~~{5}7~~ 7. Section **53F-6-305** is amended to read:

### **53F-6-305. High Quality School Readiness Grant Program.**

(1) The High Quality School Readiness Grant Program is created to provide grants to  
the following, in order to upgrade an existing preschool or home-based educational technology  
program to a high quality school readiness program:

- (a) an eligible private provider;
- (b) an eligible LEA; or
- (c) an eligible home-based educational technology provider.

(2) The State Board of Education shall:

- (a) solicit proposals from eligible LEAs; and
- (b) make recommendations to the board to award grants to respondents based on  
criteria described in Subsection (5).

(3) The Department of Workforce Services shall:

- (a) solicit proposals from eligible private providers and eligible home-based  
educational technology providers; and
- (b) make recommendations to the board to award grants to respondents based on  
criteria described in Subsection (5).

(4) Subject to legislative appropriations, and the prioritization described in Section  
35A-3-209, the board shall award grants to respondents based on:

- (a) the recommendations of the State Board of Education;
- (b) the recommendations of the Department of Workforce Services; and
- (c) the criteria described in Subsection (5).



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(5) (a) In awarding a grant under Subsection (4), the State Board of Education, Department of Workforce Services, and the board shall consider:

(i) a respondent's capacity to effectively implement the components described in Section 53F-6-304;

(ii) the percentage of a respondent's students who are ~~[economically disadvantaged]~~ eligible students; and

(iii) the level of administrative support and leadership at a respondent's program to effectively implement, monitor, and evaluate the program.

(b) The board may not award a grant to an LEA without obtaining approval from the State Board of Education to award the grant to the LEA.

(6) To receive a grant under this section, a respondent that is an eligible LEA shall submit a proposal to the State Board of Education detailing:

(a) the respondent's strategy to implement the high quality components described in ~~[Subsection 53F-6-304(1)]~~ Section 53F-6-304;

(b) the number of students the respondent plans to serve, categorized by age and ~~[economically disadvantaged status]~~ whether the students are eligible students;

(c) the number of high quality ~~[preschool]~~ school readiness program classrooms the respondent plans to operate; and

(d) the estimated cost per student.

(7) To receive a grant under this section, a respondent that is an eligible private provider or an eligible home-based educational technology provider shall submit a proposal to the Department of Workforce Services detailing:

(a) the respondent's strategy to implement the high quality components described in Section 53F-6-304;

(b) the number of students the respondent plans to serve, categorized by age and ~~[economically disadvantaged status]~~ whether the students are eligible students;

(c) for a respondent that is an eligible private provider, the number of high quality ~~[preschool]~~ school readiness program classrooms the respondent plans to operate; and

(d) the estimated cost per student.

~~[(8) All recipients of grants]~~

(8) (a) A recipient of a grant under this section shall ~~[establish a preschool or~~

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~~home-based educational technology program with the]~~ use the grant to move the recipient's preschool program toward achieving the components described in Section 53F-6-304.

(b) A recipient of a grant under this section may not enter into a results-based contract while the recipient receives the grant.

(9) (a) A grant recipient shall allow classroom or other visits by an [~~independent evaluator chosen by the board in accordance with Section 53F-6-309]~~ evaluator.

(b) The [~~independent]~~ evaluator shall:

(i) determine whether a grant recipient has effectively implemented the components described in Section 53F-6-304; and

(ii) report the [~~independent]~~ evaluator's findings to the board.

~~[(10)(a) A grant recipient that is an eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.]~~

~~[(b) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.]~~

(10) A recipient of a grant under this section shall ensure that each student who is enrolled in a classroom or who uses a home-based educational technology program supported by the grant has a unique student identifier by:

(a) if the recipient is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or

(b) if the recipient is an eligible private provider or eligible home-based ~~educational~~ technology provider, working with the State Board of Education to assign a unique student identifier to each student enrolled in the classroom or who uses ~~for~~the home-based educational technology program.

(11) A grant recipient that is an LEA shall report annually to the board and the State Board of Education the following:

(a) number of students served by the preschool, [~~reported by economically disadvantaged status]~~ including the number of students who are eligible students;

(b) attendance;

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- (c) cost per student; and
- (d) assessment results.

(12) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report annually to the board and the Department of Workforce Services the following:

(a) number of students served by the preschool or program, [~~reported by economically disadvantaged status~~] including the number of students who are eligible students;

- (b) attendance;
- (c) cost per student; and
- (d) assessment results.

(13) The State Board of Education and the Department of Workforce Services shall make rules to effectively administer and monitor the [~~High Quality School Readiness Grant Program~~] grant program described in this section, including:

- (a) requiring grant recipients to use the pre- and post-assessment selected by the board in accordance with Section 53F-6-309; and
- (b) establishing reporting requirements for grant recipients.

(14) At the request of the board, the State Board of Education and the Department of Workforce Services shall annually share the information received from grant recipients described in Subsections (11) and (12) with the board.

Section ~~6~~8. Section **53F-6-306** is repealed and reenacted to read:

**53F-6-306. Requirements for a school readiness program to receive funding through a results-based contract.**

(1) As used in this section:

(a) "Participating program operator" means an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider, that is a party to a results-based contract.

(b) "Program" means a school readiness program funded through a results-based contract.

(2) (a) Subject to the requirements of this part, an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider that operates a high quality school readiness program may enter into and receive funding through a results-based

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contract.

(b) An eligible LEA, an eligible private provider, or an eligible home-based educational technology provider may not enter into a results-based contract while receiving a grant under Section 53F-6-305.

(3) A participating program operator shall ensure that each student who is enrolled in a classroom, or who uses a home-based educational technology, that is part of a participating program operator's program has a unique student identifier by:

(a) if the participating program operator is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or

(b) if the participating program operator is an eligible private provider or eligible home-based technology provider, working with the State Board of Education to assign a unique student identifier to each student enrolled in the classroom or who uses the home-based educational technology.

(4) A participating program operator may not use funds received through a results-based contract to supplant funds for an existing high quality school readiness program, but may use the funds to supplement an existing high quality school readiness program.

(5) (a) If not prohibited by the Elementary and Secondary Education Act of 1965, 20 U.S.C. Secs. 6301-6576, a participating program operator may charge a sliding scale fee, based on household income, to a student enrolled in the participating program operator's program.

(b) A participating program operator may use grants, scholarships, or other money to help fund the program.

(6) A participating program operator shall:

(a) select an evaluator to annually evaluate:

(i) the results of the pre- and post-assessment described in Section 53F-6-309 for each eligible student funded through a results-based contract;

(ii) performance on the performance outcome measure as described in Section 53F-6-309; and

(iii) for a participating program operator that is a home-based educational technology provider, whether the home-based educational technology is being used with fidelity; and

(b) allow classroom visits to ensure the program ~~is a high quality school readiness program~~ meets the requirements described in this part by:

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- (i) the evaluator;
- (ii) the program intermediary;
- (iii) the investor, if applicable;
- (iv) the State Board of Education; and
- (v) the Department of Workforce Services.

(7) (a) A participating program operator that is an eligible LEA may contract with an eligible private provider to provide a high quality school readiness program to a portion of the LEA's eligible students if:

- (i) the results-based contract specifies the number of students to be served by the eligible private provider;
- (ii) the eligible private provider meets the requirements described in this section for a participating program operator;
- (iii) the eligible private provider reports the information described in Section 53F-6-310 to the board and the contracting eligible LEA; and
- (iv) the contractual partnership is consistent with ~~the~~ Utah Constitution, Article X, Section 1.

(b) An eligible LEA that contracts with an eligible private provider shall provide supportive services to the eligible private provider, which may include:

- (i) professional development;
- (ii) staffing or staff support;
- (iii) materials; or
- (iv) assessments.

Section ~~7~~9. Section **53F-6-309** is amended to read:

**53F-6-309. Results-based contracts -- Assessment selection -- Independent evaluators.**

~~[(1) (a) The board may negotiate and enter into a results-based contract with a private entity, selected through a competitive process, to fund:]~~

- ~~[(i) a high quality preschool program described in Section 53F-6-306;]~~
- ~~[(ii) a high quality preschool program described in Section 53F-6-307; or]~~
- ~~[(iii) a home-based education technology program described in Section 53F-6-308;]~~
- ~~[(b) The board may not issue a results-based contract if the total outstanding~~

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obligations of results-based contracts issued by the board under this part would exceed \$15,000,000 at any one time.]

(1) The board may enter into a results-based contract to fund participation of eligible students in a high quality school readiness program in accordance with Section 35A-3-209 and this part.

(2) (a) Except as provided in Subsection (3), the board shall include an investor as a party to a results-based contract.

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

~~[(d)]~~ (c) The additional return on investment described in Subsection ~~[(1)(c)]~~ (2)(b) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based ~~[school readiness]~~ contract.

~~[(c)]~~ (d) Funding obtained for an early education program ~~[under this part]~~ through a results-based contract that includes an investor is not a procurement item under Section 63G-6a-103.

~~[(2)]~~ (e) ~~[A contract]~~ A results-based contract that includes an investor shall include:

~~[(a)]~~ (i) a requirement that the repayment to the ~~[private entity]~~ investor be conditioned on ~~[specific]~~ achieving the performance outcome measures set in the results-based contract;

~~[(b)]~~ (ii) a requirement for an ~~[independent]~~ evaluator to determine whether the performance ~~[outcomes]~~ outcome measures have been achieved;

~~[(c)]~~ (iii) a provision that repayment to the ~~[private entity]~~ investor is:

~~[(1)]~~ (A) based upon available money in the School Readiness Restricted Account ~~created~~ described in Section ~~{53F-9-402}~~ 35A-3-210; and

~~[(11)]~~ (B) subject to legislative ~~[appropriation]~~ appropriations; and

~~[(d)]~~ (iv) a provision that the ~~[private entity]~~ investor is not eligible to receive or view ~~[any]~~ personally identifiable student data of students funded through ~~[a]~~ the results-based contract.

(f) The board may not issue a results-based contract that includes an investor as a party to the contract if the total outstanding obligations of results-based contracts that include an

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investor as a party to the contract would exceed \$15,000,000 at any one time.

(3) (a) The board may enter **into** a results-based contract to directly fund a high quality school readiness program that has at least four years of data for at least one cohort of students showing that the high quality school readiness program has met a performance outcome measure.

(b) A results-based contract described in Subsection (3)(a):

(i) does not require an investor; and

(ii) shall include a provision that:

(A) requires that **in order to continue receiving funding**, the high quality school readiness program continue to meet a performance outcome measure; and

(B) provides an improvement time frame during which the high quality school readiness program may continue to receive funding if the high quality school readiness program fails to continue to meet the performance outcome measure.

~~[(3) The board shall select an independent, nationally recognized early childhood education evaluator, selected through a request for proposals process, to annually evaluate:]~~

~~[(a) performance outcome measures set in a results-based contract of the board; and]~~

~~[(b) a High Quality School Readiness Grant Program recipient's program.]~~

(4) The board shall select a uniform assessment of age-appropriate cognitive or language skills that:

(a) is nationally norm-referenced;

(b) has established reliability;

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

and

(d) has strong psychometric characteristics.

(5) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select at least three independent evaluators with experience in:

(i) evaluating school readiness programs; and

(ii) administering the assessment selected under Subsection (4).

(b) An eligible LEA, eligible private provider, or eligible home-based **educational** technology provider that has a results-based contract shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-306.

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(c) The board shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-305.

~~[(5)]~~ (6) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator described in Subsection (5)(b) shall determine whether the performance outcome measures set in the results-based contract have been met.

~~[(b) If the independent evaluator determines under Subsection (5)(a) that the performance outcome measures have been met, the board may pay the private entity according to the terms of the results-based contract.]~~

(b) The board may not ~~frepay~~ pay an investor unless the evaluation described in Subsection (6)(a) determines that the performance outcome measures in the results-based contract have been met.

~~[(6)]~~ (7) (a) The board shall ensure that a parent or guardian of an eligible student participating in a program funded ~~[pursuant to]~~ through a results-based contract has given permission and signed an acknowledgment that the student's data may be shared with an independent evaluator for research and evaluation purposes, subject to federal law.

(b) The board shall maintain documentation of parental permission required in Subsection ~~[(6)(a)]~~ (7)(a).

Section ~~8~~ 10. Section **53F-6-310** is amended to read:

**53F-6-310. Reporting requirements for a recipient of funding through a results-based contract -- Reporting to the Legislature.**

(1) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that receives funds ~~[pursuant to]~~ through a results-based contract ~~[under this part]~~ shall report annually to the board the following de-identified information for eligible students funded in whole or in part ~~[pursuant to a]~~ through the results-based contract:

(a) the number of eligible students served by the [recipient's preschool or home-based educational technology program] high quality school readiness program, reported by economically disadvantaged status [and], English language learner status, and the number of risk factors reported for each eligible student;

(b) attendance;

(c) cost per eligible student;



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(d) assessment results of the pre- and post-assessments [~~selected by the board, and~~]  
described in Section 53F-6-309;

(e) results of the ~~{preschool assessment}~~assessments described in Section 53E-4-314;  
and

(f) for an eligible home-based educational technology provider, the average time, and range of time usage, ~~that~~ an eligible student who does not attend another preschool program spends using the home-based educational technology program per week.

~~[(e)]~~ (2) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently [receiving funding] funded under this part and any eligible students who previously [received funding] funded under this part, including:

~~[(i)]~~ (a) academic achievement outcomes;

~~[(ii)]~~ (b) special education use; [~~and~~]

~~[(iii)]~~ (c) English language learner services[~~;~~]; and

(d) scores on the kindergarten entry and exit assessment described in Section 53F-4-205.

~~[(2)]~~ (3) For each year of a results-based contract, the board shall report to the Education Interim Committee [~~the following~~] and the Economic Development and Workforce Services Interim Committee:

(a) information [~~collected under~~] described in Subsection (1) for each participating LEA, private provider, and home-based educational technology provider; [~~and~~]

(b) the data described in Subsection (2); and

~~[(b)]~~ (c) the terms of [~~the~~] each results-based contract, including, as applicable:

(i) the name of [~~each private entity~~] the investor and funding source;

(ii) the amount of money each [~~private entity~~] investor has invested;

(iii) the performance outcome measures set in the results-based contract by which repayment [~~will be~~] is determined; and

(iv) the repayment schedule to the [~~private entity~~] investor if the performance [~~outcomes are~~] outcome measures are met.

Section ~~{9}~~ 11. Section ~~{53F-9-4}~~ 63J-1-602.2 is amended to read:

~~{53F-9-402.}~~ 63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.

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(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.

(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.

(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(4) Appropriations from the Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(8) The School Readiness Restricted Account ~~{-- Creation -- Funding -- Distribution of funds.~~

~~\_\_\_\_\_ (1) The terms defined,~~ created in Section 35A-3-210.

~~[(8)]~~ (9) Funding for the General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

~~[(9)]~~ (10) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

~~[(10)]~~ (11) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(12) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

~~[(11)]~~ (13) Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.

~~[(12)]~~ (14) Appropriations to the Utah National Guard, created in Title 39, Militia and Armories.

~~[(13)]~~ (15) Appropriations from the Oil and Gas Conservation Account created in

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### Section 40-6-14.5.

~~[(14)]~~ (16) Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

~~[(15)]~~ (17) Funds available to the Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

~~[(16)]~~ (18) Appropriations from the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the Tax Commission.

Section 12. Section **63J-1-602.3** is amended to read:

**63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

(1) The Utah Law Enforcement Memorial Support Restricted Account created in  
Section ~~{53F-6-301 apply to this section:~~

~~— (2) There is created in the General Fund a restricted account known as the "~~53-1-120.

(2) Funding for the Search and Rescue Financial Assistance Program, as provided in  
Section 53-2a-1102.

(3) Appropriations made to the Division of Emergency Management from the State  
Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

(4) Appropriations made to the Department of Public Safety from the Department of  
Public Safety Restricted Account, as provided in Section 53-3-106.

(5) Appropriations to the Motorcycle Rider Education Program, as provided in Section  
53-3-905.

(6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account  
created in Section 53-8-303.

(7) Appropriations from the DNA Specimen Restricted Account created in Section  
53-10-407.

(8) The Canine Body Armor Restricted Account created in Section 53-16-201.

~~[(9) The School Readiness Restricted Account {"[ to fund:]~~

~~— [(a) the High Quality School Readiness Grant Program described]~~ created in Section  
~~{53F-6-305; and}~~

~~— [(b) results-based school readiness contracts for eligible students to participate in:]~~

~~— [(i) a high quality preschool program described in:]~~

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— ~~[(A) Section 53F-6-306; or]~~

— ~~[(B) Section 53F-6-307; or]~~

— ~~[(ii) an eligible home-based educational technology program described]~~ 53A-1b-104.

[(10) Appropriations to the State Board of Education, as provided in Section  
{53F-6-308.}

— ~~(3) The [restricted account] School Readiness Restricted Account consists of:~~

— ~~(a) money appropriated [to the restricted account] by the Legislature;~~

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

— ~~(c) federal grants; and~~

— ~~(d) private donations.~~

— ~~(4) Subject to legislative appropriations, money in the restricted account may be used [for the following purposes]:~~

— ~~(a) to award [grants] a grant under the High Quality School Readiness Grant Program described]~~ 53A-17a-105.

[(11) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.]

[(12)] (9) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section {53F-6-305;

— ~~(b) to contract with [an independent evaluator as required in Subsection 53F-6-309(3)] an independent evaluator described]~~ 53B-6-104.

[(13)] (10) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

[(14)] (11) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(12) Appropriations to the State Board of Education, as provided in Section  
{53F-6-309;

— ~~[(c) in accordance with Section 53F-6-309, to make payments to one or more private entities that the board has entered into a results-based contract with if the independent evaluator selected by the board determines that the performance-based results have been met; and]~~

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~~— (c) to fund the participation of eligible students in a high quality school readiness program through a results-based contract; and~~

~~— (d) for administration costs and to monitor the programs described in [this part] Section 35A-3-209 and Chapter 6, Part 3, School Readiness Initiative.~~

~~— Section 10} 53F-2-205.~~

[(15)] (13) Subject to Subsection 54-5-1.5(4)(d), appropriations from the Public Utility Regulatory Restricted Account created in Section 54-5-1.5.

[(16)] (14) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[(17)] (15) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[(18)] (16) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

[(19)] (17) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 13. Repealer.

This bill repeals:

Section 53F-6-307, High quality preschool programs for eligible private providers.

Section 53F-6-308, Home-based educational technology for school readiness.

†

### **Legislative Review Note**

**Office of Legislative Research and General Counsel}**

Section 14. Effective date.

This bill takes effect on July 1, 2018.