

Senator Lincoln Fillmore proposes the following substitute bill:

**EDUCATION SCHOLARSHIP AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Candice B. Pierucci

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**LONG TITLE**

**General Description:**

This bill amends provisions related to scholarships for elementary and secondary education.

**Highlighted Provisions:**

This bill:

- ▶ amends a scholarship granting organization's time period for submitting an audit report to the State Board of Education (state board);
- ▶ requires the state auditor to perform regular audits of certain scholarships;
- ▶ prohibits private schools from charging a scholarship student more in fees than other students based solely upon the scholarship student being a scholarship recipient;
- ▶ provides the state board additional time to fulfill procurement and contract obligations under certain circumstances; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53E-7-405**, as last amended by Laws of Utah 2022, Chapters 262, 456

29 **53E-7-408**, as last amended by Laws of Utah 2022, Chapter 262

30 **53F-4-303**, as last amended by Laws of Utah 2019, Chapter 186

31 **67-3-1**, as last amended by Laws of Utah 2022, Chapter 307

32 ENACTS:

33 **53F-6-401**, Utah Code Annotated 1953



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

36 Section 1. Section **53E-7-405** is amended to read:

37 **53E-7-405. Program donations -- Scholarship granting organization**  
38 **requirements.**

39 (1) A person that makes a donation to a scholarship granting organization to help fund  
40 scholarships through the program may be eligible to receive a nonrefundable tax credit as  
41 described in Sections **59-7-625** and **59-10-1041**.

42 (2) In accordance with Section **53E-7-404**, an organization may enter into an  
43 agreement with the state board to be a scholarship granting organization.

44 (3) A scholarship granting organization shall:

45 (a) accept program donations and allow a person that makes a program donation to  
46 designate a qualifying school to which the donation shall be directed for scholarships;

47 (b) adopt an application process in accordance with Subsection (5);

48 (c) review scholarship applications and determine scholarship awards;

49 (d) allocate scholarship money to a scholarship student's parent or, on the parent's  
50 behalf, to a qualifying school in which the scholarship student is enrolled;

51 (e) adopt a process, with state board approval, that allows a parent to use a scholarship  
52 to pay for a nontuition scholarship expense for the scholarship student;

53 (f) ensure that during the state fiscal year:

54 (i) at least 92% of the scholarship granting organization's revenue from program  
55 donations is spent on scholarships;

56 (ii) up to 5% of the scholarship granting organization's revenue from program

57 donations is spent on administration of the program;

58 (iii) up to 3% of the scholarship granting organization's revenue from program

59 donations is spent on marketing and fundraising costs; and

60 (iv) all revenue from program donations' interest or investments is spent on

61 scholarships;

62 (g) carry forward no more than 40% of the scholarship granting organization's program

63 donations from the state fiscal year in which the scholarship granting organization received the

64 program donations to the following state fiscal year;

65 (h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater

66 than the amount described in Subsection (3)(g);

67 (i) prohibit a scholarship granting organization employee or officer from handling,

68 managing, or processing program donations, if, based on a criminal background check

69 conducted by the state board in accordance with Section 53E-7-404, the state board identifies

70 the employee or officer as posing a risk to the appropriate use of program donations;

71 (j) ensure that a scholarship can be transferred during the school year to a different

72 qualifying school that accepts the scholarship student;

73 (k) report to the state board on or before October 1 of each year the following

74 information, prepared by a certified public accountant:

75 (i) the name and address of the scholarship granting organization;

76 (ii) the total number and total dollar amount of program donations that the scholarship

77 granting organization received during the previous calendar year;

78 (iii) (A) the total number and total dollar amount of scholarships the scholarship

79 granting organization awarded during the previous state fiscal year to eligible students

80 described in Subsection 53E-7-401(1)(a); and

81 (B) the total number and total dollar amount of scholarships the scholarship granting

82 organization awarded during the previous state fiscal year to eligible students described in

83 Subsection 53E-7-401(1)(b); and

84 (iv) the percentage of first-time scholarship recipients who were enrolled in a public

85 school during the previous school year or who entered kindergarten or a higher grade for the

86 first time in Utah;

87 (l) issue tax credit certificates as described in Section 53E-7-407; and

88 (m) require a parent to notify a scholarship granting organization if the parent's  
89 scholarship recipient:

90 (i) receives scholarship money for tuition expenses; and

91 (ii) does not have continuing enrollment and attendance at a qualifying school.

92 (4) The state treasurer shall deposit the money described in Subsection (3)(h) into the  
93 Income Tax Fund.

94 (5) (a) An application for a scholarship shall contain an acknowledgment by the  
95 applicant's parent that the qualifying school selected by the parent for the applicant to attend  
96 using a scholarship is capable of providing the level of disability services required for the  
97 student.

98 (b) A scholarship application form shall contain the following statement:

99 "I acknowledge that:

100 (1) A private school may not provide the same level of disability services that are  
101 provided in a public school;

102 (2) I will assume full financial responsibility for the education of my scholarship  
103 recipient if I accept this scholarship;

104 (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to  
105 services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities  
106 Education Act, 20 U.S.C. Sec. 1400 et seq.; and

107 (4) My child may return to a public school at any time."

108 (c) Upon acceptance of a scholarship, the parent assumes full financial responsibility  
109 for the education of the scholarship recipient.

110 (d) Acceptance of a scholarship has the same effect as a parental refusal to consent to  
111 services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities  
112 Education Act, 20 U.S.C. Sec. 1400 et seq.

113 (e) The creation of the program or granting of a scholarship does not:

114 (i) imply that a public school did not provide a free and appropriate public education  
115 for a student; or

116 (ii) constitute a waiver or admission by the state.

117 (6) A scholarship granting organization shall demonstrate the scholarship granting  
118 organization's financial accountability by annually submitting to the state board a financial

119 information report that:

120 (a) complies with the uniform financial accounting standards described in Section  
121 53E-7-404; and

122 (b) is prepared by a certified public accountant.

123 (7) (a) If a scholarship granting organization allocates \$500,000 or more in  
124 scholarships annually through the program, the scholarship granting organization shall:

125 (i) contract for an annual audit, conducted by a certified public accountant who is  
126 independent from:

127 (A) the scholarship granting organization; and

128 (B) the scholarship granting organization's accounts and records pertaining to program  
129 donations; and

130 (ii) in accordance with Subsection (7)(b), report the results of the audit to the state  
131 board for review.

132 (b) For the report described in Subsection (7)(a)(ii), the scholarship granting  
133 organization shall:

134 (i) include the scholarship granting organization's financial statements in a format that  
135 meets generally accepted accounting standards; and

136 (ii) submit the report to the state board no later than ~~[180]~~ 120 days after the last day  
137 ~~[of a scholarship granting organization's]~~ of the state fiscal year.

138 (c) The certified public accountant shall conduct an audit described in Subsection  
139 (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state  
140 board.

141 (d) (i) The state board shall review a report submitted under this section and may  
142 request that the scholarship granting organization revise or supplement the report if the report  
143 is not in compliance with the provisions of this Subsection (7) or rules adopted by the state  
144 board.

145 (ii) A scholarship granting organization shall provide a revised report or supplement to  
146 the report no later than 45 days after the day on which the state board makes a request  
147 described in Subsection (7)(d)(i).

148 (8) (a) A scholarship granting organization may not allocate scholarship money to a  
149 qualifying school if:

150 (i) the scholarship granting organization determines that the qualifying school  
151 intentionally or substantially misrepresented information on overpayment;

152 (ii) the qualifying school fails to refund an overpayment in a timely manner; or

153 (iii) the qualifying school routinely fails to provide scholarship recipients with  
154 promised educational goods or services.

155 (b) A scholarship granting organization shall notify a scholarship recipient if the  
156 scholarship granting organization stops allocation of the recipient's scholarship money to a  
157 qualifying school under Subsection (8)(a).

158 (9) If a scholarship recipient transfers to another qualifying school during the school  
159 year, the scholarship granting organization may prorate scholarship money between the  
160 qualifying schools according to the time the scholarship recipient spends at each school.

161 (10) A scholarship granting organization may not:

162 (a) award a scholarship to a relative of the scholarship granting organization's officer or  
163 employee; or

164 (b) allocate scholarship money to a qualifying school at which the scholarship recipient  
165 has a relative who is an officer or an employee of the qualifying school.

166 Section 2. Section **53E-7-408** is amended to read:

167 **53E-7-408. Eligible private schools.**

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

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

171 (b) (i) contract with an independent licensed certified public accountant to conduct an  
172 Agreed Upon Procedures engagement as adopted by the state board, or obtain an audit and  
173 report from a licensed independent certified public accountant that conforms with the following  
174 requirements:

175 (A) the audit shall be performed in accordance with generally accepted auditing  
176 standards;

177 (B) the financial statements shall be presented in accordance with generally accepted  
178 accounting principles; and

179 (C) the audited financial statements shall be as of a period within the last 12 months;  
180 and

- 181 (ii) submit the audit report or report of the agreed upon procedure to the state board  
182 when the private school applies to accept scholarship students;
- 183 (c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;  
184 (d) meet state and local health and safety laws and codes;  
185 (e) provide a written disclosure to the parent of each prospective student, before the  
186 student is enrolled, of:
- 187 (i) the special education services that will be provided to the student, including the cost  
188 of those services;
- 189 (ii) tuition costs;  
190 (iii) additional fees a parent will be required to pay during the school year; and  
191 (iv) the skill or grade level of the curriculum in which the prospective student will  
192 participate;
- 193 (f) (i) administer an annual assessment of each scholarship student's academic  
194 progress; and  
195 (ii) report the results of the assessment described in Subsection (1)(f)(i) to the  
196 scholarship student's parent;
- 197 (g) employ or contract with teachers who:  
198 (i) hold baccalaureate or higher degrees;  
199 (ii) have at least three years of teaching experience in public or private schools; or  
200 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to  
201 provide instruction:
- 202 (A) in the subject or subjects taught; and  
203 (B) to the special needs students taught;
- 204 (h) maintain documentation demonstrating that teachers at the private school meet the  
205 qualifications described in Subsection (1)(g);
- 206 (i) require the following individuals to submit to a nationwide, fingerprint-based  
207 criminal background check and ongoing monitoring, in accordance with Section [53G-11-402](#),  
208 as a condition for employment or appointment, as authorized by the Adam Walsh Child  
209 Protection and Safety Act of 2006, Pub. L. No. 109-248:
- 210 (i) an employee who does not hold a current Utah educator license issued by the state  
211 board under Chapter 6, Education Professional Licensure;

212 (ii) a contract employee; and  
213 (iii) a volunteer who is given significant unsupervised access to a student in connection  
214 with the volunteer's assignment; and

215 (j) provide to the parent of a scholarship student the relevant credentials of the teachers  
216 who will be teaching the scholarship student.

217 (2) A private school is not eligible to enroll scholarship students if:

218 (a) the private school requires a student to sign a contract waiving the student's rights  
219 to transfer to another qualifying school during the school year;

220 (b) the audit report submitted under Subsection (1)(b) contains a going concern  
221 explanatory paragraph; [~~or~~]

222 (c) the report of the agreed upon procedures submitted under Subsection (1)(b) shows  
223 that the private school does not have adequate working capital to maintain operations for the  
224 first full year, as determined under Subsection (1)(b)[~~;~~]; or

225 (d) the private school charges a scholarship student more in tuition or fees than another  
226 student based solely upon the scholarship student being a scholarship recipient under this part.

227 (3) A home school is not eligible to enroll scholarship students.

228 (4) Residential treatment facilities licensed by the state are not eligible to enroll  
229 scholarship students.

230 (5) A private school intending to enroll scholarship students shall submit an application  
231 to the state board.

232 (6) The state board shall:

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

235 (b) publish on the state board's website, a list of private schools approved under this  
236 section.

237 (7) A private school approved under this section that changes ownership shall:

238 (a) submit a new application to the state board; and

239 (b) demonstrate that the private school continues to meet the eligibility requirements of  
240 this section.

241 Section 3. Section **53F-4-303** is amended to read:

242 **53F-4-303. Eligible private schools.**



- 243 (1) To be eligible to enroll a scholarship student, a private school shall:
- 244 (a) have a physical location in Utah where the scholarship students attend classes and
- 245 have direct contact with the school's teachers;
- 246 (b) (i) ~~[(A)]~~ contract with an independent licensed certified public accountant to
- 247 conduct an Agreed Upon Procedures engagement, as adopted by the state board, or obtain an
- 248 audit and report from a licensed independent certified public accountant that conforms with the
- 249 following requirements:
- 250 ~~[(H)]~~ (A) the audit shall be performed in accordance with generally accepted auditing
- 251 standards;
- 252 ~~[(H)]~~ (B) the financial statements shall be presented in accordance with generally
- 253 accepted accounting principles; and
- 254 ~~[(H)]~~ (C) the audited financial statements shall be as of a period within the last 12
- 255 months; ~~[(or)]~~ and
- 256 ~~[(B)]~~ contract with an independent licensed certified public accountant to conduct an
- 257 Agreed Upon Procedures engagement, as adopted by the state board; and]
- 258 (ii) submit the audit report or report of the agreed upon procedure to the state board
- 259 when the private school applies to accept scholarship students;
- 260 (c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
- 261 (d) meet state and local health and safety laws and codes;
- 262 (e) provide a written disclosure to the parent of each prospective student, before the
- 263 student is enrolled of:
- 264 (i) the special education services that will be provided to the student, including the cost
- 265 of those services;
- 266 (ii) tuition costs;
- 267 (iii) additional fees a parent will be required to pay during the school year; and
- 268 (iv) the skill or grade level of the curriculum that the student will be participating in;
- 269 (f) (i) administer an annual assessment of each scholarship student's academic
- 270 progress;
- 271 (ii) report the results of the assessment described in Subsection (1)(f)(i) to the student's
- 272 parent; and
- 273 (iii) make the results available to the assessment team evaluating the student pursuant

274 to Subsection 53F-4-302(6);

275 (g) employ or contract with teachers who:

276 (i) hold baccalaureate or higher degrees;

277 (ii) have at least three years of teaching experience in public or private schools; or

278 (iii) have the necessary special skills, knowledge, or expertise that qualifies them to  
279 provide instruction:

280 (A) in the subjects taught; and

281 (B) to the special needs students taught;

282 (h) maintain documentation demonstrating that teachers at the private school meet the  
283 qualifications described in Subsection (1)(g);

284 (i) require the following individuals to submit to a nationwide, fingerprint-based  
285 criminal background check and ongoing monitoring, in accordance with Section 53G-11-402,  
286 as a condition for employment or appointment, as authorized by the Adam Walsh Child  
287 Protection and Safety Act of 2006, Pub. L. No. 109-248:

288 (i) an employee who does not hold a current Utah educator license issued by the state  
289 board under Title 53E, Chapter 6, Education Professional Licensure;

290 (ii) a contract employee; and

291 (iii) a volunteer who is given significant unsupervised access to a student in connection  
292 with the volunteer's assignment; and

293 (j) provide to [~~parents~~] the parent of the scholarship student the relevant credentials of  
294 the teachers who will be teaching [~~their students~~] the scholarship student.

295 (2) A private school is not eligible to enroll scholarship students if:

296 (a) the private school requires a student to sign a contract waiving the student's rights  
297 to transfer to another eligible private school during the school year;

298 (b) the audit report submitted under Subsection (1)(b) contains a going concern  
299 explanatory paragraph; [~~or~~]

300 (c) the report of the agreed upon procedure submitted under Subsection (1)(b) shows  
301 that the private school does not have adequate working capital to maintain operations for the  
302 first full year, as determined under Subsection (1)(b)[~~;~~]; or

303 (d) the private school charges a scholarship student more in tuition or fees than another  
304 student based solely upon the scholarship student being a scholarship recipient under this part.

305 (3) A home school is not eligible to enroll scholarship students.

306 (4) Residential treatment facilities licensed by the state are not eligible to enroll  
307 scholarship students.

308 (5) A private school intending to enroll scholarship students shall submit an application  
309 to the state board by May 1 of the school year preceding the school year in which it intends to  
310 enroll scholarship students.

311 (6) The state board shall:

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

314 (b) ~~[make available to the public a list of the eligible private schools]~~ publish on the  
315 state board's website, a list of private schools approved under this section.

316 (7) An approved eligible private school that changes ownership shall;

317 (a) submit a new application to the state board; and

318 (b) demonstrate that ~~[it]~~ the private school continues to meet the eligibility  
319 requirements of this section.

320 Section 4. Section **53F-6-401** is enacted to read:

321 **53F-6-401. Procurement flexibility.**

322 For the year 2023, if the state board determines that it is not feasible to successfully  
323 meet a procurement and contracting deadline in this part, the state board may extend the  
324 deadline by no more than 90 days.

325 Section 5. Section **67-3-1** is amended to read:

326 **67-3-1. Functions and duties.**

327 (1) (a) The state auditor is the auditor of public accounts and is independent of any  
328 executive or administrative officers of the state.

329 (b) The state auditor is not limited in the selection of personnel or in the determination  
330 of the reasonable and necessary expenses of the state auditor's office.

331 (2) The state auditor shall examine and certify annually in respect to each fiscal year,  
332 financial statements showing:

333 (a) the condition of the state's finances;

334 (b) the revenues received or accrued;

335 (c) expenditures paid or accrued;

336 (d) the amount of unexpended or unencumbered balances of the appropriations to the  
337 agencies, departments, divisions, commissions, and institutions; and

338 (e) the cash balances of the funds in the custody of the state treasurer.

339 (3) (a) The state auditor shall:

340 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of  
341 any department of state government or any independent agency or public corporation as the law  
342 requires, as the auditor determines is necessary, or upon request of the governor or the  
343 Legislature;

344 (ii) perform the audits in accordance with generally accepted auditing standards and  
345 other auditing procedures as promulgated by recognized authoritative bodies; and

346 (iii) as the auditor determines is necessary, conduct the audits to determine:

347 (A) honesty and integrity in fiscal affairs;

348 (B) accuracy and reliability of financial statements;

349 (C) effectiveness and adequacy of financial controls; and

350 (D) compliance with the law.

351 (b) If any state entity receives federal funding, the state auditor shall ensure that the  
352 audit is performed in accordance with federal audit requirements.

353 (c) (i) The costs of the federal compliance portion of the audit may be paid from an  
354 appropriation to the state auditor from the General Fund.

355 (ii) If an appropriation is not provided, or if the federal government does not  
356 specifically provide for payment of audit costs, the costs of the federal compliance portions of  
357 the audit shall be allocated on the basis of the percentage that each state entity's federal funding  
358 bears to the total federal funds received by the state.

359 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit  
360 funds passed through the state to local governments and to reflect any reduction in audit time  
361 obtained through the use of internal auditors working under the direction of the state auditor.

362 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to  
363 financial audits, and as the auditor determines is necessary, conduct performance and special  
364 purpose audits, examinations, and reviews of any entity that receives public funds, including a  
365 determination of any or all of the following:

366 (i) the honesty and integrity of all the entity's fiscal affairs;

367 (ii) whether the entity's administrators have faithfully complied with legislative intent;

368 (iii) whether the entity's operations have been conducted in an efficient, effective, and  
369 cost-efficient manner;

370 (iv) whether the entity's programs have been effective in accomplishing the intended  
371 objectives; and

372 (v) whether the entity's management, control, and information systems are adequate,  
373 effective, and secure.

374 (b) The auditor may not conduct performance and special purpose audits,  
375 examinations, and reviews of any entity that receives public funds if the entity:

376 (i) has an elected auditor; and

377 (ii) has, within the entity's last budget year, had the entity's financial statements or  
378 performance formally reviewed by another outside auditor.

379 (5) The state auditor:

380 (a) shall administer any oath or affirmation necessary to the performance of the duties  
381 of the auditor's office; and

382 (b) may:

383 (i) subpoena witnesses and documents, whether electronic or otherwise; and

384 (ii) examine into any matter that the auditor considers necessary.

385 (6) The state auditor may require all persons who have had the disposition or  
386 management of any property of this state or its political subdivisions to submit statements  
387 regarding the property at the time and in the form that the auditor requires.

388 (7) The state auditor shall:

389 (a) except where otherwise provided by law, institute suits in Salt Lake County in  
390 relation to the assessment, collection, and payment of revenues against:

391 (i) persons who by any means have become entrusted with public money or property  
392 and have failed to pay over or deliver the money or property; and

393 (ii) all debtors of the state;

394 (b) collect and pay into the state treasury all fees received by the state auditor;

395 (c) perform the duties of a member of all boards of which the state auditor is a member  
396 by the constitution or laws of the state, and any other duties that are prescribed by the  
397 constitution and by law;

- 398 (d) stop the payment of the salary of any state official or state employee who:
- 399 (i) refuses to settle accounts or provide required statements about the custody and  
400 disposition of public funds or other state property;
- 401 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling  
402 board or department head with respect to the manner of keeping prescribed accounts or funds;  
403 or
- 404 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the  
405 official's or employee's attention;
- 406 (e) establish accounting systems, methods, and forms for public accounts in all taxing  
407 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 408 (f) superintend the contractual auditing of all state accounts;
- 409 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of  
410 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that  
411 officials and employees in those taxing units comply with state laws and procedures in the  
412 budgeting, expenditures, and financial reporting of public funds;
- 413 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,  
414 if necessary, to ensure that officials and employees in the county comply with Section  
415 [59-2-303.1](#); and
- 416 (i) withhold state allocated funds or the disbursement of property taxes from a local  
417 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if  
418 the state auditor finds the withholding necessary to ensure that the entity registers and  
419 maintains the entity's registration with the lieutenant governor, in accordance with Section  
420 [67-1a-15](#).
- 421 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds  
422 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal  
423 written notice of noncompliance from the auditor and has been given 60 days to make the  
424 specified corrections.
- 425 (b) If, after receiving notice under Subsection (8)(a), a state or independent local  
426 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state  
427 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the  
428 state auditor:

429 (i) shall provide a recommended timeline for corrective actions;  
430 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the  
431 state; and

432 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an  
433 account of a financial institution by filing an action in district court requesting an order of the  
434 court to prohibit a financial institution from providing the fee-assessing unit access to an  
435 account.

436 (c) The state auditor shall remove a limitation on accessing funds under Subsection  
437 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and  
438 financial reporting of public funds.

439 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with  
440 state law, the state auditor:

441 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to  
442 comply;

443 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the  
444 state; and

445 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an  
446 account of a financial institution by:

447 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that  
448 the institution prohibit access to the account; or

449 (B) filing an action in district court requesting an order of the court to prohibit a  
450 financial institution from providing the taxing or fee-assessing unit access to an account.

451 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state  
452 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection  
453 (8)(d).

454 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has  
455 received formal written notice of noncompliance from the auditor and has been given 60 days  
456 to make the specified corrections.

457 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state  
458 auditor receives a notice of non-registration, as that term is defined in Section [67-1a-15](#).

459 (b) If the state auditor receives a notice of non-registration, the state auditor may

460 prohibit the local government entity or limited purpose entity, as those terms are defined in  
461 Section 67-1a-15, from accessing:

462 (i) money held by the state; and

463 (ii) money held in an account of a financial institution by:

464 (A) contacting the entity's financial institution and requesting that the institution  
465 prohibit access to the account; or

466 (B) filing an action in district court requesting an order of the court to prohibit a  
467 financial institution from providing the entity access to an account.

468 (c) The state auditor shall remove the prohibition on accessing funds described in  
469 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in  
470 Section 67-1a-15, from the lieutenant governor.

471 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the  
472 state auditor:

473 (a) shall authorize a disbursement by a local government entity or limited purpose  
474 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing  
475 unit if the disbursement is necessary to:

476 (i) avoid a major disruption in the operations of the local government entity, limited  
477 purpose entity, or state or local taxing or fee-assessing unit; or

478 (ii) meet debt service obligations; and

479 (b) may authorize a disbursement by a local government entity, limited purpose entity,  
480 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

481 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to  
482 take temporary custody of public funds if an action is necessary to protect public funds from  
483 being improperly diverted from their intended public purpose.

484 (b) If the state auditor seeks relief under Subsection (12)(a):

485 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);  
486 and

487 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a  
488 court orders the public funds to be protected from improper diversion from their public  
489 purpose.

490 (13) The state auditor shall:



491 (a) establish audit guidelines and procedures for audits of local mental health and  
492 substance abuse authorities and their contract providers, conducted pursuant to Title 17,  
493 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local  
494 Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political  
495 Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter  
496 15, Substance Abuse and Mental Health Act; and

497 (b) ensure that those guidelines and procedures provide assurances to the state that:

498 (i) state and federal funds appropriated to local mental health authorities are used for  
499 mental health purposes;

500 (ii) a private provider under an annual or otherwise ongoing contract to provide  
501 comprehensive mental health programs or services for a local mental health authority is in  
502 compliance with state and local contract requirements[;] and state and federal law;

503 (iii) state and federal funds appropriated to local substance abuse authorities are used  
504 for substance abuse programs and services; and

505 (iv) a private provider under an annual or otherwise ongoing contract to provide  
506 comprehensive substance abuse programs or services for a local substance abuse authority is in  
507 compliance with state and local contract requirements, and state and federal law.

508 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for  
509 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from  
510 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or  
511 investigations of any political subdivision that are necessary to determine honesty and integrity  
512 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of  
513 financial controls and compliance with the law.

514 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the  
515 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may  
516 initiate an audit or investigation of the public entity subject to the notice to determine  
517 compliance with Section 11-41-103.

518 (15) (a) The state auditor may not audit work that the state auditor performed before  
519 becoming state auditor.

520 (b) If the state auditor has previously been a responsible official in state government  
521 whose work has not yet been audited, the Legislature shall:

- 522 (i) designate how that work shall be audited; and
- 523 (ii) provide additional funding for those audits, if necessary.
- 524 (16) The state auditor shall:
- 525 (a) with the assistance, advice, and recommendations of an advisory committee
- 526 appointed by the state auditor from among local district boards of trustees, officers, and
- 527 employees and special service district boards, officers, and employees:
- 528 (i) prepare a Uniform Accounting Manual for Local Districts that:
- 529 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
- 530 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
- 531 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
- 532 District Act;
- 533 (B) conforms with generally accepted accounting principles; and
- 534 (C) prescribes reasonable exceptions and modifications for smaller districts to the
- 535 uniform system of accounting, budgeting, and reporting;
- 536 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
- 537 reflect generally accepted accounting principles;
- 538 (iii) conduct a continuing review and modification of procedures in order to improve
- 539 them;
- 540 (iv) prepare and supply each district with suitable budget and reporting forms; and
- 541 (v) (A) prepare instructional materials, conduct training programs, and render other
- 542 services considered necessary to assist local districts and special service districts in
- 543 implementing the uniform accounting, budgeting, and reporting procedures; and
- 544 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
- 545 63G, Chapter 22, State Training and Certification Requirements; and
- 546 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
- 547 and experiences of specific local districts and special service districts selected by the state
- 548 auditor and make the information available to all districts.
- 549 (17) (a) The following records in the custody or control of the state auditor are
- 550 protected records under Title 63G, Chapter 2, Government Records Access and Management
- 551 Act:
- 552 (i) records that would disclose information relating to allegations of personal

553 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
554 employee if the information or allegation cannot be corroborated by the state auditor through  
555 other documents or evidence, and the records relating to the allegation are not relied upon by  
556 the state auditor in preparing a final audit report;

557 (ii) records and audit workpapers to the extent the workpapers would disclose the  
558 identity of an individual who during the course of an audit, communicated the existence of any  
559 waste of public funds, property, or manpower, or a violation or suspected violation of a law,  
560 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or  
561 any recognized entity of the United States, if the information was disclosed on the condition  
562 that the identity of the individual be protected;

563 (iii) before an audit is completed and the final audit report is released, records or drafts  
564 circulated to an individual who is not an employee or head of a governmental entity for the  
565 individual's response or information;

566 (iv) records that would disclose an outline or part of any audit survey plans or audit  
567 program; and

568 (v) requests for audits, if disclosure would risk circumvention of an audit.

569 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure  
570 of records or information that relate to a violation of the law by a governmental entity or  
571 employee to a government prosecutor or peace officer.

572 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to  
573 the state auditor to classify a document as public, private, controlled, or protected under Title  
574 63G, Chapter 2, Government Records Access and Management Act.

575 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the  
576 state auditor and the subject of an audit performed by the state auditor as to whether the state  
577 auditor may release a record, as defined in Section 63G-2-103, to the public that the state  
578 auditor gained access to in the course of the state auditor's audit but which the subject of the  
579 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records  
580 Access and Management Act.

581 (ii) The state auditor may submit a record dispute to the State Records Committee,  
582 created in Section 63G-2-501, for a determination of whether the state auditor may, in  
583 conjunction with the state auditor's release of an audit report, release to the public the record

584 that is the subject of the record dispute.

585 (iii) The state auditor or the subject of the audit may seek judicial review of a State  
586 Records Committee determination under Subsection (17)(d)(ii), as provided in Section  
587 [63G-2-404](#).

588 (18) If the state auditor conducts an audit of an entity that the state auditor has  
589 previously audited and finds that the entity has not implemented a recommendation made by  
590 the state auditor in a previous audit, the state auditor shall notify the Legislative Management  
591 Committee through the Legislative Management Committee's audit subcommittee that the  
592 entity has not implemented that recommendation.

593 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state  
594 privacy officer described in Section [67-3-13](#).

595 (20) [~~The~~] Except as provided in Subsection (21), the state auditor shall report, or  
596 ensure that another government entity reports, on the financial, operational, and performance  
597 metrics for the state system of higher education and the state system of public education,  
598 including metrics in relation to students, programs, and schools within those systems.

599 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits  
600 of:

601 (i) the scholarship granting organization for the Special Needs Opportunity Scholarship  
602 Program, created in Section [53E-7-402](#);

603 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in  
604 Section [53F-4-302](#); and

605 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,  
606 created in Section [53F-6-402](#).

607 (b) Nothing in this subsection limits or impairs the authority of the State Board of  
608 Education to administer the programs described in Subsection (21)(a).