

SB0077S01 compared with SB0077

~~{deleted text}~~ shows text that was in SB0077 but was deleted in SB0077S01.

inserted text shows text that was not in SB0077 but was inserted into SB0077S01.

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Senator Lincoln Fillmore proposes the following substitute bill:

EDUCATION SCHOLARSHIP AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends ~~{eligibility requirements of private schools to enroll scholarship students and amends scholarship donation reporting requirements}~~ 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;

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- ▶ 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

Utah Code Sections Affected:

AMENDS:

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

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

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

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

ENACTS:

53F-6-401, Utah Code Annotated 1953

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

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

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

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

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

(3) A scholarship granting organization shall:

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

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

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's

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behalf, to a qualifying school in which the scholarship student is enrolled;

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

(f) ensure that during the state fiscal year:

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

(ii) up to 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations is spent on marketing and fundraising costs; and

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

(g) carry forward no more than 40% of the scholarship granting organization's program donations from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship student;

(k) report to the state board on or before October 1 of each year the following information, prepared by a certified public accountant:

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

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) (A) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(a); and

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(B) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(b); and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

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

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

(i) receives scholarship money for tuition expenses; and

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

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

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

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

"I acknowledge that:

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

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

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

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

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

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities

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Education Act, 20 U.S.C. Sec. 1400 et seq.

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

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

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

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

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

(b) is prepared by a certified public accountant.

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

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

(A) the scholarship granting organization; and

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

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

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

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

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

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

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report

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is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

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

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

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

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

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

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

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

(10) A scholarship granting organization may not:

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

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

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

53E-7-408. Eligible private schools.

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

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

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

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requirements:

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

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

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

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled, of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective student will participate;

(f) (i) administer an annual assessment of each scholarship student's academic progress; and

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the scholarship student's parent;

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

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

(iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to provide instruction:

(A) in the subject or subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the

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qualifications described in Subsection (1)(g);

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

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

(ii) a contract employee; and

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

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

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

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

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

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

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

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

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

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

(6) The state board shall:

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

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

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section.

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

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

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

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

53F-4-303. Eligible private schools.

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

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

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

~~[(H)]~~ (A) the audit shall be performed in accordance with generally accepted auditing standards;

~~[(H)]~~ (B) the financial statements shall be presented in accordance with generally accepted accounting principles; and

~~[(H)]~~ (C) the audited financial statements shall be as of a period within the last 12 months; ~~[or]~~ and

~~[(B)]~~ contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement, as adopted by the state board; and]

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

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- (iii) additional fees a parent will be required to pay during the school year; and
- (iv) the skill or grade level of the curriculum that the student will be participating in;
- (f) (i) administer an annual assessment of each scholarship student's academic progress;
- (ii) report the results of the assessment described in Subsection (1)(f)(i) to the student's parent; and
- (iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53F-4-302(6);
- (g) employ or contract with teachers who:
 - (i) hold baccalaureate or higher degrees;
 - (ii) have at least three years of teaching experience in public or private schools; or
 - (iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:
 - (A) in the subjects taught; and
 - (B) to the special needs students taught;
 - (h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);
 - (i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:
 - (i) an employee who does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure;
 - (ii) a contract employee; and
 - (iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and
 - (j) provide to [~~parents~~] the parent of the scholarship student the relevant credentials of the teachers who will be teaching [~~their students~~] the scholarship student.
- (2) A private school is not eligible to enroll scholarship students if:
 - (a) the private school requires a student to sign a contract waiving the student's rights to transfer to another eligible private school during the school year;

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

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

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

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

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

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

(6) The state board shall:

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

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

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

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

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

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

53F-6-401. Procurement flexibility.

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

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

67-3-1. Functions and duties.

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

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

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

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

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

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

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

(3) (a) The state auditor shall:

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

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

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

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

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

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

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

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit

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funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

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

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

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

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

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

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

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

(i) has an elected auditor; and

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

(5) The state auditor:

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

(b) may:

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

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

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

(7) The state auditor shall:

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

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

(ii) all debtors of the state;

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

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

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds;

or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds

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under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

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

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

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

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

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

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

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

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

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

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

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(8)(d).

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

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

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

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

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

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

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

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

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

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

(ii) meet debt service obligations; and

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

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

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

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8):

and

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

(13) The state auditor shall:

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

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

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

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

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

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

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

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the

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Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

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

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

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

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(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

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

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

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

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

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

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

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state

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auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

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

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

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

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

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

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

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

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

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

(b) Nothing in this subsection limits or impairs the authority of the State Board of

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Education to administer the programs described in Subsection (21)(a).