

SCHOOL DISTRICT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the process for feasibility studies when creating a new school district.

Highlighted Provisions:

This bill:

- ▶ amends provisions for creating a new school district;
- ▶ requires the state auditor to conduct a feasibility study under certain circumstances;

and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-3-302, as last amended by Laws of Utah 2019, Chapter 293

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

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

Section 1. Section **53G-3-302** is amended to read:

53G-3-302. Proposal initiated by a city or by interlocal agreement participants to



28 **create a school district -- Boundaries -- Election of local school board members --**
29 **Allocation of assets and liabilities -- Startup costs -- Transfer of title.**

30 (1) (a) After ~~[conducting]~~ receiving a feasibility study, as described in Subsection
31 (1)(b), a city with a population of at least 50,000, as determined by the lieutenant governor
32 using the process described in Subsection 67-1a-2(3), may by majority vote of the legislative
33 body, submit for voter approval a measure to create a new school district with:

34 (i) boundaries contiguous with that city's boundaries, in accordance with Section
35 53G-3-301[-]; and

36 (ii) a combined student population of no less than 5,000 students and no more than
37 40,000 students.

38 ~~[(b) (i) The determination of all matters relating to the scope, adequacy, and other~~
39 ~~aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the~~
40 ~~city's legislative body.]~~

41 (b) (i) The legislative body of a city seeking to create a new school district under
42 Subsection (1)(a) shall request that the state auditor conduct a feasibility study to determine:

43 (A) the financial viability of the proposed new school district;

44 (B) the financial impact on each existing school district within the boundaries of the
45 proposed new school district; and

46 (C) the impact of the tax burden upon taxpayers within the proposed new school
47 district boundaries.

48 (ii) The state auditor shall provide the feasibility study to the city's legislative body on
49 or before 120 days after the date on which the legislative body requested the feasibility study
50 under this Subsection (1)(b)(i).

51 (iii) An inadequacy of a feasibility study under Subsection ~~[(1)(a)]~~ (1)(b)(i) may not be
52 the basis of a legal action or other challenge to:

53 (A) an election for voter approval of the creation of a new school district; or

54 (B) the creation of the new school district.

55 (2) (a) By majority vote of the legislative body, a city of any class, a town, or a county,
56 may, together with one or more other cities, towns, or the county enter into an interlocal
57 agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose
58 of submitting for voter approval a measure to create a new school district.

59 (b) [(†)] In accordance with Section 53G-3-301, interlocal agreement participants under
 60 Subsection (2)(a) may submit a proposal for voter approval if:

61 [(A)] (i) [~~the interlocal agreement participants conduct~~] the state auditor conducts a
 62 feasibility study [prior to] as described in Subsection (2)(c) before submitting the proposal to
 63 the county;

64 [(B)] (ii) the combined population within the proposed new school district boundaries
 65 is at least 50,000;

66 [(iii)] the combined student population within the new proposed school district
 67 boundaries is no less than 4,000 students and no more than 40,000 students;

68 [(C)] (iv) the new school district boundaries:

69 [(†)] (A) are contiguous;

70 [(†)] (B) do not completely surround or otherwise completely geographically isolate a
 71 portion of an existing school district that is not part of the proposed new school district from
 72 the remaining part of that existing school district, except as provided in Subsection [(2)(d)(iii);]
 73 (2)(l);

74 [(†)] (C) include the entire boundaries of each participant city or town, except as
 75 provided in Subsection [(2)(d)(ii);] (2)(k); and

76 [(†)] (D) subject to Subsection [(2)(b)(ii);] (2)(e), do not cross county lines; and

77 [(†)] (v) the combined population within the proposed new school district of interlocal
 78 agreement participants that have entered into an interlocal agreement proposing to create a new
 79 school district is at least 80% of the total population of the proposed new school district.

80 (c) The legislative bodies of the interlocal agreement participants seeking to create a
 81 new school district under Subsection (2)(a) shall request that the state auditor conduct a
 82 feasibility study to determine:

83 (i) the financial viability of the proposed new school district;

84 (ii) the financial impact on each existing school district within the proposed new
 85 school district boundaries; and

86 (iii) the impact of the tax burden upon taxpayers within the proposed new school
 87 district boundaries.

88 (d) The state auditor shall provide the feasibility study to the city's legislative body on
 89 or before 120 days after the date on which the legislative body requested the feasibility study

90 under Subsection (2)(c).

91 ~~[(ii)] (e)~~ The determination of ~~[all matters relating to the scope, adequacy, and other~~
 92 ~~aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct]~~
 93 whether to request the state auditor to conduct a new feasibility study or revise a previous
 94 feasibility study due to a change in the proposed new school district boundaries, is within the
 95 exclusive discretion of the legislative bodies of the interlocal agreement participants that enter
 96 into an interlocal agreement to submit for voter approval a measure to create a new school
 97 district.

98 ~~[(iii)] (f)~~ An inadequacy of a feasibility study under Subsection ~~[(2)(b)(i)(A)]~~ (2)(c)
 99 may not be the basis of a legal action or other challenge to:

100 ~~[(A)] (i)~~ an election for voter approval of the creation of a new school district; or
 101 ~~[(B)] (ii)~~ the creation of the new school district.

102 ~~[(iv)] (g)~~ For purposes of determining whether the boundaries of a proposed new
 103 school district cross county lines under Subsection ~~[(2)(b)(i)(C)(iv)]~~ (2)(b)(iv)(D):

104 ~~[(A)] (i)~~ a municipality located in more than one county and entirely within the
 105 boundaries of a single school district is considered to be entirely within the same county as
 106 other participants in an interlocal agreement under Subsection (2)(a) if more of the
 107 municipality's land area and population is located in that same county than outside the county;
 108 and

109 ~~[(B)] (ii)~~ a municipality located in more than one county that participates in an
 110 interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within
 111 the municipality's boundaries on the basis of the exception stated in Subsection ~~[(2)(d)(ii)(B)]~~
 112 (2)(k)(ii) may not be considered to cross county lines.

113 ~~[(c)] (h)~~ ~~[(i)]~~ A county may only participate in an interlocal agreement under this
 114 Subsection (2) for the unincorporated areas of the county.

115 ~~[(ii)] (i)~~ Boundaries of a new school district created under this section may include:

116 ~~[(A)] (i)~~ a portion of one or more existing school districts; and

117 ~~[(B)] (ii)~~ a portion of the unincorporated area of a county, including a portion of a
 118 township.

119 ~~[(d)] (j)~~ ~~[(i)]~~ As used in ~~[this Subsection (2)(d)]~~ Subsections (2)(k) through (n):

120 ~~[(A)] (i)~~ "Isolated area" means an area that:

121 [(H)] (A) is entirely within the boundaries of a municipality that, except for that area, is
 122 entirely within a school district different than the school district in which the area is located;
 123 and

124 [(H)] (B) would, because of the creation of a new school district from the existing
 125 district in which the area is located, become completely geographically isolated.

126 [(B)] (ii) "Municipality's school district" means the school district that includes all of
 127 the municipality in which the isolated area is located except the isolated area.

128 [(H)] (k) Notwithstanding Subsection [(2)(b)(i)(C)(H)] (2)(b)(iv)(C), a municipality
 129 may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some
 130 but not all of the area within the municipality's boundaries if:

131 [(A)] (i) the portion of the municipality proposed to be included in the new school
 132 district would, if not included, become an isolated area upon the creation of the new school
 133 district; or

134 [(B)] (ii) [(H)] (A) the portion of the municipality proposed to be included in the new
 135 school district is within the boundaries of the same school district that includes the other
 136 interlocal agreement participants; and

137 [(H)] (B) the portion of the municipality proposed to be excluded from the new school
 138 district is within the boundaries of a school district other than the school district that includes
 139 the other interlocal agreement participants.

140 [(iii)]

141 [(A)] (l) Notwithstanding Subsection [(2)(b)(i)(C)(H)] (2)(b)(iv)(B), interlocal
 142 agreement participants may submit a proposal to create a new school district [~~may be submitted~~
 143]for voter approval [~~pursuant to~~] in accordance with an interlocal agreement under Subsection
 144 (2)(a), even though the new school district boundaries would create an isolated area, if:

145 [(H)] (i) the potential isolated area is contiguous to one or more of the interlocal
 146 agreement participants;

147 [(H)] (ii) the interlocal participants submit a written request to the municipality in
 148 which the potential isolated area is located, requesting the municipality to enter into an
 149 interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a
 150 measure to create a new school district that includes the potential isolated area; and

151 [(H)] (iii) 90 days after the interlocal agreement participants submit a request under

152 Subsection ~~[(2)(d)(iii)(A)(H) is submitted]~~ (2)(l)(ii), the municipality has not entered into an
 153 interlocal agreement as requested in the request.

154 ~~[(B)]~~

155 (m) Each municipality receiving a request under Subsection ~~[(2)(d)(iii)(A)(H)]~~ (2)(l)(ii)
 156 shall hold one or more public hearings to allow input from the public and affected school
 157 districts regarding whether or not the municipality should enter into an interlocal agreement
 158 with respect to the potential isolated area.

159 ~~[(C)(F)]~~ (n) (i) This ~~[Subsection (2)(d)(iii)(C)]~~ subsection applies if:

160 ~~[(Aa)]~~ (A) a new school district is created under this section after a measure is
 161 submitted to voters ~~[based on the authority of Subsection (2)(d)(iii)(A)]~~ in accordance with
 162 Subsection (2)(l); and

163 ~~[(Bb)]~~ (B) the creation of the new school district results in an isolated area.

164 ~~[(H)]~~ (ii) The isolated area shall, on July 1 of the second calendar year following the
 165 local school board general election date described in Subsection (3)(a)(i), become part of the
 166 municipality's school district.

167 ~~[(HH)]~~ (iii) Unless the isolated area is the only remaining part of the existing district, the
 168 process described in Subsection (4) shall be modified to:

169 ~~[(Aa)]~~ (A) include a third transition team, appointed by the local school board of the
 170 municipality's school district, to represent that school district; and

171 ~~[(Bb)]~~ (B) require allocation of the existing district's assets and liabilities among the
 172 new district, the remaining district, and the municipality's school district.

173 ~~[(HV)]~~ (iv) The existing district shall continue to provide educational services to the
 174 isolated area until July 1 of the second calendar year following the local school board general
 175 election date described in Subsection (3)(a)(i).

176 (3) (a) If voters approve a proposal under this section ~~[is approved by voters]~~:

177 (i) the municipality shall hold an election ~~[shall be held]~~ at the next regular general
 178 election to elect:

179 (A) members to the local school board of the existing school district whose terms are
 180 expiring;

181 (B) all members to the local school board of the new school district; and

182 (C) all members to the local school board of the remaining district;

183 (ii) the assets and liabilities of the existing school district shall be divided between the
184 remaining school district and the new school district as provided in Subsection (5) and Section
185 [53G-3-307](#);

186 (iii) transferred employees shall be treated in accordance with Sections [53G-3-205](#) and
187 [53G-3-308](#);

188 (iv) ~~[(A)]~~ an individual residing within the boundaries of a new school district at the
189 time the new school district is created may, for six school years after the creation of the new
190 school district, elect to enroll in a secondary school located outside the boundaries of the new
191 school district if:

192 ~~[(F)]~~ (A) the individual resides within the boundaries of that secondary school as of the
193 day before the new school district is created; ~~[and]~~

194 ~~[(H)]~~ (B) the individual would have been eligible to enroll in that secondary school had
195 the new school district not been created; and

196 ~~[(B)]~~ (C) the school district in which the secondary school is located shall provide
197 educational services, including, if provided before the creation of the new school district,
198 busing, to each individual making an election under Subsection ~~[(3)(a)(iv)(A)]~~ (3)(a)(iv) for
199 each school year for which the individual makes the election; and

200 (v) within one year after the new district begins providing educational services, the
201 superintendent of each remaining district affected and the superintendent of the new district
202 shall meet, together with the state superintendent, to determine if further boundary changes
203 should be proposed in accordance with Section [53G-3-501](#).

204 (b) (i) The terms of the initial members of the local school board of the new district and
205 remaining district shall be staggered and adjusted by the county legislative body so that
206 approximately half of the local school board is elected every two years.

207 (ii) The term of a member of the existing local school board, including a member
208 elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local
209 school board general election date described in Subsection (3)(a)(i), regardless of when the
210 term would otherwise have terminated.

211 (iii) Notwithstanding the existence of a local school board for the new district and a
212 local school board for the remaining district under Subsection (3)(a)(i), the local school board
213 of the existing district shall continue, until the time specified in Subsection

214 53G-3-301(9)(b)(ii)(A), to function and exercise authority as a local school board to the extent
215 necessary to continue to provide educational services to the entire existing district.

216 (iv) An individual may simultaneously serve as or be elected to be a member of the
217 local school board of an existing district and a member of the local school board of:

218 (A) a new district; or

219 (B) a remaining district.

220 (4) (a) Within 45 days after the canvass date for the election at which voters approve
221 the creation of a new district:

222 (i) a transition team to represent the remaining district shall be appointed by the
223 members of the existing local school board who reside within the area of the remaining district,
224 in consultation with:

225 (A) the legislative bodies of all municipalities in the area of the remaining district; and

226 (B) the legislative body of the county in which the remaining district is located, if the
227 remaining district includes one or more unincorporated areas of the county; and

228 (ii) another transition team to represent the new district shall be appointed by:

229 (A) for a new district located entirely within the boundaries of a single city, the
230 legislative body of that city; or

231 (B) for each other new district, the legislative bodies of all interlocal agreement
232 participants.

233 (b) The local school board of the existing school district shall, within 60 days after the
234 canvass date for the election at which voters approve the creation of a new district:

235 (i) prepare an inventory of the existing district's:

236 (A) assets, both tangible and intangible, real and personal; and

237 (B) liabilities; and

238 (ii) deliver a copy of the inventory to each of the transition teams.

239 (c) The transition teams appointed under Subsection (4)(a) shall:

240 (i) determine the allocation of the existing district's assets and, except for indebtedness
241 under Section 53G-3-307, liabilities between the remaining district and the new district in
242 accordance with Subsection (5);

243 (ii) prepare a written report detailing how the existing district's assets and, except for
244 indebtedness under Section 53G-3-307, liabilities are to be allocated; and

245 (iii) deliver a copy of the written report to:

246 (A) the local school board of the existing district;

247 (B) the local school board of the remaining district; and

248 (C) the local school board of the new district.

249 (d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and

250 deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the

251 election at which voters approve the creation of a new district, unless that deadline is extended

252 by the mutual agreement of:

253 (i) the local school board of the existing district; and

254 (ii) (A) the legislative body of the city in which the new district is located, for a new

255 district located entirely within a single city; or

256 (B) the legislative bodies of all interlocal agreement participants, for each other new

257 district.

258 (e) (i) All costs and expenses of the transition team that represents a remaining district

259 shall be borne by the remaining district.

260 (ii) All costs and expenses of the transition team that represents a new district shall

261 initially be borne by:

262 (A) the city whose legislative body appoints the transition team, if the transition team

263 is appointed by the legislative body of a single city; or

264 (B) the interlocal agreement participants, if the transition team is appointed by the

265 legislative bodies of interlocal agreement participants.

266 (iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal

267 agreement participants for:

268 (A) transition team costs and expenses; and

269 (B) startup costs and expenses incurred by the city or interlocal agreement participants

270 on behalf of the new district.

271 (5) (a) As used in this Subsection (5):

272 (i) "Associated property" means furniture, equipment, or supplies located in or

273 specifically associated with a physical asset.

274 (ii) (A) "Discretionary asset or liability" means, except as provided in Subsection

275 (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or

276 employee by law or school district accounting practice.

277 (B) "Discretionary asset or liability" does not include a physical asset, associated
278 property, a vehicle, or bonded indebtedness.

279 (iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection
280 (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee
281 by law or school district accounting practice.

282 (B) "Nondiscretionary asset or liability" does not include a physical asset, associated
283 property, a vehicle, or bonded indebtedness.

284 (iv) "Physical asset" means a building, land, or water right together with revenue
285 derived from the lease or use of the building, land, or water right.

286 (b) Except as provided in Subsection (5)(c), the transition teams appointed under
287 Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the
288 allocation date, both tangible and intangible, real and personal, to the new district and
289 remaining district as follows:

290 (i) a physical asset and associated property shall be allocated to the school district in
291 which the physical asset is located;

292 (ii) a discretionary asset or liability shall be allocated between the new district and
293 remaining district in proportion to the student populations of the school districts;

294 (iii) a nondiscretionary asset shall be allocated to the school district where the project,
295 school, student, or employee to which the nondiscretionary asset is tied will be located;

296 (iv) vehicles used for pupil transportation shall be allocated:

297 (A) according to the transportation needs of schools, as measured by the number and
298 assortment of vehicles used to serve transportation routes serving schools within the new
299 district and remaining district; and

300 (B) in a manner that gives each school district a fleet of vehicles for pupil
301 transportation that is equivalent in terms of age, condition, and variety of carrying capacities;
302 and

303 (v) other vehicles shall be allocated:

304 (A) in proportion to the student populations of the school districts; and

305 (B) in a manner that gives each district a fleet of vehicles that is similar in terms of age,
306 condition, and carrying capacities.

307 (c) By mutual agreement, the transition teams may allocate an asset or liability in a
308 manner different than the allocation method specified in Subsection (5)(b).

309 (6) (a) As used in this Subsection (6):

310 (i) "New district startup costs" means:

311 (A) costs and expenses incurred by a new district in order to prepare to begin providing
312 educational services on July 1 of the second calendar year following the local school board
313 general election date described in Subsection (3)(a)(i); and

314 (B) the costs and expenses of the transition team that represents the new district.

315 (ii) "Remaining district startup costs" means:

316 (A) costs and expenses [~~incurred by a remaining district in order to~~] that a district
317 incurs to[:]

318 [~~(H)~~] make necessary adjustments to deal with the impacts resulting from the creation of
319 the new district[:]; and to

320 [~~(H)~~] prepare to provide educational services within the remaining district once the new
321 district begins providing educational services within the new district; and

322 (B) the costs and expenses of the transition team that represents the remaining district.

323 (b) (i) By January 1 of the year following the local school board general election date
324 described in Subsection (3)(a)(i), the existing district shall make half of the undistributed
325 reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the
326 remaining district and the new district, as provided in this Subsection (6).

327 (ii) The existing district may make additional funds available for the use of the
328 remaining district and the new district beyond the amount specified in Subsection (6)(b)(i)
329 through an interlocal agreement.

330 (c) The existing district shall make the money under Subsection (6)(b) available to the
331 remaining district and the new district proportionately based on student population.

332 (d) The money made available under Subsection (6)(b) may be accessed and spent by:

333 (i) for the remaining district, the local school board of the remaining district; and

334 (ii) for the new district, the local school board of the new district.

335 (e) (i) The remaining district may use its portion of the money made available under
336 Subsection (6)(b) to pay for remaining district startup costs.

337 (ii) The new district may use its portion of the money made available under Subsection

338 (6)(b) to pay for new district startup costs.

339 (7) (a) The existing district shall transfer title or, if applicable, partial title of property
340 to the new school district in accordance with the allocation of property by the transition teams,
341 as stated in the report under Subsection (4)(c)(ii).

342 (b) The existing district shall complete each transfer of title or, if applicable, partial
343 title to real property and vehicles by July 1 of the second calendar year following the local
344 school board general election date described in Subsection (3)(a)(i), except as that date is
345 changed by the mutual agreement of:

- 346 (i) the local school board of the existing district;
- 347 (ii) the local school board of the remaining district; and
- 348 (iii) the local school board of the new district.

349 (c) The existing district shall complete the transfer of all property not included in
350 Subsection (7)(b) by November 1 of the second calendar year after the local school board
351 general election date described in Subsection (3)(a)(i).

352 (8) Except as provided in Subsections (6) and (7), after the creation election date an
353 existing school district may not transfer or agree to transfer title to district property without the
354 prior consent of:

- 355 (a) the legislative body of the city in which the new district is located, for a new district
356 located entirely within a single city; or
- 357 (b) the legislative bodies of all interlocal agreement participants, for each other new
358 district.

359 (9) This section does not apply to the creation of a new district initiated through a
360 citizens' initiative petition or at the request of a local school board under Section [53G-3-301](#).

361 Section 2. Section **67-3-1** is amended to read:

362 **67-3-1. Functions and duties.**

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

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

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

- 369 (a) the condition of the state's finances;
- 370 (b) the revenues received or accrued;
- 371 (c) expenditures paid or accrued;
- 372 (d) the amount of unexpended or unencumbered balances of the appropriations to the
- 373 agencies, departments, divisions, commissions, and institutions; and
- 374 (e) the cash balances of the funds in the custody of the state treasurer.
- 375 (3) (a) The state auditor shall:
- 376 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
- 377 any department of state government or any independent agency or public corporation as the law
- 378 requires, as the auditor determines is necessary, or upon request of the governor or the
- 379 Legislature;
- 380 (ii) perform the audits in accordance with generally accepted auditing standards and
- 381 other auditing procedures as promulgated by recognized authoritative bodies; and
- 382 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 383 (A) honesty and integrity in fiscal affairs;
- 384 (B) accuracy and reliability of financial statements;
- 385 (C) effectiveness and adequacy of financial controls; and
- 386 (D) compliance with the law.
- 387 (b) If any state entity receives federal funding, the state auditor shall ensure that the
- 388 audit is performed in accordance with federal audit requirements.
- 389 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
- 390 appropriation to the state auditor from the General Fund.
- 391 (ii) If an appropriation is not provided, or if the federal government does not
- 392 specifically provide for payment of audit costs, the costs of the federal compliance portions of
- 393 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
- 394 bears to the total federal funds received by the state.
- 395 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
- 396 funds passed through the state to local governments and to reflect any reduction in audit time
- 397 obtained through the use of internal auditors working under the direction of the state auditor.
- 398 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
- 399 financial audits, and as the auditor determines is necessary, conduct performance and special

400 purpose audits, examinations, and reviews of any entity that receives public funds, including a
401 determination of any or all of the following:

- 402 (i) the honesty and integrity of all the entity's fiscal affairs;
- 403 (ii) whether the entity's administrators have faithfully complied with legislative intent;
- 404 (iii) whether the entity's operations have been conducted in an efficient, effective, and
405 cost-efficient manner;
- 406 (iv) whether the entity's programs have been effective in accomplishing the intended
407 objectives; and
- 408 (v) whether the entity's management, control, and information systems are adequate,
409 effective, and secure.

410 (b) ~~[The]~~ Except as provided in Subsection (14)(c), the auditor may not conduct
411 performance and special purpose audits, examinations, and reviews of any entity that receives
412 public funds if the entity:

- 413 (i) has an elected auditor; and
- 414 (ii) has, within the entity's last budget year, had the entity's financial statements or
415 performance formally reviewed by another outside auditor.

416 (5) The state auditor:

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

419 (b) may:

- 420 (i) subpoena witnesses and documents, whether electronic or otherwise; and
- 421 (ii) examine into any matter that the auditor considers necessary.

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

425 (7) The state auditor shall:

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

- 428 (i) persons who by any means have become entrusted with public money or property
429 and have failed to pay over or deliver the money or property; and
- 430 (ii) all debtors of the state;

- 431 (b) collect and pay into the state treasury all fees received by the state auditor;
- 432 (c) perform the duties of a member of all boards of which the state auditor is a member
433 by the constitution or laws of the state, and any other duties that are prescribed by the
434 constitution and by law;
- 435 (d) stop the payment of the salary of any state official or state employee who:
- 436 (i) refuses to settle accounts or provide required statements about the custody and
437 disposition of public funds or other state property;
- 438 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
439 board or department head with respect to the manner of keeping prescribed accounts or funds;
440 or
- 441 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
442 official's or employee's attention;
- 443 (e) establish accounting systems, methods, and forms for public accounts in all taxing
444 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 445 (f) superintend the contractual auditing of all state accounts;
- 446 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
447 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
448 officials and employees in those taxing units comply with state laws and procedures in the
449 budgeting, expenditures, and financial reporting of public funds;
- 450 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
451 if necessary, to ensure that officials and employees in the county comply with Section
452 [59-2-303.1](#); and
- 453 (i) withhold state allocated funds or the disbursement of property taxes from a local
454 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
455 the state auditor finds the withholding necessary to ensure that the entity registers and
456 maintains the entity's registration with the lieutenant governor, in accordance with Section
457 [67-1a-15](#).
- 458 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
459 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
460 written notice of noncompliance from the auditor and has been given 60 days to make the
461 specified corrections.

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

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

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

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

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

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

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

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

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

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

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

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

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

493 to make the specified corrections.

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

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

499 (i) money held by the state; and

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

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

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

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

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

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

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

515 (ii) meet debt service obligations; and

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

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

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

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

523 and

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

527 (13) The state auditor shall:

528 (a) establish audit guidelines and procedures for audits of local mental health and
529 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
530 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
531 Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political
532 Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter
533 15, Substance Abuse and Mental Health Act; and

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

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

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

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

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

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

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

555 (c) If the state auditor receives a request from a city or interlocal agreement participants
556 to conduct a feasibility study under Section 53G-3-302, the state auditor shall conduct the
557 feasibility study in accordance with Subsection (1)(b) or (2)(c) and (d).

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

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

- 562 (i) designate how that work shall be audited; and
563 (ii) provide additional funding for those audits, if necessary.

564 (16) The state auditor shall:

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

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

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

573 (B) conforms with generally accepted accounting principles; and

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

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

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

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

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

584 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
585 63G, Chapter 22, State Training and Certification Requirements; and

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

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

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

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

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

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

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

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

612 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
613 the state auditor to classify a document as public, private, controlled, or protected under Title
614 63G, Chapter 2, Government Records Access and Management Act.

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

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

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

625 (iii) The state auditor or the subject of the audit may seek judicial review of a State
626 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
627 63G-2-404.

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

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

635 (20) The state auditor shall report, or ensure that another government entity reports, on
636 the financial, operational, and performance metrics for the state system of higher education and
637 the state system of public education, including metrics in relation to students, programs, and
638 schools within those systems.