

## HB0529S02 compared with HB0529S01

~~{deleted text}~~ shows text that was in HB0529S01 but was deleted in HB0529S02.

inserted text shows text that was not in HB0529S01 but was inserted into HB0529S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Candice B. Pierucci}~~Senator Kirk A. Cullimore proposes the following substitute bill:

### UTAH FITS ALL SCHOLARSHIP PROGRAM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Candice B. Pierucci**

Senate Sponsor: ~~{~~Kirk A. Cullimore

---

#### LONG TITLE

##### General Description:

This bill amends provisions regarding the Utah Fits All Scholarship Program.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies that a student may not receive education services funded through the Utah Fits All Scholarship Program and the Statewide Online Education Program;
- ▶ provides for the inclusion of children of military service members;
- ▶ allows a foster parent who has initiated a process to adopt the foster child to apply for a scholarship account;
- ▶ clarifies the use of scholarship funds to pay expenses to a qualifying provider

## HB0529S02 compared with HB0529S01

instead of an individual, including that parents are not eligible service providers;

- ▶ allows the Utah State Tax Commission to provide certain income information to the program manager in certain circumstances;
- ▶ amends a provision regarding an appeal process, shifting the requirement from the State Board of Education to the program manager with the involvement of parents;
- ▶ amends provisions regarding local education agency participation by removing dual enrollment proration and establishing local education agency eligibility to serve home-based scholarship students;
- ▶ moves a requirement to analyze cost effectiveness from the State Board of Education to the state auditor; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

[53F-4-501, as last amended by Laws of Utah 2023, Chapters 226, 368](#)

**53F-6-401**, as enacted by Laws of Utah 2023, Chapter 1

**53F-6-402**, as enacted by Laws of Utah 2023, Chapter 1

**53F-6-404**, as enacted by Laws of Utah 2023, Chapter 1

**53F-6-405**, as enacted by Laws of Utah 2023, Chapter 1

**53F-6-408**, as enacted by Laws of Utah 2023, Chapter 1

**53F-6-409**, as enacted by Laws of Utah 2023, Chapter 1

**53F-6-412**, as enacted by Laws of Utah 2023, Chapter 1

**59-1-403**, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329

**67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

---

---

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

[Section 1. Section 53F-4-501 is amended to read:](#)

**53F-4-501. Definitions.**

## HB0529S02 compared with HB0529S01

As used in this part:

(1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).

(2) (a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(4) (a) "Eligible student" means a student:

(a) (i) who intends to take a course for middle school or high school credit; and

(b) (ii) (A) who is enrolled in an LEA in Utah; or

(ii) (B) (A) who attends a private school or home school~~;~~ and

(B) whose custodial parent is a resident of Utah.

(b) "Eligible student" does not include a scholarship student as defined in Section 53F-6-401.

(5) "High school" means grade 9, 10, 11, or 12.

(6) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

(7) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of whether the student participates in the course at home, at school, at another location, or any combination of these.

(8) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(9) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section ~~(1)~~2. Section **53F-6-401** is amended to read:

**53F-6-401. Definitions.**

## HB0529S02 compared with HB0529S01

As used in this part:

(1) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a resident of the state, including a child of a military service member, as that term is defined in Section 53B-8-102;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the Special Needs Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) ~~[except for a student who is enrolled part-time in accordance with Section 53G-6-702,]~~ is not enrolled in ~~[an LEA]~~, upon receiving the scholarship

~~;~~ [i]:

(A) an LEA; or

(B) the Statewide Online Education Program to participate in a course with funding provided under Title 53F, Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Section 53F-6-409(7);

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and

~~[(e)]~~ (i) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).

(2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(3) (a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a home school student who does

## HB0529S02 compared with HB0529S01

not receive a scholarship under the program.

(4) "Parent" means:

(a) the same as that term is defined in Section 53E-1-102; and

(b) a foster parent who has initiated a process to adopt the foster child.

(5) "Program manager" means an organization that:

(a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) is not affiliated with any international organization;

(c) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(d) has no involvement in guiding or directing any curriculum or curriculum standards;

(e) does not manage or otherwise administer a scholarship under:

(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(ii) the Special Needs Opportunity Scholarship Program established in Section 53E-7-402; and

(f) an agreement with the state board recognizes as a program manager, in accordance with this part.

~~[(5)]~~ (6) (a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Program manager employee" does not include:

(i) an individual who volunteers for the program manager or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

~~[(6)]~~ (7) "Program manager officer" means:

(a) a member of the board of a program manager; or

(b) the chief administrative officer of a program manager.

~~[(7)]~~ (8) (a) "Qualifying provider" means one of the following entities ~~[that is not a public school and is autonomous and not an agent of the state, in accordance with Section 53F-6-406]:~~

~~[(a)]~~ (i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

## HB0529S02 compared with HB0529S01

~~[(b)]~~ (i) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(b) "Qualifying provider" does not include:

(i) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or

(ii) any other individual that does not meet the requirements described in Subsection (8)(a).

~~[(8)]~~ (9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

~~[(9)]~~ (10) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

~~[(10)]~~ (11) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

- (a) tuition and fees of a qualifying provider;
- (b) fees and instructional materials at a technical college;
- (c) tutoring services;
- (d) fees for after-school or summer education programs;
- (e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;
- (f) educational software and applications;
- (g) supplies or other equipment related to a scholarship student's educational needs;
- (h) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;
- (i) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:
  - (i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;
  - (ii) a state-recognized industry certification examination; and

## HB0529S02 compared with HB0529S01

(iii) an examination related to college or university admission;

(j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(k) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(l) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed \$750 in a given school year;

(m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

(n) any other expense for a good or service that:

(i) a parent or scholarship student incurs in the education of the scholarship student;

and

(ii) the program manager approves, in accordance with Subsection (4)(d).

~~[(11)]~~ (12) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

~~[(12)]~~ (13) (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.

~~[(13)]~~ (14) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section ~~53F-6-402~~ 53F-6-403. Section **53F-6-402** is amended to read:

**53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application -- Scholarship expenses -- Program information.**

(1) There is established the Utah Fits All Scholarship Program under which, beginning March 1, 2024, a parent may apply to a program manager on behalf of the parent's student to

## HB0529S02 compared with HB0529S01

establish and maintain a scholarship account to cover the cost of a scholarship expense.

(2) (a) The program manager shall establish and maintain, in accordance with this part, scholarship accounts for eligible students.

(b) The program manager shall:

(i) determine that a student meets the requirements to be an eligible student; and

(ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a scholarship account for the scholarship student to pay for the cost of one or more scholarship expenses that the student or student's parent incurs in the student's education.

(c) [~~Except as provided in Subsection (2)(d), each~~] Each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:

(i) for the 2024-2025 school year, \$8,000; and

(ii) for each school year following the 2024-2025 school year, the maximum allowed amount under this Subsection (2)(c) in the previous year plus a percentage increase that is equal to the five-year rolling average inflationary factor described in Section 53F-2-405.

~~[(d) If a scholarship student enrolls in an LEA part-time in accordance with Section 53G-6-702, the program manager shall prorate the amount of the award described in Subsection (2)(c) in proportion to the extent of the scholarship student's partial enrollment in the LEA.]~~

(3) (a) A program manager shall establish a scholarship account on behalf of an eligible student who submits a timely application, unless the number of applications exceeds available scholarship funds for the school year.

(b) If the number of applications exceeds the available scholarship funds for a school year, the program manager shall select students on a random basis, except as provided in Subsection (6).

(c) An eligible student or a public education student shall submit an application for an initial scholarship or renewal for each school year that the student intends to receive scholarship funds.

(d) (i) To maintain eligibility, a scholarship student or the scholarship student's parent shall annually complete and deliver to the program manager a portfolio describing the scholarship student's educational opportunities and achievements under the program for the given year.

## HB0529S02 compared with HB0529S01

(ii) The program manager may not disclose the content of a given scholarship student's portfolio except to the scholarship student's parent.

(4) (a) An application for a scholarship account shall contain an acknowledgment by the student's parent that the qualifying provider selected by the parent for the student's enrollment or engagement is capable of providing education services for the student.

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

"I acknowledge that:

~~[(1)]~~ 1: A qualifying provider may not provide the same level of disability services that are provided in a public school;

~~[(2)]~~ 2: I will assume full financial responsibility for the education of my scholarship recipient if I agree to this scholarship account;

~~[(3)]~~ 3: Agreeing to establish this scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

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

(c) Upon agreeing to establish a scholarship account, the parent assumes full financial responsibility for the education of the scholarship student, including the balance of any expense incurred at a qualifying provider or for goods that are not paid for by the scholarship student's scholarship account.

(d) Agreeing to establish a scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or establishment of a scholarship account on behalf of a student 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.

(5) A program manager may not charge a scholarship account application fee.

(6) (a) A program manager shall give an enrollment preference based on the following order of preference:

~~[(a)]~~ (i) to an eligible student who used a scholarship account in the previous school

## HB0529S02 compared with HB0529S01

year;

~~(b)~~ (ii) to an eligible student:

~~(+)~~ (A) who did not use a scholarship account in the previous school year; and

~~(+)~~ (B) with a family income at or below 200% of the federal poverty level;

~~(+)~~ (iii) to an eligible student who is a sibling of an eligible student who:

~~(+)~~ (A) uses a scholarship account at the time the sibling applies for a scholarship

account; or

~~(+)~~ (B) used a scholarship account in the school year immediately preceding the school year for which the sibling is applying for a scholarship account; and

~~(+)~~ (iv) to an eligible student:

~~(+)~~ (A) who did not use a scholarship account in the previous school year; and

~~(+)~~ (B) with a family income between 200% and 555% of the federal poverty level.

(b) The State Tax Commission may, upon request, provide state individual income tax information to the program manager for income verification purposes regarding a given individual if:

(i) the individual voluntarily provides the individual's social security number to the program manager; and

(ii) consents in writing to the sharing of state individual income tax information solely for income verification purposes.

(c) In addition to the tax information described in Subsection (6)(b), the program manager shall accept the following for income verification:

(i) a federal form W-2;

(ii) a wage statement from an employer; and

(iii) other methods or documents that the program manager identifies.

(7) (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship account to pay for a scholarship expense from a qualifying provider that a parent or scholarship student incurs in the education of the scholarship student.

(b) A scholarship student or the scholarship student's parent may not use a scholarship account for an expense that the student or parent does not incur in the education of the scholarship student, including:

(i) a rehabilitation program that is not primarily designed for an educational purpose;

## HB0529S02 compared with HB0529S01

or

(ii) a travel expense other than a transportation expense described in Section 53F-6-401.

(c) The program manager may not:

(i) approve a scholarship expense for a service that a qualifying provider provides unless the program manager determines that the scholarship student or the scholarship student's parent incurred the expense in the education of the scholarship student; or

(ii) reimburse [~~a scholarship~~] an expense for a service or good that a provider that is not a qualifying provider provides unless:

(A) the parent or scholarship student submits a receipt that shows the cost and type of service or good and the name of provider; [~~and~~]

(B) the expense would have qualified as a scholarship expense if a qualifying provider provided the good or service;

(C) the provider of the good or service is not the parent of the student who is a home-based scholarship student solely in relation to the parent's child; and

[~~(B)~~] (D) the program manager determines that the parent or scholarship student incurred the expense in the education of the scholarship student.

(d) The parent of a scholarship student may not receive scholarship funds as payment for the parent's time spent educating the parent's child.

(e) Except for cases in which a scholarship student or the scholarship student's parent is convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student, or scholarship student's parent repays an expenditure from a scholarship account for an expense that is not approved under this Subsection (7), the program manager shall credit the repaid amount back to the scholarship account balance within 30 days after the day on which the program manager receives the repayment.

(8) Notwithstanding any other provision of law, funds that the program manager disburses under this part to a scholarship account on behalf of a scholarship student do not constitute state taxable income to the parent of the scholarship student.

(9) The program manager shall prepare and disseminate information on the program to a parent applying for a scholarship account on behalf of a student, including the information that the program manager provides in accordance with Section 53F-6-405.

## HB0529S02 compared with HB0529S01

(10) On or before September 1, 2023, and as frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

- (a) scholarship account information;
- (b) information on the program manager, including the program manager's contact information; and
- (c) an overview of the program.

Section ~~3~~4. Section **53F-6-404** is amended to read:

**53F-6-404. State board procurement and review of program manager -- Failure to comply.**

(1) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement with no more than one organization that qualifies as tax exempt under Section 501(c)(3), Internal Revenue Code, for the state board to recognize as the program manager, on or before September 1, 2023.

(b) An organization that responds to a request for proposals described in Subsection (1)(a) shall submit the following information in the organization's response:

- (i) a copy of the organization's incorporation documents;
- (ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

- (iii) a description of the methodology the organization will use to verify a student's eligibility under this part;

- (iv) a description of the organization's proposed scholarship account application process; and

- (v) an affidavit or other evidence that the organization:

- (A) is not affiliated with any international organization;

- (B) does not harvest data for the purpose of reproducing or distributing the data to another entity; and

- (C) has no involvement in guiding or directing any curriculum standards.

(c) The state board shall ensure that the agreement described in Subsection (1)(a):

- (i) ensures the efficiency and success of the program; and

## HB0529S02 compared with HB0529S01

(ii) does not impose any requirements on the program manager that:

(A) are not essential to the basic administration of the program; or

(B) create restrictions, directions, or mandates regarding instructional content or curriculum.

(2) The state board may regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager.

(3) (a) If the state board determines that a program manager has violated a provision of this part or a provision of the state board's agreement with the program manager, the state board shall send written notice to the program manager explaining the violation and the remedial action required to correct the violation.

(b) A program manager that receives a notice described in Subsection (3)(a) shall, no later than 60 days after the day on which the program manager receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a program manager that receives a notice described in Subsection (3)(a) fails to correct a violation in the time period described in Subsection (3)(b), the state board may bar the program manager from further participation in the program.

(ii) A program manager may appeal a decision of the state board under Subsection (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A program manager may not accept state funds while the program manager:

(i) is barred from participating in the program under Subsection (3)(c)(i); or

(ii) has an appeal pending under Subsection (3)(c)(ii).

(e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may continue to administer scholarship accounts during the pending appeal.

(4) The state board shall establish a process for a program manager to report the information the program manager is required to report to the state board under Section 53F-6-405.

(5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and include provisions in the state board's agreement with the scholarship organization for:

(a) subject to Subsection (6), the administration of scholarship accounts and

## HB0529S02 compared with HB0529S01

disbursement of scholarship funds if a program manager is barred from participating in the program under Subsection (3)(c)(i); and

(b) audit and report requirements as described in Section 53F-6-405.

(6) (a) The state board shall include in the rules and provisions described in Subsection (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and enrollment in the program are not disrupted if the program manager is barred from participating in the program.

(b) The state board may, if the program manager is barred from participating in the program, issue a new request for proposals and enter into a new agreement with an alternative program manager in accordance with this section.

(7) (a) On or before January 1, 2024, the ~~[state board]~~ program manager shall:

(i) ~~[make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to]~~ establish a process for a scholarship student or a scholarship student's parent to appeal any administrative decision of the program manager ~~[for state board resolution within 30 days after the day of the appeal]~~, including~~[:{]~~

~~— [ (A) ]~~ scholarship expense denials~~[:{]~~ and~~{~~

~~— [ (B) ]~~ and determinations regarding enrollment eligibility or suspension or disqualification under Section 53F-6-405; ~~[and]~~

(ii) ensure that the body that determines the outcome of internal appeals:

(A) includes parents of scholarship students; and

(B) makes a determination within 30 days after the day of the appeal;

~~[(ii)]~~ (iii) make information available regarding the internal appeals process on the [state board's] program manager's website and on the scholarship application.

(b) If the ~~[state board]~~ program manager stays or reverses an administrative decision of the program manager on internal appeal, the program manager may not withhold scholarship funds or application approval for the scholarship student on account of the appealed administrative decision unless as the ~~[state board]~~ resolution of the internal appeal expressly allows.

(8) The state board may not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding instructional content or curriculum.

(9) No later than 10 business days after July 1 of each year, the state board shall

## HB0529S02 compared with HB0529S01

disperse to the program manager an amount equal to the funds appropriated for the Utah Fits All Scholarship Program for the given fiscal year.

Section ~~{4}~~5. Section **53F-6-405** is amended to read:

### **53F-6-405. Program manager duties -- Audit -- Prohibitions.**

- (1) The program manager shall administer the program, including:
  - (a) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;
  - (b) reviewing applications from and determining if a person is:
    - (i) an eligible school under Section 53F-6-408; or
    - (ii) an eligible service provider under Section 53F-6-409;
  - (c) establishing an application process, including application dates opening before March 1, 2024, in accordance with Section 53F-6-402;
  - (d) reviewing and granting or denying applications for a scholarship account;
  - (e) providing an online portal for the parent of a scholarship student to access the scholarship student's account to facilitate payments to a qualifying provider from the online portal;
  - (f) ensuring that scholarship funds in a scholarship account are readily available to a scholarship student;
  - (g) requiring a parent to notify the program manager if the parent's scholarship student is no longer enrolled in or engaging a service:
    - (i) for which the scholarship student receives scholarship funds; and
    - (ii) that is provided to the scholarship student for an entire school year;
  - (h) obtaining reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer enrolled or with which the scholarship student is no longer engaged;
  - (i) expending all revenue from interest on scholarship funds or investments on scholarship expenses;
  - (j) each time the program manager makes an administrative decision that is adverse to a scholarship student or the scholarship student's parent, informing the scholarship student and the scholarship student's parent of the opportunity and process to appeal an administrative decision of the program manager [~~to the state board~~] in accordance with the process described

## HB0529S02 compared with HB0529S01

in Section 53F-6-404;

(k) maintaining a protected internal waitlist of all eligible students who have applied to the program and are not yet scholarship students, including any student who removed the student's application from the waitlist; and

(l) providing aggregate data regarding the number of scholarship students and the number of eligible students on the waitlist described in Subsection (1)(k).

(2) The program manager shall:

(a) contract with one or more private entities to develop and implement a commercially viable, cost-effective, and parent-friendly system to:

(i) establish scholarship accounts;

(ii) maximize payment flexibility by allowing:

(A) for payment of services to qualifying providers using scholarship funds by electronic or online funds transfer from the online portal; and

(B) pre-approval of a reimbursement to a parent for a good that is a scholarship expense; and

(iii) allow scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers; ~~and~~

(b) except for a reimbursement authorized under this part, ensuring the use of scholarship funds from the online portal directly to a qualifying provider to pay for scholarship expenses without the availability of withdrawal or other direct access to scholarship funds by an individual; and

~~(b)~~ (c) ensure that the system complies with industry standards for data privacy and cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) In advance of the program manager accepting applications in accordance with Section 53F-6-402 and as regularly as information develops, the program manager shall provide information regarding the program by publishing a program handbook online for scholarship applicants, scholarship students, parents, service providers seeking to become qualifying providers, and qualifying providers, that includes information regarding:

(a) the policies and processes of the program;

(b) approved scholarship expenses and qualifying providers;

## HB0529S02 compared with HB0529S01

(c) the responsibilities of parents regarding the program and scholarship funds;

(d) the duties of the program manager;

(e) the opportunity and process to appeal an administrative decision of the program manager [~~to the state board~~] in accordance with the process described in Section 53F-6-404; and

(f) the role of any private financial management firms or other private organizations with which the program manager may contract to administer any aspect of the program.

(4) To ensure the fiscal security and compliance of the program, the program manager shall:

(a) prohibit a program manager employee or program manager officer from handling, managing, or processing scholarship funds, if, based on a criminal background check that the state board conducts in accordance with Section 53F-6-407, the state board identifies the program manager employee or program manager officer as posing a risk to the appropriate use of scholarship funds;

(b) establish procedures to ensure a fair process to:

(i) suspend scholarship student's eligibility for the program in the event of the scholarship student's or scholarship student's parent's:

(A) intentional or substantial misuse of scholarship funds; or

(B) violation of this part or the terms of the program; and

(ii) if the program manager obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or criminal investigation;

(iii) ensure that a scholarship student whose eligibility is suspended or disqualified under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent regains eligibility if the student is placed with a different parent or otherwise no longer resides with the parent related to the suspension or disqualification;

(c) notify the state board, scholarship student, and scholarship student's parent in writing:

(i) of the suspension described in Subsection (4)(b)(i);

(ii) that no further transactions, disbursements, or reimbursements are allowed;

(iii) that the scholarship student or scholarship student's parent may take corrective action within 10 business days of the day on which the program manager provides the

## HB0529S02 compared with HB0529S01

notification; and

(iv) that without taking the corrective action within the time period described in Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

(5) (a) A program manager may not:

(i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to use scholarship funds if:

(A) the program manager determines that the qualifying provider intentionally or substantially misrepresented information on overpayment;

(B) the qualifying provider fails to refund an overpayment in a timely manner; or

(C) the qualifying provider routinely fails to provide scholarship students with promised educational services; or

(ii) reimburse with scholarship funds an individual for the purchase of a good or service if the program manager determines that:

(A) the scholarship student or the scholarship student's parent requesting reimbursement intentionally or substantially misrepresented the cost or educational purpose of the good or service; or

(B) the relevant scholarship student was not the exclusive user of the good or service.

(b) A program manager shall notify a scholarship student if the program manager:

(i) stops disbursement of the scholarship student's scholarship funds to a qualifying provider under Subsection (5)(a)(i); or

(ii) refuses reimbursement under Subsection (5)(a)(ii).

(6) (a) At any time, a scholarship student may change the qualifying provider to which the scholarship student's scholarship account makes distributions.

(b) If, during the school year, a scholarship student changes the student's enrollment in or engagement with a qualifying provider to another qualifying provider, the program manager may prorate scholarship funds between the qualifying providers based on the time the scholarship student received the goods or services or was enrolled.

(7) A program manager may not subvert the enrollment preferences required under Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of a relative of a program manager officer.

(8) The program manager shall:

## HB0529S02 compared with HB0529S01

(a) contract for annual and random audits on scholarship accounts conducted:

(i) by a certified public accountant who is independent from:

(A) the program manager;

(B) the state board; and

(C) the program manager's accounts and records pertaining to scholarship funds; and

(ii) in accordance with generally accepted auditing standards;

(b) demonstrate the program manager's financial accountability by annually submitting to the state board the following:

(i) a financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and

(ii) no later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in Subsection (8)(a), including the program manager's financial statements in a format that meets generally accepted accounting principles.

(9) (a) The state board:

(i) shall review a report described in this section; and

(ii) may request that the program manager revise or supplement the report if the report does not fully comply with this section.

(b) The program manager shall provide to the state board a revised report or a supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (9)(a).

Section ~~53F-6~~6. Section **53F-6-408** is amended to read:

### **53F-6-408. Eligible schools.**

(1) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with 150 or more enrolled students shall:

(a) (i) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement as the state board adopts, or obtain an audit and report that:

(A) a licensed independent certified public accountant conducts in accordance with generally accepted auditing standards;

(B) presents the financial statements in accordance with generally accepted accounting

## HB0529S02 compared with HB0529S01

principles; and

(C) audits financial statements from within the 12 months immediately preceding the audit; and

(ii) submit the audit report or report of the agreed upon procedure to the program manager when the private school applies to receive scholarship funds;

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

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

(i) the education services that the school will provide to the scholarship student, including the cost of the provided services;

(ii) tuition costs;

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

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

(d) 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) a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure; or

(B) if the private school is not physically located in Utah, a current educator license in the state where the private school is physically located; and

(ii) a contract employee.

(2) A private school described in Subsection (1) is not eligible to receive scholarship funds if:

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

(b) the audit report described in Subsection (1)(a) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedures described in Subsection (1)(a) shows that

## HB0529S02 compared with HB0529S01

the private school does not have adequate working capital to maintain operations for the first full year.

(3) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with fewer than 150 enrolled students shall:

(a) provide to the program manager:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer a scholarship student; and

(iv) any other information as required by the program manager; and

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

(4) A private school described in Subsection (3) is not eligible to receive scholarship funds if the private school requires a scholarship student to sign a contract waiving the student's rights to transfer to another qualifying provider during the school year.

(5) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, an LEA shall:

(a) provide to the program manager:

(i) a federal employer identification number;

(ii) the LEA's address and contact information; and

(iii) the amount to be charged under the program for, in correlation with LEA's course and activity fee schedules, and a description of [each] a class, program, or service the LEA [proposes to offer to scholarship students; and] provides to a home-based scholarship student;

~~[(iv) any other information as required by the program manager;]~~

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

(c) ~~[enter into an agreement with the program manager regarding]~~ ensure the provision of services to a scholarship student through which:

(i) the scholarship student does not enroll in the LEA; and

(ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU funding related to the student's participation with the LEA~~[-and]~~.

~~[(iii) the LEA and program manager ensure that a scholarship student does not participate in a course or program at the LEA except in accordance with the agreement~~

## HB0529S02 compared with HB0529S01

~~described in this Subsection (5)(c) under the program.]~~

(6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:

(a) the LEA requires a public education system scholarship student to sign a contract waiving the student's rights to ~~[transfer to]~~ engage with another qualifying provider for a scholarship expense during the school year; or

(b) the LEA refuses to offer services that do not require LEA enrollment to scholarship students under the program.

(7) Residential treatment facilities licensed by the state are not eligible to receive scholarship funds.

(8) A private school or LEA intending to receive scholarship funds shall:

(a) (i) for a private school, submit an application to the program manager; [and] or (ii) for an LEA, submit a notice to the program manager containing the information described in Subsection (5)(a); and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship student's parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

(9) The program manager shall:

(a) if the private school or LEA meets the eligibility requirements of this section, recognize the private school or LEA as an eligible school and, for a private school, approve the application; and

(b) make available to the public a list of eligible schools approved under this section.

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

(a) cease operation as an eligible school until:

(i) the school submits a new application to the program manager; and

(ii) the program manager approves the new application; and

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

Section ~~6~~7. Section **53F-6-409** is amended to read:

### **53F-6-409. Eligible service providers.**

(1) To be an eligible service provider, a private program or service:

(a) shall provide to the program manager:

## HB0529S02 compared with HB0529S01

- (i) a federal employer identification number;
  - (ii) the provider's address and contact information;
  - (iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and
  - (iv) subject to Subsection (2), any other information as required by the program manager;
- (b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and
  - (c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.

(2) The program manager shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.

- (3) A private program or service intending to receive scholarship funds shall:
  - (a) submit an application to the program manager; and
  - (b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

- (4) The program manager shall:
  - (a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and
  - (b) make available to the public a list of eligible service providers approved under this section.

- (5) A private program or service approved under this section that changes ownership shall:
  - (a) cease operation as an eligible service provider until:
    - (i) the program or service submits a new application to the program manager; and
    - (ii) the program manager approves the new application; and

## HB0529S02 compared with HB0529S01

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

(6) The following are not eligible service providers:

(a) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or

(b) any other individual that does not meet the requirements described in this section.

(7) Nothing prohibits an entity that provides education services under the Statewide Online Education Program described in Title 53F, Chapter 4, Part 5, Statewide Online Education Program, from operating as an eligible service provider under this part to provide education services to scholarship students.

Section ~~(7)~~8. Section **53F-6-412** is amended to read:

### **53F-6-412. Reports.**

Beginning in 2025 and in accordance with Section 68-3-14 and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g~~[-(1)]~~,<sup>f</sup>

~~—[(1)]~~ the program manager shall submit a report on the program to the Education Interim Committee no later than September 1 of each year that includes:

~~[(a)]~~ (1) the total amount of tuition and fees qualifying providers charged for the current year and previous two years;

~~[(b)]~~ (2) the total amount of goods paid for with scholarship funds in the previous year and a general characterization of the types of goods;

~~[(c)]~~ (3) administrative costs of the program;

~~[(d)]~~ (4) the number of scholarship students from each county and the aggregate number of eligible students on the waitlist described in Section 53F-6-405;

~~[(e)]~~ (5) the percentage of first-time scholarship students 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;

~~[(f)]~~ (6) the program manager's strategy and outreach efforts to reach eligible students whose family income is at or below 200% of the federal poverty level and related obstacles to enrollments;

~~[(g)]~~ (7) in the report that the program manager submits in 2025, information on steps the program manager has taken and processes the program manager has adopted to implement

## HB0529S02 compared with HB0529S01

the program; and

~~[(1)]~~ (8) any other information regarding the program and the program's implementation that the committee requests~~[-and]~~.

~~[(2) the state board shall submit a report on the cost-effectiveness of the program to the Education Interim Committee no later than September 1 of each year.]~~

Section ~~{8}~~9. Section **59-1-403** is amended to read:

### **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or

## HB0529S02 compared with HB0529S01

proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
  - (A) this title; or
  - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission

is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and

## HB0529S02 compared with HB0529S01

other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

## HB0529S02 compared with HB0529S01

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in

## HB0529S02 compared with HB0529S01

Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO

## HB0529S02 compared with HB0529S01

Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with

## HB0529S02 compared with HB0529S01

the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

## **HB0529S02 compared with HB0529S01**

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

## HB0529S02 compared with HB0529S01

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(cc) Notwithstanding Subsection (2), the commission may, upon request, disclose a taxpayer's state individual income tax information to a program manager of the Utah Fits All Scholarship Program under Section 53F-6-402 if:

(i) the taxpayer consents in writing to the disclosure;

(ii) the taxpayer's written consent includes the taxpayer's name, social security number, and any other information the commission requests that is necessary to verify the identity of the taxpayer; and

(iii) the program manager provides the taxpayer's written consent to the commission.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

## HB0529S02 compared with HB0529S01

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section ~~9~~10. 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.

(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

## HB0529S02 compared with HB0529S01

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 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.

## HB0529S02 compared with HB0529S01

(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:

(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

## HB0529S02 compared with HB0529S01

(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 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:

## HB0529S02 compared with HB0529S01

(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 (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

## HB0529S02 compared with HB0529S01

(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.

(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 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities 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

## HB0529S02 compared with HB0529S01

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 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 special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

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

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special 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;

## HB0529S02 compared with HB0529S01

(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 special 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

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special 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

## HB0529S02 compared with HB0529S01

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 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) 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

## HB0529S02 compared with HB0529S01

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, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

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

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

Section ~~10~~ 11. **Effective date.**

This bill takes effect on May 1, 2024.