OFFICE OF THE
UTAH STATE AUDITOR

March 6, 2025

Spencer J. Cox, Governor
State of Utah
Utah State Capitol Building
350 North State St., Ste 200
Salt Lake City, UT 84114

Dear Governor Cox,

The Office of the Utah State Auditor (Office) has reviewed Senate Bill 37 and has compiled the following concerns for your consideration as you make your determination whether or not to sign the bill into law.

Background

Senate Bill 37 Minimum Basic Tax Rate Amendments requires school districts that impose the combined minimum basic tax to remit to the state the revenue the tax generates. This bill directs the county treasurer to collect the combined basic rate revenue for all school districts and remit that revenue to the state treasurer monthly. The state treasurer is required to deposit this revenue into the state's general fund (no restrictions on this revenue are specified in this bill). The state board is then to remit an equivalent amount from the state's income tax fund to the relevant school district with 35 days of deposit with the state treasurer.

Accounting Treatment – Fund Restrictions

The intention of the bill is to remove the restricted use of property tax funds levied by local school districts. There are two pertinent code sections that should be considered. The first is UCA 67-1a-15, which lists School Districts as limited purpose entities, meaning they perform a single government function. That function is providing public education programs for kindergarten, elementary, and secondary school students in their respective geographic areas. The restricted use of the basic school levy is spelled out in UCA 53F-2-103 (2).

The bill does not specify that the funds deposited into the state general fund should lose the restricted purpose created by a limited purpose entity following UCA 53F-2-103. The plain language required on property tax notices sent to tax payors clearly indicates that these funds are levied for schools and not for state general fund purposes. By omitting this clarification regarding restrictions on these property tax revenues, the state may be required to restrict and track additional restricted use funds in the state general fund

Accounting Treatment – Grossing up Revenues and Expenditures

Generally accepted accounting standards (GAAP), established by the Governmental Accounting Standards Board (GASB), could permit recognition of these revenues in the state general fund and expenditure from the income tax fund. At the school district level, GAAP would also require the school district to record property tax revenue for the levied taxes, the transfer of this revenue to the state, and revenue from the state again for the state's distribution from the income tax fund. This would cause a "grossing up" of revenues and expenditures at all levels and would need to be specifically disclosed in the financial statements to users of the financial statements. This will create additional disclosure requirements, not only for the state, but all the school districts, so users such as bond councils could clearly understand this grossing up effect.

Supplanting Restricted Funds - Unconstitutional

The State of Utah recognizes that the establishment of an education system is primarily a state function and that school districts should be required to participate on a partnership basis in the payment of a reasonable portion of the cost of a minimum program UCA 53F-2-103 (2).

In 2024 this partnership provided approximately $8,799,665,000 in funding towards public education across the state. The State Income Tax fund generated $8,095,776,000 in revenue (see State 2024 ACFR p. 44) and the School Districts Charged a Basic School Levy of $703,889,000 (see taxrates.utah.gov). If implemented as intended, approximately $700 Million would be diverted away from public education for general fund use. The Office questions the constitutionality of a law that supplants constitutionally restricted funds at the state level with local restricted funds, resulting in unrestricted state funds for general fund use.

If the legislative intent of the bill is to provide additional state general fund revenue via property tax and have the full funding of the minimum school program funded from income tax, we would recommend delaying the effective date for this bill to January 1, 2026. This would allow property disclosure notices to correctly list the State as the taxing entity for the general property tax levy replacing the school basic levy. Implementing this bill without modifying would be misleading to Utah taxpayers because it states that it is for education while the bill's intent is for those funds to be unrestricted in the state general fund.

We recommend a veto of Senate Bill 37 pending the clarification of fund balance restrictions to avoid potential material audit conflicts and disclosure requirements at the state and local levels.

Sincerely,

Tina M. Cannon

Tina Cannon,

Utah State Auditor