

30 **53A-1a-811**, Utah Code Annotated 1953

31

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

33 Section 1. Section **53A-1a-804** is enacted to read:

34 **53A-1a-804. Scholarship program created -- Qualifications -- Application.**

35 (1) The Parent Choice in Education Program is created to award scholarships to
36 students to attend a private school.

37 (2) To qualify for a scholarship under this part:

38 (a) the student's custodial parent or legal guardian shall reside within Utah;

39 (b) the student shall be at least five years of age before September 2 of the year in
40 which admission to a private school is sought and under 19 years of age on the last day of the
41 school year as determined by the private school, or, if the individual has not graduated from
42 high school, will be under 22 years of age on the last day of the school year as determined by
43 the private school;

44 (c) the student shall meet one or more of the following criteria:

45 (i) the student was born after September 1, 2001;

46 (ii) the student was enrolled as a full-time student in a Utah public school on January 1,
47 2007;

48 (iii) the individual was not a Utah resident on January 1, 2007; or

49 (iv) the student's parents had an annual income less than or equal to 100% of the
50 income eligibility guideline in the calendar year immediately preceding the school year for
51 which a scholarship is sought; and

52 (d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part
53 7, Carson Smith Scholarships for Students with Special Needs Act.

54 (3) (a) To receive a scholarship, the parent of a student shall submit an application for
55 the scholarship to the board by the June 1 preceding the school year for which a scholarship is
56 sought, except the deadline for submitting an application for the 2007-08 school year is July
57 15, 2007. Along with the application, the student's parent shall submit documentation

58 verifying income as required by board rule.

59 (b) The board may waive the application deadline.

60 (4) The board shall award scholarships by the July 1 preceding the school year for
61 which a scholarship is sought, except the deadline for awarding scholarships for the 2007-08
62 school year is August 15, 2007.

63 (5) (a) The scholarship application form shall contain the following statement:

64 "I acknowledge that:

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

67 (2) The private school in which I have chosen to enroll my child has disclosed to me
68 the teaching credentials of the school's teachers and the school's accreditation status.

69 (3) I will assume full financial responsibility for the education of my scholarship
70 student if I accept this scholarship.

71 (4) Acceptance of this scholarship has the same effect as a parental refusal to consent
72 to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
73 U.S.C. Sec. 1400 et seq."

74 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility
75 for the education of the scholarship student for the period in which the student receives the
76 scholarship, including costs associated with transportation.

77 (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to
78 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
79 U.S.C. Sec. 1400 et seq.

80 (6) A student's parent, at any time, may remove the student from a private school and
81 place the student in another eligible private school and retain the scholarship.

82 Section 2. Section **53A-1a-805** is enacted to read:

83 **53A-1a-805. Eligible private schools.**

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

85 (a) have a physical location in Utah where the scholarship students attend classes and

86 have direct contact with the school's teachers;

87 (b) contract with an independent certified public accountant to perform the agreed upon
88 procedures specified in Subsection (2) and produce a report of the results which shall be
89 submitted to the board at the times specified in Subsection (2);

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

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

92 (e) disclose to the parent of each prospective student, before the student is enrolled, the
93 special education services that will be provided to the student, if any, including the cost of
94 those services;

95 (f) (i) annually assess the achievement of each student by administering:

96 (A) a norm-referenced test scored by an independent party that provides a comparison
97 of the student's academic performance to other students on a national basis; or

98 (B) an alternative assessment of the student's achievement, if the student:

99 (I) has a disability or limited English proficiency; and

100 (II) would be exempt from taking a nationally norm-referenced achievement test if
101 enrolled in a Utah public school;

102 (ii) report the test results to the student's parents; and

103 (iii) upon request, make test results available to other persons, in a manner that does
104 not reveal the identity of any student;

105 (g) employ or contract with teachers who have completed a criminal background check
106 that complies with the requirements of Section 53A-3-410 and;

107 (i) hold baccalaureate or higher degrees; or

108 (ii) have special skills, knowledge, or expertise that qualifies them to provide
109 instruction in the subjects taught;

110 (h) provide to parents the teaching credentials of the school's teachers; and

111 (i) provide, upon request to any person, a statement indicating which, if any,
112 organizations have accredited the private school.

113 (2) (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are

114 as follows:

115 (i) (A) determine that working capital is at least 80% of average quarterly expenditures
116 by taking total expenditures for a year and dividing it by four and then dividing average
117 quarterly expenditures into working capital; and

118 (B) for a school in the first year of operations, use the estimated budget to estimate
119 average quarterly expenditures;

120 (ii) (A) determine that scholarship payments are accounted for separately and
121 reconciled to student records; and

122 (B) for the first year of operations, determine that procedures are in place for this
123 accounting; and

124 (iii) (A) determine that expenditure of scholarship funds have been made for education
125 expenses and is consistent with other tuition expenditures; and

126 (B) for the first year of operations, determine that procedures are in place for this
127 accounting.

128 (b) (i) The independent certified public accountant's report on the agreed upon
129 procedures specified in Subsection (2)(a) shall be submitted to the board when the private
130 school applies to accept scholarship students and every four years thereafter, except as
131 provided in Subsection (2)(b)(ii).

132 (ii) The board may, by rule, delay the date when the independent certified public
133 accountant's report shall be submitted for private schools applying to accept scholarship
134 students in the 2007-08 school year.

135 (3) The following are not eligible to enroll scholarship students:

136 (a) a school with an enrollment of fewer than 40 students;

137 (b) a school that operates in a residence;

138 (c) a school that encourages illegal conduct; or

139 (d) a residential treatment facility licensed by the state.

140 (4) (a) Except as provided in Subsection (4)(b), a private school intending to enroll
141 scholarship students shall submit an application to the board by April 1 of the school year

142 preceding the school year in which it intends to enroll scholarship students.

143 (b) A private school intending to enroll scholarship students in the 2007-08 school year
144 shall submit an application by June 15, 2007.

145 (5) The board shall:

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

148 (b) make available to the public a list of the eligible private schools:

149 (i) for the 2008-09 school year and each school year thereafter, by the April 30
150 preceding the school year; and

151 (ii) for the 2007-08 school year, by July 1, 2007.

152 Section 3. Section **53A-1a-806** is enacted to read:

153 **53A-1a-806. Scholarship payments.**

154 (1) (a) Scholarships shall be awarded by the board subject to the availability of money
155 appropriated by the Legislature for that purpose.

156 (b) The Legislature shall annually appropriate money to the board from the General
157 Fund to make scholarship payments for all students projected to apply for scholarships.

158 (c) (i) If monies are not available to pay for all scholarships requested, the scholarships
159 shall be allocated on a random basis except that preference shall be given to students who
160 received scholarships in the previous year.

161 (ii) If monies are insufficient in a school year to pay for all the continuing scholarships:

162 (A) new scholarships may not be awarded during that school year;

163 (B) the monies available for scholarships shall be prorated among the eligible students
164 who received scholarships in the previous year; and

165 (C) the board shall request a supplemental appropriation from the Legislature to make
166 full scholarship payments as provided in Subsection (4) or (5).

167 (2) (a) Scholarships shall be awarded based upon the income of a scholarship student's
168 parents in the calendar year immediately preceding the school year for which a scholarship is
169 sought.

- 170 (b) (i) The board shall make rules specifying how the income of a prospective
171 scholarship student's parents shall be determined and verified.
- 172 (ii) The rules shall provide that the scholarship shall be based upon parental income as
173 follows:
- 174 (A) if the parents are married, the income of both parents;
175 (B) if a parent is widowed, the income of the widowed parent;
176 (C) if a parent is widowed and has remarried, the income of the parent and stepparent;
177 (D) if the parents are divorced, the income of the parent with whom the scholarship
178 student resided for the greatest amount of time during the past 12 months;
- 179 (E) if the parents are divorced and the scholarship student resided with each parent an
180 equal amount of time, the income of the parent who provided more financial support during the
181 past 12 months;
- 182 (F) if the divorced parent with whom the scholarship student resided for the greatest
183 amount of time or who provided the greatest financial support has remarried, the income of the
184 parent and stepparent; and
- 185 (G) if the scholarship student resides with a guardian, the income of the guardian,
186 unless the guardian's income is exempt by board rule.
- 187 (iii) The rules shall provide that:
- 188 (A) if a parent filed federal or state income tax forms, income shall be based upon
189 adjusted gross income as listed on the income tax forms;
- 190 (B) if a parent was exempt from filing federal and state income tax forms, income shall
191 be based on income earned from work; and
- 192 (C) a parent shall submit documentation verifying income.
- 193 (3) (a) The board shall compare the income of a scholarship student's parents to the
194 maximum annual incomes listed in the income eligibility guideline as defined in Section
195 53A-1a-803 to set the scholarship amount.
- 196 (b) In determining scholarship amounts, the board shall use:
- 197 (i) the income eligibility guideline in effect for the school year immediately preceding

198 the school year for which a scholarship is sought; and

199 (ii) the scholarship student's household size as the applicable household size for the
200 purpose of determining maximum annual income under the income eligibility guideline.

201 (4) Full-year scholarships shall be awarded in the amounts shown in the following
202 table, or for the amount of tuition for a full year, whichever is less.

203 If the annual income of a scholarship
204 student's parents is:

The full-year scholarship amount is:

205 <u>Less than or equal to 100% of the</u>	
206 <u>income eligibility guideline</u>	<u>\$3,000</u>
207 <u>Greater than 100% but less than or equal</u>	
208 <u>to 125% of the income eligibility guideline</u>	<u>\$2,750</u>
209 <u>Greater than 125% but less than or equal to</u>	
210 <u>150% of the income eligibility guideline</u>	<u>\$2,500</u>
211 <u>Greater than 150% but less than or equal to</u>	
212 <u>175% of the income eligibility guideline</u>	<u>\$2,250</u>
213 <u>Greater than 175% but less than or equal to</u>	
214 <u>200% of the income eligibility guideline</u>	<u>\$2,000</u>
215 <u>Greater than 200% but less than or equal to</u>	
216 <u>225% of the income eligibility guideline</u>	<u>\$1,750</u>
217 <u>Greater than 225% but less than or equal to</u>	
218 <u>250% of the income eligibility guideline</u>	<u>\$1,000</u>
219 <u>Greater than 250% of the income eligibility guideline</u>	<u>\$500</u>

220 (5) The full-year scholarship amounts shown in the table in Subsection (4) apply to
221 scholarships for all grades except kindergarten. The full-year scholarship amount for
222 kindergarten shall be .55 times the amounts shown in the table in Subsection (4).

223 (6) The board shall annually increase the full-year scholarship amounts shown in the
224 table in Subsection (4) by the same percentage annual increase in the value of the weighted
225 pupil unit established in Section 53A-17a-103.

226 (7) (a) Except as provided in Subsection (7)(b), upon review and receipt of
227 documentation that verifies a student's admission to, or continuing enrollment and attendance
228 at, a private school, the board shall make scholarship payments in four equal amounts no later
229 than September 1, November 1, February 1, and April 15 of each school year in which a
230 scholarship is in force.

231 (b) In accordance with board rule, the board shall make a scholarship payment before
232 the first quarterly payment of the school year, if a private school requires partial payment of
233 tuition before the start of the school year to reserve space for a student admitted to the school.

234 (8) A parent of a scholarship student and the student's private school shall notify the
235 board if the student does not have continuing enrollment and attendance at the private school.

236 (9) Before scholarship payments are made, the board shall cross-check enrollment lists
237 of scholarship students, school districts, and youth in custody to ensure that scholarship
238 payments are not erroneously made.

239 (10) (a) Scholarship payments shall be made by the board by individual warrant made
240 payable to the student's parent and mailed by the board to the private school. The parent shall
241 restrictively endorse the warrant to the private school for deposit into the account of the private
242 school.

243 (b) A person, on behalf of a private school, may not accept a power of attorney from a
244 parent to sign a warrant referred to in Subsection (10)(a), and a parent of a scholarship student
245 may not give a power of attorney designating a person, on behalf of a private school, as the
246 parent's attorney in fact.

247 Section 4. Section **53A-1a-808** is enacted to read:

248 **53A-1a-808. Board to make rules.**

249 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
250 board shall make rules consistent with this part:

251 (a) establishing the application process for the scholarship program, including
252 procedures to allow a parent to apply for a scholarship online;

253 (b) establishing how the income of a scholarship student's parents shall be determined

254 and verified; and

255 (c) implementing Section 53A-1a-807.

256 (2) By May 15, 2007, the board shall adopt rules establishing:

257 (a) the application process for private schools and scholarship students; and

258 (b) how the income of a scholarship student's parents shall be determined.

259 Section 5. Section **53A-1a-811** is enacted to read:

260 **53A-1a-811. Review by legislative auditor general.**

261 The legislative auditor general shall conduct a review and issue a report on the Parent
262 Choice in Education Program after the conclusion of the 2011-12 school year.

263 Section 6. **Appropriation.**

264 As an ongoing appropriation subject to future budget constraints, there is appropriated
265 from the General Fund for fiscal year 2007-08, \$100,000 to the State Board of Education for
266 the administration of the Parent Choice in Education Act created in Title 53A, Chapter 1a, Part
267 8.

268 Section 7. **Coordinating H.B. 174 with H.B. 148 -- Substantively superseding**
269 **amendments.**

270 If this H.B. 174 and H.B. 148, Education Vouchers, both pass, it is the intent of the
271 Legislature that the amendments to the sections in this bill supersede the amendments to the
272 same numbered sections in H.B. 148 when the Office of Legislative Research and General
273 Counsel prepares the Utah Code database for publication.