

1 **ALTERNATIVE EDUCATION SCHOLARSHIP COMBINATION**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4
5 **LONG TITLE**

6 **General Description:**

7 This bill combines the Carson Smith Scholarship and Special Needs Opportunity
8 Scholarship Programs.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ renames the Special Needs Opportunity Scholarship program;
- 12 ▶ allows for home school students and preschool aged students to receive a
13 scholarship;
- 14 ▶ adds expenses with a qualifying provider to allowable scholarship expenses;
- 15 ▶ provides regulatory autonomy for a qualifying school, qualifying provider, and
16 home-school student;
- 17 ▶ allows scholarships to be used for services from eligible service providers and
18 establishes an approval process;
- 19 ▶ requires the Utah State Board of Education to notify participants of termination of
20 the current Carson Smith Scholarship Program;
- 21 ▶ phases out new applications and extensions for the Carson Smith Scholarship
22 Program after the 2023-2024 school year; and
- 23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53E-1-202.1**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

31 **53E-7-401**, as last amended by Laws of Utah 2023, Chapter 190

32 **53E-7-402**, as last amended by Laws of Utah 2023, Chapter 190 and last amended by

33 Coordination Clause, Laws of Utah 2023, Chapter 190
 34 **53E-7-403**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
 35 **53E-7-404**, as last amended by Laws of Utah 2022, Chapter 262
 36 **53E-7-405**, as last amended by Laws of Utah 2023, Chapters 190, 353
 37 **53E-7-406**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
 38 **53E-7-407**, as last amended by Laws of Utah 2022, Chapter 262
 39 **53E-7-408**, as last amended by Laws of Utah 2023, Chapter 353
 40 **53E-7-410**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
 41 **53F-4-302**, as last amended by Laws of Utah 2019, Chapter 186
 42 **53F-4-304**, as last amended by Laws of Utah 2020, Chapter 408
 43 **53F-6-401**, as enacted by Laws of Utah 2023, Chapter 1
 44 **59-7-109.1**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
 45 **59-7-625**, as last amended by Laws of Utah 2022, Chapter 262
 46 **59-10-1041**, as last amended by Laws of Utah 2022, Chapter 262
 47 **63I-2-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7,
 48 21, 33, 142, 167, 168, 380, 383, and 467
 49 **63I-2-253 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7, 21,
 50 33, 142, 167, 168, 310, 380, 383, and 467
 51 **63I-2-267**, as last amended by Laws of Utah 2023, Chapters 139, 530
 52 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

53 ENACTS:

54 **53E-7-408.5**, Utah Code Annotated 1953

55

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

57 Section 1. Section **53E-1-202.1** is amended to read:

58 **53E-1-202.1. Report to the Public Education Appropriations Subcommittee on**
 59 **the Carson Smith Opportunity Scholarship Program.**

60 (1) Beginning in 2021, the State Board of Education shall, in accordance with Section
 61 68-3-14, annually submit the report described in Section 53E-7-404 to the Public Education
 62 Appropriations Subcommittee.

63 (2) This section supersedes any conflicting provisions of Utah law.

64 Section 2. Section **53E-7-401** is amended to read:

65 **53E-7-401. Definitions.**

66 As used in this part:

67 [(+)]

68 (1) "The Carson Smith Opportunity Scholarship Program" or "program" means the
69 program established in Section 53E-7-402.

70 (2) "Eligible student" means:

71 (a) a student who:

72 (i) is:

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

74 (B) has enrolled in a qualified private school as defined in Subsection (11);

75 (C) is a home-based scholarship student as defined in Subsection (6); or

76 (D) at least three years old before September 2 of the year the scholarship is awarded;

77 (ii) is a resident of the state;

78 (iii) has a qualified disability identified under 20 U.S.C. Sec. 140(3) as determined by:

79 (A) having an IEP within the previous three years; or

80 (B) a multidisciplinary team evaluation described in Subsection (7); and

81 [~~(A) has an IEP; or~~]

82 [~~(B) is determined by a multidisciplinary evaluation team to be eligible for services~~
83 ~~under 20 U.S.C. Sec. 1401(3); and]~~

84 (iv) during the school year for which the student is applying for the scholarship, is not:

85 (A) a student who receives a scholarship under the Carson Smith Scholarship Program
86 created in Section 53F-4-302; or

87 (B) enrolled as a public school student; or

88 (b) a student who:

89 (i) meets the requirement of Subsections [(+)(a)(i) and (ii)] (2)(a)(i) and (ii); and

90 (ii) is a sibling of and resides in the same household as a student described in

91 Subsection [(+)(a)] (2)(a) if:

92 (A) the student described in Subsection [(+)(a)] (2)(a) is a scholarship student and has
93 verified enrollment or intent to enroll at a qualifying school or participate in services provided
94 by a qualifying provider; and

95 (B) the sibling is applying for a scholarship to attend the same qualifying school or
96 participate in the same services provided by a qualifying provider.

97 ~~(2)~~ (3) (a) "Employee" means an individual working in a position in which the
98 individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

99 (i) program donations to a scholarship granting organization; or

100 (ii) scholarship money allocated to a qualifying school or qualifying provider by a
101 scholarship granting organization under Section 53E-7-405.

102 (b) "Employee" does not include an individual who volunteers at the scholarship
103 granting organization, ~~[or]~~ qualifying school, or qualifying provider.

104 ~~(3)~~ (4) "Family income" means the annual income of the parent, parents, legal
105 guardian, or legal guardians with whom a scholarship student lives.

106 ~~(4)~~ (5) "Federal poverty level" means the poverty level as defined by the most
107 recently revised poverty income guidelines published by the United States Department of
108 Health and Human Services in the Federal Register.

109 ~~(5)~~ (6) "Home-based scholarship student" means a student who:

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

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

113 (c) receives a benefit from a scholarship under the program.

114 (7) "Multidisciplinary evaluation team" means two or more individuals:

115 (a) who are qualified in two or more separate disciplines or professions; and

116 (b) who evaluate a child.

117 ~~(6)~~ (8) "Officer" means:

118 (a) a member of the board of a scholarship granting organization, ~~[or]~~ qualifying
119 school, or qualifying provider; or

120 (b) the chief administrative officer of a scholarship granting organization, ~~[or]~~
121 qualifying school, or qualifying provider.

122 ~~(7)~~ (9) "Program donation" means a donation to the program under Section
123 53E-7-405.

124 ~~(8)~~ (10) "Qualifying provider" means:

125 (a) an entity that:

126 (i) is not a public school and is autonomous and not an agent of the state, in accordance
127 with Section 53E-7-406; and

128 (ii) meets the requirement described in Section 53E-7-403; and

129 (b) is an eligible service provider approved by the scholarship granting organization in
130 accordance with Section 53E-7-408.5.

131 (11) "Qualifying school" means a private school that:

132 (a) provides kindergarten, elementary, or secondary education;

133 (b) is approved by the state board under Section 53E-7-408; and

134 (c) meets the requirements described in Section 53E-7-403.

135 ~~[(9)]~~ (12) "Relative" means a father, mother, husband, wife, son, daughter, sister,

136 brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,

137 sister-in-law, son-in-law, or daughter-in-law.

138 ~~[(10)]~~ (13) "Scholarship" means a grant awarded to an eligible student:

139 (a) by a scholarship granting organization out of program donations; and

140 (b) for the purpose of paying for a scholarship expense.

141 ~~[(11)]~~ (14) "Scholarship expense" means an expense that a parent or eligible student

142 incurs in the education of the eligible student for goods or a service that a qualifying school or

143 qualifying provider provides or facilitates, including:

144 (a) tuition and fees of a qualifying school or qualifying provider;

145 (b) fees and instructional materials at a technical college;

146 (c) tutoring services;

147 (d) fees for after-school or summer education programs;

148 (e) textbooks, curricula, or other instructional materials, including any supplemental

149 materials or associated online instruction that a curriculum, qualifying provider, or a qualifying

150 school recommends;

151 (f) educational software and applications;

152 (g) supplies or other equipment related to an eligible student's educational needs;

153 (h) computer hardware or other technological devices that are intended primarily for an

154 eligible student's educational needs;

155 (i) fees for the following examinations, or for a preparation course for the following

156 examinations, that the scholarship granting organization approves:

- 157 (i) a national norm-referenced or standardized assessment described in Section
 158 53F-6-410, an advanced placement examination, or another similar assessment;
- 159 (ii) a state-recognized industry certification examination; and
- 160 (iii) an examination related to college or university admission;
- 161 (j) educational services for students with disabilities from a licensed or accredited
 162 practitioner or provider, including occupational, behavioral, physical, audiology, or
 163 speech-language therapies;
- 164 (k) contracted services that the scholarship granting organization approves and that an
 165 LEA provides, including individual classes, after-school tutoring services, transportation, or
 166 fees or costs associated with participation in extracurricular activities;
- 167 (l) ride fees or fares for a fee-for-service transportation provider to transport the
 168 eligible student to and from a qualifying school or qualifying provider, not to exceed \$750 in a
 169 given school year;
- 170 (m) expenses related to extracurricular activities, field trips, educational supplements,
 171 and other educational experiences; or
- 172 (n) the scholarship granting organization approves in accordance with Subsection
 173 53E-7-405(3).

174 ~~[(12)]~~ (15) "Scholarship granting organization" means an organization that is:

- 175 (a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and
- 176 (b) recognized through an agreement with the state board as a scholarship granting
 177 organization, as described in Section 53E-7-404.

178 ~~[(13)]~~ (16) "Scholarship student" means an eligible student, including a home-based
 179 scholarship student, who receives a scholarship under this part.

180 ~~[(14)]~~ "Special Needs Opportunity Scholarship Program" or "program" means the
 181 ~~program established in Section 53E-7-402.~~

182 ~~[(15)]~~ (17) "Value of the weighted pupil unit" means the amount established each year
 183 in the enacted public education budget that is multiplied by the number of weighted pupil units
 184 to yield the funding level for the basic state-supported school program.

185 Section 3. Section **53E-7-402** is amended to read:

186 **53E-7-402. Carson Smith Opportunity Scholarship Program.**

187 (1) There is established the ~~[Special Needs]~~ Carson Smith Opportunity Scholarship

188 Program under which a parent may apply to a scholarship granting organization on behalf of
189 the parent's student for a scholarship to help cover the cost of a scholarship expense.

190 (2) (a) A scholarship granting organization shall award, in accordance with this part,
191 scholarships to eligible students.

192 (b) In awarding scholarships, a scholarship granting organization shall give priority to
193 an eligible student described in Subsection 53E-7-401(1)(a) by:

194 (i) establishing an August 10 deadline for an eligible student described in Subsection
195 53E-7-401(1)(b) to apply for a scholarship; and

196 (ii) awarding a scholarship to an eligible student described in Subsection
197 53E-7-401(1)(b) only if funds exist after awarding scholarships to all eligible students
198 described in Subsection 53E-7-401(1)(a) who have applied and qualify.

199 (c) Subject to available funds, a scholarship awarded to an eligible student described in
200 Subsection 53E-7-401(1)(b) shall be for a similar term as a scholarship awarded to the eligible
201 student's sibling.

202 (3) A scholarship granting organization shall determine a full-year scholarship award to
203 pay for the cost of one or more scholarship expenses in an amount not more than:

204 (a) for an eligible student described in Subsection 53E-7-401(1)(a) who is:

205 (i) in kindergarten through grade 12 and whose family income is:

206 (A) at or below 185% of the federal poverty level, the value of the weighted pupil unit
207 multiplied by 2.5; or

208 (B) above 185% of the federal poverty level, the value of the weighted pupil unit
209 multiplied by two; or

210 ~~[(b)]~~ (ii) in preschool, the value of the weighted pupil unit; or

211 (b) for an eligible student described in Subsection 53E-7-401(1)(b), half the value of
212 the weighted pupil unit.

213 (4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team
214 under this program does not establish eligibility for an IEP under the Individuals with
215 Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on
216 any LEA that is required to provide an IEP under the Individuals with Disabilities Education
217 Act.

218 (5) The scholarship granting organizations shall prepare and disseminate information

219 on the program to a parent applying for a scholarship on behalf of a student.

220 Section 4. Section **53E-7-403** is amended to read:

221 **53E-7-403. Qualifying school and qualifying provider requirements.**

222 (1) A qualifying school or qualifying provider shall:

223 (a) notify a scholarship granting organization of the qualifying school's or qualifying
224 provider's intention to participate in the program;

225 (b) submit evidence to the scholarship granting organization that the qualifying school
226 has been approved by the state board under Section 53E-7-408; and

227 (c) submit a signed affidavit to the scholarship granting organization that the qualifying
228 school or qualifying provider will comply with the requirements of this part.

229 (2) A qualifying school or qualifying provider shall comply with 42 U.S.C. Sec. 1981,
230 and meet state and local health and safety laws and codes.

231 (3) Before the beginning of the school year immediately following a school year in
232 which a qualifying school or qualifying provider receives scholarship money equal to or more
233 than [~~\$100,000~~] \$500,000, the qualifying school or qualifying provider shall file with a
234 scholarship granting organization that allocates scholarship money to the qualifying school:

235 (a) a surety bond payable to the scholarship granting organization in an amount equal
236 to the aggregate amount of scholarship money expected to be received during the school year;
237 or

238 (b) financial information that demonstrates the financial viability of the qualifying
239 school or qualifying provider, as required by the scholarship granting organization.

240 (4) If a scholarship granting organization determines that a qualifying school or
241 qualifying provider has violated a provision of this part, the scholarship granting organization
242 may interrupt disbursement of or withhold scholarship money from the qualifying school or
243 qualifying provider.

244 (5) (a) If the state board determines that a qualifying school no longer meets the
245 eligibility requirements described in Section 53E-7-408, the state board may withdraw the state
246 board's approval of the school.

247 (b) A private school that does not have the state board's approval under Section
248 53E-7-408 may not accept scholarship money under this part.

249 (6) A qualifying school shall, when administering an annual assessment required under

250 Section 53E-7-408, ensure that the qualifying school uses a norm-referenced assessment.

251 (7) If a scholarship granting organization determines that a qualifying provider no
252 longer meets the requirements described in Section 53E-7-208.5, the scholarship granting
253 organization may interrupt disbursement of or withhold scholarship money for the qualifying
254 provider.

255 Section 5. Section **53E-7-404** is amended to read:

256 **53E-7-404. State board duties.**

257 (1) The state board shall:

258 (a) publish on the state board's website:

259 (i) information about the program; and

260 (ii) information about each scholarship granting organization;

261 (b) conduct a financial review or audit of a scholarship granting organization, if the
262 state board receives evidence of fraudulent practice by the scholarship granting organization;

263 (c) conduct a criminal background check on each scholarship granting organization
264 employee and scholarship granting organization officer;

265 (d) establish uniform financial accounting standards for scholarship granting
266 organizations;

267 [~~(e) annually calculate the amount of the program donations cap described in Section~~
268 ~~53E-7-407; and]~~

269 [(~~f~~) (e)] in accordance with Section 53E-1-202.1, annually submit a report on the
270 program to the Public Education Appropriations Subcommittee that includes:

271 [~~(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of~~
272 ~~tuition and fees a qualifying school charges;]~~

273 [(~~ii~~) (i)] administrative costs of the program;

274 [(~~iii~~) (ii)] the number of scholarship students that are eligible students described in
275 Subsection 53E-7-401(1)(a) and the number of scholarship students that are eligible students
276 described in Subsection 53E-7-401(1)(b) from each school district;

277 [(~~iv~~) (iii)] standards used by the scholarship granting organization to determine
278 whether a student is an eligible student; and

279 [(~~v~~) (iv)] savings to the state and LEAs as a result of scholarship students exiting the
280 public school system.

281 (2) (a) In accordance with Subsection (3) and Title 63G, Chapter 6a, Utah Procurement
282 Code, the state board shall issue a request for proposals and enter into at least one agreement
283 with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue
284 Code, to be recognized by the state board as a scholarship granting organization.

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

287 (i) a copy of the organization's incorporation documents;

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

291 (iii) a description of the methodology the organization will use to verify that a student
292 is an eligible student under this part; and

293 (iv) a description of the organization's proposed scholarship application process.

294 (3) (a) The state board shall enter into an agreement described in Subsection (2)(a) with
295 one scholarship granting organization on or before January 1, 2021.

296 (b) The state board may enter into an agreement described in Subsection (2)(a) with
297 additional scholarship granting organizations after January 1, 2023, if the state board makes
298 rules regarding how multiple scholarship granting organizations may issue tax credit
299 certificates in accordance with Section 53E-7-407.

300 (c) (i) No later than 10 days after the day on which the state board enters into an
301 agreement with a scholarship granting organization, the state board shall forward the name and
302 contact information of the scholarship granting organization to the State Tax Commission.

303 (ii) If, under Subsection (4)(c)(i), the state board bars a scholarship granting
304 organization from further participation in the program, the state board shall, no later than 10
305 days after the day on which the state board bars the scholarship granting organization, forward
306 the name and contact information of the barred scholarship granting organization to the State
307 Tax Commission.

308 (4) (a) If the state board determines that a scholarship granting organization has
309 violated a provision of this part or state board rule, the state board shall send written notice to
310 the scholarship granting organization explaining the violation and the remedial action required
311 to correct the violation.

312 (b) A scholarship granting organization that receives a notice described in Subsection
313 (4)(a) shall, no later than 60 days after the day on which the scholarship granting organization
314 receives the notice, correct the violation and report the correction to the state board.

315 (c) (i) If a scholarship granting organization that receives a notice described in
316 Subsection (4)(a) fails to correct a violation in the time period described in Subsection (4)(b),
317 the state board may bar the scholarship granting organization from further participation in the
318 program.

319 (ii) A scholarship granting organization may appeal a decision made by the state board
320 under Subsection (4)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures
321 Act.

322 (d) A scholarship granting organization may not accept program donations while the
323 scholarship granting organization:

324 (i) is barred from participating in the program under Subsection (4)(c)(i); or

325 (ii) has an appeal pending under Subsection (4)(c)(ii).

326 (e) A scholarship granting organization that has an appeal pending under Subsection
327 (4)(c)(ii) may continue to administer scholarships from previously donated program donations
328 during the pending appeal.

329 (5) The state board shall provide for a process for a scholarship granting organization
330 to report information as required under Section 53E-7-405.

331 (6) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah
332 Administrative Rulemaking Act, to administer the program, including rules for:

333 (a) the administration of scholarships to a qualifying school or qualifying provider
334 receiving scholarship money from a scholarship granting organization that is barred from
335 participating in the program under Subsection (4)(c)(i);

336 (b) when an eligible student does not continue in enrollment at a qualifying school or
337 participation in services provided by a qualifying provider:

338 (i) requiring the scholarship granting organization to:

339 (A) notify the state board; and

340 (B) obtain reimbursement of scholarship money from the qualifying school in which
341 the eligible student is no longer enrolled or qualifying provider in which the eligible student is
342 no longer participating; and

343 (ii) requiring the qualifying school or qualifying provider in which the eligible student
344 is no longer enrolled to reimburse scholarship money to the scholarship granting organization;

345 (c) audit and report requirements as described in Section 53E-7-405; and

346 (d) requiring the scholarship granting organization, in accordance with the Family
347 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:

348 ~~[(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of~~
349 ~~tuition and fees a qualifying school charges;]~~

350 ~~[(ii)]~~ (i) the number of scholarship students that are eligible students described in
351 Subsection 53E-7-401(1)(a) and the number of scholarship students that are eligible students
352 described in Subsection 53E-7-401(1)(b) from each school district;

353 ~~[(iii)]~~ (ii) standards used to determine whether a student is an eligible student; and

354 ~~[(iv)]~~ (iii) any other information requested by the Public Education Appropriations
355 Subcommittee for the state board to include in the annual report described in Section
356 53E-1-202.1.

357 Section 6. Section **53E-7-405** is amended to read:

358 **53E-7-405. Program donations -- Scholarship granting organization**
359 **requirements -- Legislative appropriations.**

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

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

365 (3) A scholarship granting organization shall:

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

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

370 (c) review scholarship applications and determine scholarship awards;

371 (d) allocate scholarship money to a scholarship student's parent or, on the parent's
372 behalf, to a qualifying school or qualifying provider in which the scholarship student is
373 enrolled or participates;

- 374 (e) adopt a process, with state board approval, that allows a parent to use a scholarship
375 to pay for a nontuition scholarship expense for the scholarship student;
- 376 (f) ensure that during the state fiscal year:
- 377 (i) at least 92% of the scholarship granting organization's revenue from program
378 donations and other funding sources is spent on scholarships;
- 379 (ii) up to 5% of the scholarship granting organization's revenue from program
380 donations and other funding sources is spent on administration of the program;
- 381 (iii) up to 3% of the scholarship granting organization's revenue from program
382 donations and other funding sources is spent on marketing and fundraising costs; and
- 383 (iv) all revenue from [~~program donations~~] interest or investments is spent on
384 scholarships;
- 385 (g) carry forward no more than 60% of the scholarship granting organization's
386 [~~program donations~~] funds, less funds for a scholarship that has been awarded, and funds
387 expended for administration and marketing, from the state fiscal year in which the scholarship
388 granting organization received the [~~program donations~~] funds to the following state fiscal year;
- 389 (h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater
390 than the amount described in Subsection (3)(g);
- 391 (i) prohibit a scholarship granting organization employee or officer from handling,
392 managing, or processing program donations or other funds, if, based on a criminal background
393 check conducted by the state board in accordance with Section 53E-7-404, the state board
394 identifies the employee or officer as posing a risk to the appropriate use of program donations
395 or other funds;
- 396 (j) ensure that a scholarship can be transferred during the school year to a different
397 qualifying school or qualifying provider that accepts the scholarship student;
- 398 (k) report to the state board on or before [~~October~~] November 1 of each year the
399 following information, prepared by a certified public accountant:
- 400 (i) the name and address of the scholarship granting organization;
- 401 (ii) the total number and total dollar amount of program donations and other funding
402 sources that the scholarship granting organization received during the previous calendar year;
- 403 (iii) (A) the total number and total dollar amount of scholarships the scholarship
404 granting organization awarded during the previous state fiscal year to eligible students

405 described in Subsection 53E-7-401(1)(a); and

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

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

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

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

415 [(†)] (A) receives scholarship money for tuition expenses; and

416 [(††)] (B) does not have continuing enrollment and attendance at a qualifying school[-];

417 or

418 (ii) has transitioned to be a home-based student.

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

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

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

426 "I acknowledge that:

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

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

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

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

435 (c) Upon acceptance of a scholarship, the parent assumes full financial responsibility

436 for the education of the scholarship recipient.

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

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

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

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

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

447 (a) complies with the uniform financial accounting standards described in Section
448 53E-7-404; and

449 (b) is prepared by a certified public accountant.

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

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

454 (A) the scholarship granting organization; and

455 (B) the scholarship granting organization's accounts and records pertaining to program
456 donations and other funding sources; and

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

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

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

463 (ii) submit the report to the state board no later than [~~120 days after the last day of the~~
464 ~~state fiscal year~~] November 1.

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

467 board.

468 (d) (i) The state board shall review a report submitted under this section and may
469 request that the scholarship granting organization revise or supplement the report if the report
470 is not in compliance with the provisions of this Subsection (7) or rules adopted by the state
471 board.

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

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

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

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

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

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

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

490 (10) A scholarship granting organization may not:

491 (a) award a scholarship to a relative of the scholarship granting organization's officer
492 [~~or employee~~]; or

493 (b) allocate scholarship money to a qualifying school or qualifying provider at which
494 the scholarship recipient has a relative who is an officer or an [~~employee~~] administrator of the
495 qualifying school or qualifying provider.

496 (11) The Legislature may appropriate funds to the board to be distributed in an equal
497 amount to each scholarship granting organization for the same purposes program donations are

498 used.

499 Section 7. Section **53E-7-406** is amended to read:

500 **53E-7-406. Qualifying school or qualifying provider regulatory autonomy --**
501 **Home school autonomy -- Student records -- Scholarship student status.**

502 (1) Nothing in this part:

503 (a) except as expressly described in this part, grants additional authority to any state
504 agency or LEA to regulate or control:

505 (i) a qualifying school, qualifying provider, or home school; or

506 (ii) students receiving education from a qualifying school, qualifying provider, or home
507 school;

508 (b) applies to or otherwise affects the freedom of choice of an out-of-program home
509 school student, including the curriculum, resources, developmental planning, or any other
510 aspect of the out-of-program home school student's education; or

511 (c) expands the regulatory authority of the state, a state office holder, or an LEA to
512 impose any additional regulation of a qualifying school or qualifying provider beyond any
513 regulation necessary to administer this part.

514 (2) A qualifying school or qualifying provider:

515 (a) has a right to maximum freedom from unlawful governmental control in providing
516 for the educational needs of a scholarship student who attends or engages with the qualifying
517 school or qualifying provider; and

518 (b) is not an agent of the state by virtue of the provider's acceptance of payment from a
519 scholarship account in accordance with this part.

520 (3) Except as provided in Section 53E-7-403 regarding qualifying schools or qualifying
521 providers, Section 53E-7-408 regarding eligible schools, or Section 53E-7-408.5 regarding
522 eligible service providers, a scholarship granting organization may not require a qualifying
523 provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices,
524 or curricula in order to accept scholarship funds.

525 (4) An LEA or a school in an LEA in which a scholarship student was previously
526 enrolled shall provide to the scholarship student's parent a copy of all school records relating to
527 the student that the LEA possesses within 30 days after the day on which the LEA or school
528 receives the parent's request for the student's records, subject to:

529 (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and
 530 (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
 531 (5) By virtue of a scholarship student's involvement in the program and unless
 532 otherwise expressly provided in statute, a scholarship student is not:

533 (a) enrolled in the public education system; or
 534 (b) otherwise subject to statute, administrative rules, or other state regulations as if the
 535 student was enrolled in the public education system.

536 ~~[(1) Nothing in this part]:~~

537 ~~[(a) grants additional authority to any state agency or LEA to regulate private schools~~
 538 ~~except as expressly described in this part; or]~~

539 ~~[(b) expands the regulatory authority of the state, a state office holder, or a local school~~
 540 ~~district to impose any additional regulation of a qualifying school beyond those necessary to~~
 541 ~~enforce the requirements of the program.]~~

542 ~~[(2) A qualifying school shall be given the maximum freedom to provide for the~~
 543 ~~educational needs of a scholarship recipient who attends the qualifying school without~~
 544 ~~unlawful governmental control.]~~

545 ~~[(3) Except as provided in Section 53E-7-403, a qualifying school may not be required~~
 546 ~~to alter the qualifying school's creed, practices, admission policy, or curriculum in order to~~
 547 ~~accept scholarship money.]~~

548 ~~[(4) A local education agency or school in a local education agency in which a~~
 549 ~~scholarship recipient was previously enrolled shall provide to a qualifying school in which the~~
 550 ~~scholarship recipient is currently enrolled a copy of all requested school records relating to the~~
 551 ~~scholarship recipient, subject to:]~~

552 ~~[(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and]~~

553 ~~[(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.]~~

554 Section 8. Section **53E-7-407** is amended to read:

555 **53E-7-407. Tax credit certificates issued by a scholarship granting organization.**

556 (1) In accordance with this section [~~and subject to Subsection (3)~~], a scholarship
 557 granting organization shall provide a tax credit certificate, on a form provided by the State Tax
 558 Commission, to a person that makes a donation as described in Section 53E-7-405.

559 (2) (a) The scholarship granting organization shall provide the information from a

560 completed tax credit certificate to the State Tax Commission electronically and in a manner
561 prescribed by the State Tax Commission.

562 (b) A scholarship granting organization shall issue a tax credit certificate within 30
563 days after the day on which a person makes a donation to the program.

564 (3) ~~[(a) A scholarship granting organization may not issue a tax credit certificate for a~~
565 ~~calendar year if issuing the tax credit certificate will cause the total amount of the tax credit~~
566 ~~certificates issued for the calendar year to exceed the program donations cap amount described~~
567 ~~in Subsection (4).]~~

568 ~~[(b)]~~ (a) Before accepting a donation to the program from a person, the scholarship
569 granting organization shall provide the person with notice:

570 (i) that the donation may not be eligible for a tax credit;

571 (ii) of the process described in Subsection ~~[(3)(c)]~~ (3)(b); and

572 (iii) of the total amount of tax credit certificates that the scholarship granting
573 organization has issued for the calendar year.

574 ~~[(c)]~~ (b) During a calendar year, a scholarship granting organization shall:

575 (i) issue tax credit certificates in the order that the scholarship granting organization
576 received a corresponding donation; and

577 (ii) track the total amount of program donations received during the year as
578 corresponding tax credit certificates are issued.

579 ~~[(d)]~~ (c) If a scholarship granting organization accepts a donation that, when added to
580 the current total amount of program donations received that year, will exceed the program
581 donations cap described in Subsection (4), the scholarship granting organization shall issue a
582 tax credit certificate in the amount that is the difference between the program donations cap
583 and the total amount of program donations received before the donation was received.

584 (4) (a) The program donations cap for the 2021 calendar year is \$5,940,000.

585 (b) For a calendar year after 2021, the state board shall calculate the program donations
586 cap as follows:

587 (i) if the total program donations for the previous calendar year exceed 90% of the cap
588 amount for that calendar year, the cap for the current calendar year is the cap amount for the
589 previous calendar year increased by 10% plus a percentage equal to the percentage of growth in
590 the participation of the program from the previous calendar year; or

591 (ii) if the total program donations for the previous calendar year did not exceed 90% of
592 the cap amount for that calendar year, the cap for the current calendar year is [~~the same as the~~
593 ~~cap amount for the previous calendar year~~] increased by a percentage equal to the percentage of
594 growth in the participation of the program from the previous calendar year.

595 (5) A person that receives a tax credit certificate in accordance with this section shall
596 retain the certificate for the same time period a person is required to keep books and records
597 under Section 59-1-1406.

598 Section 9. Section **53E-7-408** is amended to read:

599 **53E-7-408. Eligible private schools.**

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

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

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

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

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

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

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

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

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

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

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

621 (ii) tuition costs;

- 622 (iii) additional fees a parent will be required to pay during the school year; and
- 623 (iv) the skill or grade level of the curriculum in which the prospective student will
- 624 participate;
- 625 (f) (i) administer an annual assessment of each scholarship student's academic
- 626 progress; and
- 627 (ii) report the results of the assessment described in Subsection (1)(f)(i) to the
- 628 scholarship student's parent;
- 629 (g) employ or contract with teachers who:
- 630 (i) hold baccalaureate or higher degrees;
- 631 (ii) have at least three years of teaching experience in public or private schools; or
- 632 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to
- 633 provide instruction:
- 634 (A) in the subject or subjects taught; and
- 635 (B) to the special needs students taught;
- 636 (h) maintain documentation demonstrating that teachers at the private school meet the
- 637 qualifications described in Subsection (1)(g);
- 638 (i) require the following individuals to submit to a nationwide, fingerprint-based
- 639 criminal background check and ongoing monitoring, in accordance with Section 53G-11-402,
- 640 as a condition for employment or appointment, as authorized by the Adam Walsh Child
- 641 Protection and Safety Act of 2006, Pub. L. No. 109-248:
- 642 (i) an employee who does not hold a current Utah educator license issued by the state
- 643 board under Chapter 6, Education Professional Licensure;
- 644 (ii) a contract employee; and
- 645 (iii) a volunteer who is given significant unsupervised access to a student in connection
- 646 with the volunteer's assignment; and
- 647 (j) provide to the parent of a scholarship student the relevant credentials of the teachers
- 648 who will be teaching the scholarship student.
- 649 (2) A private school is not eligible to enroll scholarship students if:
- 650 (a) the private school requires a student to sign a contract waiving the student's rights
- 651 to transfer to another qualifying school during the school year;
- 652 (b) the audit report submitted under Subsection (1)(b) contains a going concern

653 explanatory paragraph;

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

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

659 ~~[(3) A home school is not eligible to enroll scholarship students.]~~

660 ~~[(4)] (3)~~ Residential treatment facilities licensed by the state are not eligible to enroll
661 scholarship students.

662 ~~[(5)] (4)~~ A private school intending to enroll scholarship students shall submit an
663 application to the state board.

664 ~~[(6)] (5)~~ The state board shall:

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

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

669 ~~[(7)] (6)~~ A private school approved under this section that changes ownership shall:

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

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

673 Section 10. Section **53E-7-408.5** is enacted to read:

674 **53E-7-408.5. Eligible service provider.**

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

676 (a) shall provide to the scholarship granting organization:

677 (i) a federal employer identification number;

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

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

681 (iv) subject to Subsection (2), any other information as required by the scholarship
682 granting organization;

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

684 (c) may not act as a consultant, clearing house, or intermediary that connects a
685 scholarship student with or otherwise facilitates the student's engagement with a program or
686 service that another entity provides.

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

691 (3) A private program or service intending to receive scholarship funds shall:

692 (a) submit an application to the scholarship granting organization; and

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

696 (4) The scholarship granting organization shall:

697 (a) if the private program or service meets the eligibility requirements of this section,
698 recognize the private program or service as an eligible service provider and approve a private
699 program or service's application to receive scholarship funds on behalf of a scholarship student;
700 and

701 (b) make available to the public a list of eligible service providers approved under this
702 section.

703 (5) A private program or service approved under this section that changes ownership
704 shall:

705 (a) cease operation as an eligible service provider until:

706 (i) the program or service submits a new application to the scholarship granting
707 organization; and

708 (ii) the scholarship granting organization approves the new application; and

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

711 Section 11. Section **53E-7-410** is amended to read:

712 **53E-7-410. Background checks for scholarship granting organizations -- State**
713 **board responsibilities -- Bureau responsibilities -- Fees.**

714 (1) As used in this section:

- 715 (a) "Applicant" means an employee or officer of a scholarship granting organization.
- 716 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
717 within the Department of Public Safety.
- 718 (c) "Department" means the Department of Public Safety.
- 719 (d) "Division" means the Criminal Investigations and Technical Services Division
720 created in Section 53-10-103.
- 721 (e) "FBI" means the Federal Bureau of Investigation.
- 722 (f) "FBI Rap Back System" means the rap back system maintained by the FBI.
- 723 (g) "Personal identifying information" means:
- 724 (i) current name;
- 725 (ii) former names;
- 726 (iii) nicknames;
- 727 (iv) aliases;
- 728 (v) date of birth;
- 729 (vi) address;
- 730 (vii) telephone number;
- 731 (viii) driver license number or other government-issued identification number;
- 732 (ix) social security number; and
- 733 (x) fingerprints.
- 734 (h) "Rap back system" means a system that enables authorized entities to receive
735 ongoing status notifications of any criminal history reported on individuals whose fingerprints
736 are registered in the system.
- 737 (i) "WIN Database" means the Western Identification Network Database that consists
738 of eight western states sharing one electronic fingerprint database.
- 739 (2) The state board shall:
- 740 (a) require an applicant to submit to a nationwide criminal background check and
741 ongoing monitoring in accordance with Section 53E-7-404;
- 742 (b) collect the following from an applicant:
- 743 (i) personal identifying information;
- 744 (ii) a fee described in Subsection (4); and
- 745 (iii) consent, on a form specified by the state board, for:

- 746 (A) an initial fingerprint-based background check by the FBI and bureau;
- 747 (B) retention of personal identifying information for ongoing monitoring through
748 registration with the systems described in Subsection (3); and
- 749 (C) disclosure of any criminal history information to the state board;
- 750 (c) submit an applicant's personal identifying information to the bureau for:
- 751 (i) an initial fingerprint-based background check by the FBI and bureau; and
- 752 (ii) ongoing monitoring through registration with the systems described in Subsection
753 (3) if the results of the initial background check do not contain disqualifying criminal history
754 information as determined by the state board in accordance with Section 53E-7-404;
- 755 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
756 that the state board only receives notifications for individuals with whom the state board
757 maintains an authorizing relationship; and
- 758 (e) submit the information to the bureau for ongoing monitoring through registration
759 with the systems described in Subsection (3)(a).
- 760 (3) The bureau shall:
- 761 (a) upon request from the state board, register the fingerprints submitted by the state
762 board as part of a background check with:
- 763 (i) the WIN Database rap back system, or any successor system; and
- 764 (ii) the FBI Rap Back System;
- 765 (b) notify the state board when a new entry is made against an individual whose
766 fingerprints are registered with the rap back systems described in Subsection (3)(a) regarding:
- 767 (i) an alleged offense; or
- 768 (ii) a conviction, including a plea in abeyance;
- 769 (c) assist the state board to identify the appropriate privacy risk mitigation strategy that
770 is to be used to ensure that the state board only receives notifications for individuals with
771 whom the authorized entity maintains an authorizing relationship; and
- 772 (d) collaborate with the state board to provide training to appropriate state board
773 employees on the notification procedures and privacy risk mitigation strategies described in
774 this section.
- 775 (4) (a) The division shall impose fees set in accordance with Section 63J-1-504 for an
776 applicant fingerprint card, name check, and to register fingerprints under this section.

777 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
778 as a dedicated credit by the department to cover the costs incurred in providing the information.

779 Section 12. Section **53F-4-302** is amended to read:

780 **53F-4-302. Scholarship program created -- Qualifications.**

781 (1) The Carson Smith Scholarship Program is created to award scholarships to students
782 with disabilities to attend a private school.

783 (2) To qualify for a scholarship:

784 (a) the student's custodial parent shall reside within Utah;

785 (b) the student shall have one or more of the following disabilities:

786 (i) an intellectual disability;

787 (ii) deafness or being hard of hearing;

788 (iii) a speech or language impairment;

789 (iv) a visual impairment;

790 (v) a serious emotional disturbance;

791 (vi) an orthopedic impairment;

792 (vii) autism;

793 (viii) traumatic brain injury;

794 (ix) other health impairment;

795 (x) specific learning disabilities;

796 (xi) deafblindness; or

797 (xii) a developmental delay, provided the student is at least three years [~~of age~~] old,

798 [~~pursuant~~] as described to Subsection (2)(c), and is younger than eight years [~~of age~~] old;

799 (c) the student shall be at least three years [~~of age~~] old before September 2 of the year
800 in which admission to a private school is sought and under 19 years [~~of age~~] old on the last day
801 of the school year as determined by the private school, or, if the individual has not graduated
802 from high school, will be under 22 years [~~of age~~] old on the last day of the school year as
803 determined by the private school; and

804 (d) except as provided in Subsection (3), the student shall:

805 (i) be enrolled in a Utah public school in the school year prior to the school year the
806 student will be enrolled in a private school;

807 (ii) have an IEP; and

- 808 (iii) have obtained acceptance for admission to an eligible private school.
- 809 (3) The requirements of Subsection (2)(d) do not apply in the following circumstances:
- 810 (a) the student is enrolled or has obtained acceptance for admission to an eligible
- 811 private school that has previously served students with disabilities; and
- 812 (b) an assessment team is able to readily determine with reasonable certainty:
- 813 (i) that the student has a disability listed in Subsection (2)(b) and would qualify for
- 814 special education services, if enrolled in a public school; and
- 815 (ii) for the purpose of establishing the scholarship amount, the appropriate level of
- 816 special education services which should be provided to the student.
- 817 (4) (a) ~~[Fø]~~ Except as provided in Subsection (11)(a), to receive a full-year scholarship
- 818 under this part, a parent of a student shall submit to the LEA where the student is enrolled an
- 819 application on or before the August 15 immediately preceding the first day of the school year
- 820 for which the student would receive the scholarship.
- 821 (b) ~~[The]~~ Except as provided in Subsection (11)(b), the state board may waive the
- 822 full-year scholarship deadline described in Subsection (4)(a).
- 823 (c) An application for a scholarship shall contain an acknowledgment by the parent that
- 824 the selected school is qualified and capable of providing the level of special education services
- 825 required for the student.
- 826 (5) (a) The scholarship application form shall contain the following statement:
- 827 "I acknowledge that:
- 828 (1) A private school may not provide the same level of special education services that
- 829 are provided in a public school;
- 830 (2) I will assume full financial responsibility for the education of my scholarship
- 831 student if I accept this scholarship;
- 832 (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to
- 833 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
- 834 U.S.C. Sec. 1400 et seq.; and
- 835 (4) My child may return to a public school at any time."
- 836 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility
- 837 for the education of the scholarship student.
- 838 (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to

839 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
840 U.S.C. Sec. 1400 et seq.

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

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

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

845 (6) (a) Except as provided in Subsection (6)(b), a scholarship shall remain in force for
846 the lesser of:

847 (i) three years; or

848 (ii) until the student is determined ineligible for special education services.

849 (b) If a student is determined ineligible for special education services as described in
850 Subsection (6)(a)(ii) before the end of a school year, the student may remain enrolled at the
851 private school and qualifies for the scholarship until the end of the school year.

852 (c) Except as provided in Subsection (11)(c), [A] a scholarship shall be extended for
853 an additional three years, if:

854 (i) the student is evaluated by an assessment team; and

855 (ii) the assessment team determines that the student would qualify for special education
856 services, if enrolled in a public school.

857 (d) The assessment team shall determine the appropriate level of special education
858 services which should be provided to the student for the purpose of setting the scholarship
859 amount.

860 (e) [A] Except as provided in Subsection (11)(c), a scholarship shall be extended for
861 successive three-year periods as provided in Subsections (6)(a) and (c):

862 (i) until the student graduates from high school; or

863 (ii) if the student does not graduate from high school, until the student is [age] 22 years
864 old.

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

867 (8) A scholarship student:

868 (a) may participate in the Statewide Online Education Program described in Part 5,
869 Statewide Online Education Program; and

870 (b) may not participate in a dual enrollment program pursuant to Section 53G-6-702.

871 (9) The parents of a scholarship student have the authority to choose the private school
872 that will best serve the interests and educational needs of that student, which may be a sectarian
873 or nonsectarian school, and to direct the scholarship resources available for that student solely
874 as a result of their genuine and independent private choices.

875 (10) The state board shall:

876 (a) notify the parents of a scholarship student in writing of the termination of the
877 existing scholarship program including when the final scholarship payment will be awarded;
878 and

879 (b) direct current recipients and prospective applicants to the website for the Carson
880 Smith Opportunity Scholarship Program described in Title 53E, Chapter 7, The Carson Smith
881 Opportunity Scholarship Program.

882 [~~(a) An LEA shall notify in writing the parents of students enrolled in the LEA who~~
883 ~~have an IEP of the availability of a scholarship to attend a private school through the Carson~~
884 ~~Smith Scholarship Program.]~~

885 [~~(b) The notice described under Subsection (10)(a) shall:]~~

886 [~~(i) be provided no later than 30 days after the student initially qualifies for an IEP;]~~

887 [~~(ii) be provided annually no later than February 1 to all students who have an IEP;~~

888 ~~and]~~

889 [~~(iii) include the address of the Internet website maintained by the state board that~~
890 ~~provides prospective applicants with detailed program information and application forms for~~
891 ~~the Carson Smith Scholarship Program.]~~

892 [~~(c) An LEA or school within an LEA that has an enrolled student who has an IEP~~
893 ~~shall post the address of the Internet website maintained by the state board that provides~~
894 ~~prospective applicants with detailed program information and application forms for the Carson~~
895 ~~Smith Scholarship Program on the LEA's or school's website, if the LEA or school has one.]~~

896 (11) After the 2023-2024 school year, an LEA or the state board may not:

897 (a) accept a new application;

898 (b) provide a waiver of a full-year application; or

899 (c) extend an existing scholarship as described in Subsections (6)(c) and (e).

900 Section 13. Section **53F-4-304** is amended to read:

901 **53F-4-304. Scholarship payments.**

902 (1) (a) The state board shall award scholarships subject to the availability of money
903 appropriated by the Legislature for that purpose.

904 (b) The Legislature shall annually appropriate money to the state board from the
905 General Fund to make scholarship payments.

906 ~~[(c) The Legislature shall annually increase the amount of money appropriated under
907 Subsection (1)(b) by an amount equal to the product of:]~~

908 ~~[(i) the average scholarship amount awarded as of December 1 in the previous year;
909 and]~~

910 ~~[(ii) the product of:]~~

911 ~~[(A) the number of students in preschool through grade 12 in public schools statewide
912 who have an IEP on December 1 of the previous year; and]~~

913 ~~[(B) 0.0007.]~~

914 ~~[(d)]~~ (c) If the number of scholarship students as of December 1 in any school year
915 equals or exceeds 7% of the number of students in preschool through grade 12 in public
916 schools statewide who have an IEP as of December 1 in the same school year, the Public
917 Education Appropriations Subcommittee shall study the requirement to increase appropriations
918 for scholarship payments as provided in this section.

919 ~~[(e)]~~ (d) (i) If money is not available to pay for all scholarships requested, the state
920 board shall allocate scholarships on a random basis except that the state board shall give
921 preference to students who received scholarships in the previous school year.

922 (ii) If money is insufficient in a school year to pay for all the continuing scholarships,
923 the state board may not award new scholarships during that school year and the state board
924 shall prorate money available for scholarships among the eligible students who received
925 scholarships in the previous year.

926 (2) Except as provided in Subsection (4), the state board shall award full-year
927 scholarships in the following amounts:

928 (a) for a student who received an average of 180 minutes per day or more of special
929 education services in a public school before transferring to a private school, an amount not to
930 exceed the lesser of:

931 (i) the value of the weighted pupil unit multiplied by 2.5; or

- 932 (ii) the private school tuition and fees; and
- 933 (b) for a student who received an average of less than 180 minutes per day of special
934 education services in a public school before transferring to a private school, an amount not to
935 exceed the lesser of:
- 936 (i) the value of the weighted pupil unit multiplied by 1.5; or
- 937 (ii) the private school tuition and fees.
- 938 (3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day
939 preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.
- 940 (4) If a student leaves a private school before the end of a fiscal quarter:
- 941 (a) the private school is only entitled to the amount of scholarship equivalent to the
942 number of days that the student attended the private school; and
- 943 (b) the private school shall remit a prorated amount of the scholarship to the state board
944 in accordance with the procedures described in rules adopted by the state board in accordance
945 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 946 (5) For the amount of funds remitted under Subsection (4)(b), the state board shall:
- 947 (a) make the amount available to the student to enroll immediately in another
948 qualifying private school; or
- 949 (b) refund the amount back to the Carson Smith Scholarship Program account to be
950 available to support the costs of another scholarship.
- 951 (6) (a) The state board shall make an additional allocation on a random basis before
952 June 30 each year only:
- 953 (i) if there are sufficient remaining funds in the program; and
- 954 (ii) for scholarships for students enrolled in a full-day preschool program.
- 955 (b) If the state board awards a scholarship under Subsection (6)(a), the scholarship
956 amount or supplement may not exceed the lesser of:
- 957 (i) the value of the weighted pupil unit multiplied by 1.0; or
- 958 (ii) the private school tuition and fees.
- 959 (c) The state board shall, when preparing annual growth projection numbers for the
960 Legislature, include the annual number of applications for additional allocations described in
961 Subsection (6)(a).
- 962 (7) (a) The scholarship amount for a student who receives a waiver under Subsection

963 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level
964 of special education services to be provided to the student.

965 (b) (i) If the student requires an average of 180 minutes per day or more of special
966 education services, a full-year scholarship shall be equal to the amount specified in Subsection
967 (2)(a).

968 (ii) If the student requires less than an average of 180 minutes per day of special
969 education services, a full-year scholarship shall be equal to the amount specified in Subsection
970 (2)(b).

971 (iii) If the student is enrolled in a half-day kindergarten or part-day preschool program,
972 a full-year scholarship is equal to the amount specified in Subsection (3).

973 (8) (a) Except as provided in Subsection (8)(b), upon review and receipt of
974 documentation that verifies a student's admission to, or continuing enrollment and attendance
975 at, a private school, the state board shall make scholarship payments quarterly in four equal
976 amounts in each school year in which a scholarship is in force.

977 (b) In accordance with state board rule, made in accordance with Title 63G, Chapter 3,
978 Utah Administrative Rulemaking Act, the state board may make a scholarship payment before
979 the first quarterly payment of the school year, if a private school requires partial payment of
980 tuition before the start of the school year to reserve space for a student admitted to the school.

981 (9) A parent of a scholarship student shall notify the state board if the student does not
982 have continuing enrollment and attendance at an eligible private school.

983 (10) Before scholarship payments are made, the state board shall cross-check
984 enrollment lists of scholarship students, LEAs, and youth in custody to ensure that scholarship
985 payments are not erroneously made.

986 Section 14. Section **53F-6-401** is amended to read:

987 **53F-6-401. Definitions.**

988 As used in this part:

989 (1) "Eligible student" means a student:

990 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through
991 12;

992 (b) who is a resident of the state;

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

- 994 account:
- 995 (i) does not receive a scholarship under:
- 996 (A) the Carson Smith Scholarship Program established in Section 53F-4-302; or
- 997 (B) the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
- 998 Section 53E-7-402; and
- 999 (ii) except for a student who is enrolled part-time in accordance with Section
- 1000 53G-6-702, is not enrolled in an LEA upon receiving the scholarship;
- 1001 (d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and
- 1002 (e) who completes, to maintain eligibility, the portfolio requirement described in
- 1003 Subsection 53F-6-402(3)(d).
- 1004 (2) "Federal poverty level" means the United States poverty level as defined by the
- 1005 most recently revised poverty income guidelines published by the United States Department of
- 1006 Health and Human Services in the Federal Register.
- 1007 (3) (a) "Home-based scholarship student" means a student who:
- 1008 (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;
- 1009 (ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to
- 1010 attend a home school; and
- 1011 (iii) receives a benefit of scholarship funds.
- 1012 (b) "Home-based scholarship student" does not mean a home school student who does
- 1013 not receive a scholarship under the program.
- 1014 (4) "Program manager" means an organization that:
- 1015 (a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;
- 1016 (b) is not affiliated with any international organization;
- 1017 (c) does not harvest data for the purpose of reproducing or distributing the data to other
- 1018 entities;
- 1019 (d) has no involvement in guiding or directing any curriculum or curriculum standards;
- 1020 (e) does not manage or otherwise administer a scholarship under:
- 1021 (i) the Carson Smith Scholarship Program established in Section 53F-4-302; or
- 1022 (ii) the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
- 1023 Section 53E-7-402; and
- 1024 (f) an agreement with the state board recognizes as a program manager, in accordance

1025 with this part.

1026 (5) (a) "Program manager employee" means an individual working for the program
1027 manager in a position in which the individual's salary, wages, pay, or compensation, including
1028 as a contractor, is paid from scholarship funds.

1029 (b) "Program manager employee" does not include:

1030 (i) an individual who volunteers for the program manager or for a qualifying provider;

1031 (ii) an individual who works for a qualifying provider; or

1032 (iii) a qualifying provider.

1033 (6) "Program manager officer" means:

1034 (a) a member of the board of a program manager; or

1035 (b) the chief administrative officer of a program manager.

1036 (7) "Qualifying provider" means one of the following entities that is not a public school
1037 and is autonomous and not an agent of the state, in accordance with Section 53F-6-406:

1038 (a) an eligible school that the program manager approves in accordance with Section
1039 53F-6-408; or

1040 (b) an eligible service provider that the program manager approves in accordance with
1041 Section 53F-6-409.

1042 (8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
1043 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
1044 sister-in-law, son-in-law, or daughter-in-law.

1045 (9) "Scholarship account" means the account to which a program manager allocates
1046 funds for the payment of approved scholarship expenses in accordance with this part.

1047 (10) "Scholarship expense" means an expense described in Section 53F-6-402 that a
1048 parent or scholarship student incurs in the education of the scholarship student for a service or
1049 goods that a qualifying provider provides, including:

1050 (a) tuition and fees of a qualifying provider;

1051 (b) fees and instructional materials at a technical college;

1052 (c) tutoring services;

1053 (d) fees for after-school or summer education programs;

1054 (e) textbooks, curricula, or other instructional materials, including any supplemental

1055 materials or associated online instruction that a curriculum or a qualifying provider

1056 recommends;

1057 (f) educational software and applications;

1058 (g) supplies or other equipment related to a scholarship student's educational needs;

1059 (h) computer hardware or other technological devices that are intended primarily for a
1060 scholarship student's educational needs;

1061 (i) fees for the following examinations, or for a preparation course for the following
1062 examinations, that the program manager approves:

1063 (i) a national norm-referenced or standardized assessment described in Section
1064 53F-6-410, an advanced placement examination, or another similar assessment;

1065 (ii) a state-recognized industry certification examination; and

1066 (iii) an examination related to college or university admission;

1067 (j) educational services for students with disabilities from a licensed or accredited
1068 practitioner or provider, including occupational, behavioral, physical, audiology, or
1069 speech-language therapies;

1070 (k) contracted services that the program manager approves and that an LEA provides,
1071 including individual classes, after-school tutoring services, transportation, or fees or costs
1072 associated with participation in extracurricular activities;

1073 (l) ride fees or fares for a fee-for-service transportation provider to transport the
1074 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school
1075 year;

1076 (m) expenses related to extracurricular activities, field trips, educational supplements,
1077 and other educational experiences; or

1078 (n) any other expense for a good or service that:

1079 (i) a parent or scholarship student incurs in the education of the scholarship student;

1080 and

1081 (ii) the program manager approves, in accordance with Subsection (4)(d).

1082 (11) "Scholarship funds" means:

1083 (a) funds that the Legislature appropriates for the program; and

1084 (b) interest that scholarship funds accrue.

1085 (12) (a) "Scholarship student" means an eligible student, including a home-based
1086 scholarship student, for whom the program manager establishes and maintains a scholarship

1087 account in accordance with this part.

1088 (b) "Scholarship student" does not include a home school student who does not receive
1089 a scholarship award under the program.

1090 (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program
1091 established in Section 53F-6-402.

1092 Section 15. Section **59-7-109.1** is amended to read:

1093 **59-7-109.1. Charitable contributions to the Carson Smith Opportunity**
1094 **Scholarship Program.**

1095 (1) Notwithstanding anything to the contrary in Section 59-7-109, a taxpayer may not
1096 subtract a charitable contribution that meets the requirements of Section 59-7-109 to the extent
1097 that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable
1098 contribution.

1099 (2) This section supersedes any conflicting provisions of Utah law.

1100 Section 16. Section **59-7-625** is amended to read:

1101 **59-7-625. Nonrefundable tax credit for donation to the Carson Smith**
1102 **Opportunity Scholarship Program.**

1103 (1) A taxpayer that makes a donation to the [~~Special Needs~~] Carson Smith Opportunity
1104 Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit
1105 equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section
1106 53E-7-407.

1107 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's
1108 liability under this chapter for a taxable year, the taxpayer:

1109 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1110 that does not exceed the next three taxable years; and

1111 (b) may carry back the amount of the tax credit that exceeds the taxpayer's tax liability
1112 to the previous taxable year.

1113 Section 17. Section **59-10-1041** is amended to read:

1114 **59-10-1041. Nonrefundable tax credit for donation to the Carson Smith**
1115 **Opportunity Scholarship Program.**

1116 (1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a
1117 donation to the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in

1118 Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated
1119 on a tax credit certificate issued in accordance with Section 53E-7-407.

1120 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's,
1121 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:

1122 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1123 that does not exceed the next three taxable years; and

1124 (b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or
1125 trust's tax liability to the previous taxable year.

1126 (3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the
1127 extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized
1128 deduction on the claimant's, estate's, or trust's federal individual income tax return for that
1129 taxable year.

1130 Section 18. Section **63I-2-253 (Superseded 07/01/24)** is amended to read:

1131 **63I-2-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**

1132 (1) Section 53-1-118 is repealed on July 1, 2024.

1133 (2) Section 53-1-120 is repealed on July 1, 2024.

1134 (3) Section 53-7-109 is repealed on July 1, 2024.

1135 (4) Section 53-22-104 is repealed December 31, 2023.

1136 (5) Section 53B-6-105.7 is repealed July 1, 2024.

1137 (6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed
1138 July 1, 2023.

1139 (7) Section 53B-8-114 is repealed July 1, 2024.

1140 (8) The following provisions, regarding the Regents' scholarship program, are repealed
1141 on July 1, 2023:

1142 (a) in Subsection 53B-8-105(12), the language that states, "or any scholarship
1143 established under Sections 53B-8-202 through 53B-8-205";

1144 (b) Section 53B-8-202;

1145 (c) Section 53B-8-203;

1146 (d) Section 53B-8-204; and

1147 (e) Section 53B-8-205.

1148 (9) Section 53B-10-101 is repealed on July 1, 2027.

1149 (10) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation
1150 and Translation Services Procurement Advisory Council is repealed July 1, 2024.

1151 (11) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee
1152 evaluation and recommendations, is repealed January 1, 2024.

1153 (12) Subsection 53E-7-401(1)(a)(iv)(A) is repealed July 1, 2027.

1154 [~~(12)~~] (13) Section 53F-2-209, regarding local education agency budgetary flexibility,
1155 is repealed July 1, 2024.

1156 [~~(13)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the
1157 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

1158 [~~(14)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments,
1159 is repealed July 1, 2024.

1160 (16) Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program, is repealed July
1161 1, 2027.

1162 [~~(15)~~] (17) Section 53F-5-221, regarding a management of energy and water pilot
1163 program, is repealed July 1, 2028.

1164 (18) Subsection 53F-6-401(1)(c)(i)(A) is repealed July 1, 2027.

1165 (19) Subsection 53F-6-401(4)(e)(i) is repealed July 1, 2027.

1166 [~~(16)~~] (20) Section 53F-9-401 is repealed on July 1, 2024.

1167 [~~(17)~~] (21) Section 53F-9-403 is repealed on July 1, 2024.

1168 (22) Subsection 53G-11-401(8)(a) is repealed July 1, 2027.

1169 [~~(18)~~] (23) On July 1, 2023, when making changes in this section, the Office of
1170 Legislative Research and General Counsel shall, in addition to the office's authority under
1171 Section 36-12-12, make corrections necessary to ensure that sections and subsections identified
1172 in this section are complete sentences and accurately reflect the office's perception of the
1173 Legislature's intent.

1174 Section 19. Section **63I-2-253 (Effective 07/01/24)** is amended to read:

1175 **63I-2-253 (Effective 07/01/24). Repeal dates: Titles 53 through 53G.**

1176 (1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed
1177 July 1, 2024.

1178 (2) Section 53-1-118 is repealed on July 1, 2024.

1179 (3) Section 53-1-120 is repealed on July 1, 2024.

1180 (4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1,
1181 2024.

1182 (5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
1183 53-2d-702(1)(a) is amended to read:

1184 "(a) provide the patient or the patient's representative with the following information
1185 before contacting an air medical transport provider:

1186 (i) which health insurers in the state the air medical transport provider contracts with;

1187 (ii) if sufficient data is available, the average charge for air medical transport services
1188 for a patient who is uninsured or out of network; and

1189 (iii) whether the air medical transport provider balance bills a patient for any charge not
1190 paid by the patient's health insurer; and".

1191 (6) Section 53-7-109 is repealed on July 1, 2024.

1192 (7) Section 53-22-104 is repealed December 31, 2023.

1193 (8) Section 53B-6-105.7 is repealed July 1, 2024.

1194 (9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed
1195 July 1, 2023.

1196 (10) Section 53B-8-114 is repealed July 1, 2024.

1197 (11) The following provisions, regarding the Regents' scholarship program, are
1198 repealed on July 1, 2023:

1199 (a) in Subsection 53B-8-105(12), the language that states, "or any scholarship
1200 established under Sections 53B-8-202 through 53B-8-205";

1201 (b) Section 53B-8-202;

1202 (c) Section 53B-8-203;

1203 (d) Section 53B-8-204; and

1204 (e) Section 53B-8-205.

1205 (12) Section 53B-10-101 is repealed on July 1, 2027.

1206 (13) Subsection 53E-7-401(1)(a)(iv)(A) is repealed July 1, 2027.

1207 ~~[(13)]~~ (14) Subsection 53E-1-201(1)(s) regarding the report by the Educational
1208 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

1209 ~~[(14)]~~ (15) Section 53E-1-202.2, regarding a Public Education Appropriations
1210 Subcommittee evaluation and recommendations, is repealed January 1, 2024.

1211 ~~[(15)]~~ (16) Section 53F-2-209, regarding local education agency budgetary flexibility,
1212 is repealed July 1, 2024.

1213 ~~[(16)]~~ (17) Subsection 53F-2-314(4), relating to a one-time expenditure between the
1214 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

1215 ~~[(17)]~~ (18) Section 53F-2-524, regarding teacher bonuses for extra work assignments,
1216 is repealed July 1, 2024.

1217 (19) Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program, is repealed July
1218 1, 2027.

1219 ~~[(18)]~~ (20) Section 53F-5-221, regarding a management of energy and water pilot
1220 program, is repealed July 1, 2028.

1221 (21) Subsection 53F-6-401(1)(c)(i)(A) is repealed July 1, 2027.

1222 (22) Subsection 53F-6-401(4)(e)(i) is repealed July 1, 2027.

1223 ~~[(19)]~~ (23) Section 53F-9-401 is repealed on July 1, 2024.

1224 ~~[(20)]~~ (24) Section 53F-9-403 is repealed on July 1, 2024.

1225 (25) Subsection 53G-11-401(8)(a) is repealed July 1, 2027.

1226 ~~[(21)]~~ (26) On July 1, 2023, when making changes in this section, the Office of
1227 Legislative Research and General Counsel shall, in addition to the office's authority under
1228 Section 36-12-12, make corrections necessary to ensure that sections and subsections identified
1229 in this section are complete sentences and accurately reflect the office's perception of the
1230 Legislature's intent.

1231 Section 20. Section **63I-2-267** is amended to read:

1232 **63I-2-267. Repeal dates: Title 67.**

1233 Subsection 67-3-1(21)(a)(ii) is repealed July 1, 2027.

1234 Section 21. Section **67-3-1** is amended to read:

1235 **67-3-1. Functions and duties.**

1236 (1) (a) The state auditor is the auditor of public accounts and is independent of any
1237 executive or administrative officers of the state.

1238 (b) The state auditor is not limited in the selection of personnel or in the determination
1239 of the reasonable and necessary expenses of the state auditor's office.

1240 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
1241 financial statements showing:

- 1242 (a) the condition of the state's finances;
- 1243 (b) the revenues received or accrued;
- 1244 (c) expenditures paid or accrued;
- 1245 (d) the amount of unexpended or unencumbered balances of the appropriations to the
- 1246 agencies, departments, divisions, commissions, and institutions; and
- 1247 (e) the cash balances of the funds in the custody of the state treasurer.
- 1248 (3) (a) The state auditor shall:
- 1249 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
- 1250 any department of state government or any independent agency or public corporation as the law
- 1251 requires, as the auditor determines is necessary, or upon request of the governor or the
- 1252 Legislature;
- 1253 (ii) perform the audits in accordance with generally accepted auditing standards and
- 1254 other auditing procedures as promulgated by recognized authoritative bodies; and
- 1255 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 1256 (A) honesty and integrity in fiscal affairs;
- 1257 (B) accuracy and reliability of financial statements;
- 1258 (C) effectiveness and adequacy of financial controls; and
- 1259 (D) compliance with the law.
- 1260 (b) If any state entity receives federal funding, the state auditor shall ensure that the
- 1261 audit is performed in accordance with federal audit requirements.
- 1262 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
- 1263 appropriation to the state auditor from the General Fund.
- 1264 (ii) If an appropriation is not provided, or if the federal government does not
- 1265 specifically provide for payment of audit costs, the costs of the federal compliance portions of
- 1266 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
- 1267 bears to the total federal funds received by the state.
- 1268 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
- 1269 funds passed through the state to local governments and to reflect any reduction in audit time
- 1270 obtained through the use of internal auditors working under the direction of the state auditor.
- 1271 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
- 1272 financial audits, and as the auditor determines is necessary, conduct performance and special

1273 purpose audits, examinations, and reviews of any entity that receives public funds, including a
1274 determination of any or all of the following:

1275 (i) the honesty and integrity of all the entity's fiscal affairs;
1276 (ii) whether the entity's administrators have faithfully complied with legislative intent;
1277 (iii) whether the entity's operations have been conducted in an efficient, effective, and
1278 cost-efficient manner;

1279 (iv) whether the entity's programs have been effective in accomplishing the intended
1280 objectives; and

1281 (v) whether the entity's management, control, and information systems are adequate,
1282 effective, and secure.

1283 (b) The auditor may not conduct performance and special purpose audits,
1284 examinations, and reviews of any entity that receives public funds if the entity:

1285 (i) has an elected auditor; and

1286 (ii) has, within the entity's last budget year, had the entity's financial statements or
1287 performance formally reviewed by another outside auditor.

1288 (5) The state auditor:

1289 (a) shall administer any oath or affirmation necessary to the performance of the duties
1290 of the auditor's office; and

1291 (b) may:

1292 (i) subpoena witnesses and documents, whether electronic or otherwise; and

1293 (ii) examine into any matter that the auditor considers necessary.

1294 (6) The state auditor may require all persons who have had the disposition or
1295 management of any property of this state or its political subdivisions to submit statements
1296 regarding the property at the time and in the form that the auditor requires.

1297 (7) The state auditor shall:

1298 (a) except where otherwise provided by law, institute suits in Salt Lake County in
1299 relation to the assessment, collection, and payment of revenues against:

1300 (i) persons who by any means have become entrusted with public money or property
1301 and have failed to pay over or deliver the money or property; and

1302 (ii) all debtors of the state;

1303 (b) collect and pay into the state treasury all fees received by the state auditor;

1304 (c) perform the duties of a member of all boards of which the state auditor is a member
1305 by the constitution or laws of the state, and any other duties that are prescribed by the
1306 constitution and by law;

1307 (d) stop the payment of the salary of any state official or state employee who:

1308 (i) refuses to settle accounts or provide required statements about the custody and
1309 disposition of public funds or other state property;

1310 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
1311 board or department head with respect to the manner of keeping prescribed accounts or funds;
1312 or

1313 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
1314 official's or employee's attention;

1315 (e) establish accounting systems, methods, and forms for public accounts in all taxing
1316 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

1317 (f) superintend the contractual auditing of all state accounts;

1318 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
1319 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
1320 officials and employees in those taxing units comply with state laws and procedures in the
1321 budgeting, expenditures, and financial reporting of public funds;

1322 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
1323 if necessary, to ensure that officials and employees in the county comply with Section
1324 59-2-303.1; and

1325 (i) withhold state allocated funds or the disbursement of property taxes from a local
1326 government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if
1327 the state auditor finds the withholding necessary to ensure that the entity registers and
1328 maintains the entity's registration with the lieutenant governor, in accordance with Section
1329 67-1a-15.

1330 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
1331 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
1332 written notice of noncompliance from the auditor and has been given 60 days to make the
1333 specified corrections.

1334 (b) If, after receiving notice under Subsection (8)(a), a state or independent local

1335 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
1336 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
1337 state auditor:

1338 (i) shall provide a recommended timeline for corrective actions;

1339 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
1340 state; and

1341 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
1342 account of a financial institution by filing an action in district court requesting an order of the
1343 court to prohibit a financial institution from providing the fee-assessing unit access to an
1344 account.

1345 (c) The state auditor shall remove a limitation on accessing funds under Subsection
1346 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
1347 financial reporting of public funds.

1348 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
1349 state law, the state auditor:

1350 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
1351 comply;

1352 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
1353 state; and

1354 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
1355 account of a financial institution by:

1356 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
1357 the institution prohibit access to the account; or

1358 (B) filing an action in district court requesting an order of the court to prohibit a
1359 financial institution from providing the taxing or fee-assessing unit access to an account.

1360 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
1361 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
1362 (8)(d).

1363 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
1364 received formal written notice of noncompliance from the auditor and has been given 60 days
1365 to make the specified corrections.

1366 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
1367 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

1368 (b) If the state auditor receives a notice of non-registration, the state auditor may
1369 prohibit the local government entity or limited purpose entity, as those terms are defined in
1370 Section 67-1a-15, from accessing:

1371 (i) money held by the state; and

1372 (ii) money held in an account of a financial institution by:

1373 (A) contacting the entity's financial institution and requesting that the institution
1374 prohibit access to the account; or

1375 (B) filing an action in district court requesting an order of the court to prohibit a
1376 financial institution from providing the entity access to an account.

1377 (c) The state auditor shall remove the prohibition on accessing funds described in
1378 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
1379 Section 67-1a-15, from the lieutenant governor.

1380 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
1381 state auditor:

1382 (a) shall authorize a disbursement by a local government entity or limited purpose
1383 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
1384 unit if the disbursement is necessary to:

1385 (i) avoid a major disruption in the operations of the local government entity, limited
1386 purpose entity, or state or local taxing or fee-assessing unit; or

1387 (ii) meet debt service obligations; and

1388 (b) may authorize a disbursement by a local government entity, limited purpose entity,
1389 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

1390 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
1391 take temporary custody of public funds if an action is necessary to protect public funds from
1392 being improperly diverted from their intended public purpose.

1393 (b) If the state auditor seeks relief under Subsection (12)(a):

1394 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);

1395 and

1396 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a

1397 court orders the public funds to be protected from improper diversion from their public
1398 purpose.

1399 (13) The state auditor shall:

1400 (a) establish audit guidelines and procedures for audits of local mental health and
1401 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
1402 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
1403 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
1404 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
1405 Organizations, and Other Local Entities Act; and

1406 (b) ensure that those guidelines and procedures provide assurances to the state that:

1407 (i) state and federal funds appropriated to local mental health authorities are used for
1408 mental health purposes;

1409 (ii) a private provider under an annual or otherwise ongoing contract to provide
1410 comprehensive mental health programs or services for a local mental health authority is in
1411 compliance with state and local contract requirements and state and federal law;

1412 (iii) state and federal funds appropriated to local substance abuse authorities are used
1413 for substance abuse programs and services; and

1414 (iv) a private provider under an annual or otherwise ongoing contract to provide
1415 comprehensive substance abuse programs or services for a local substance abuse authority is in
1416 compliance with state and local contract requirements, and state and federal law.

1417 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
1418 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
1419 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
1420 investigations of any political subdivision that are necessary to determine honesty and integrity
1421 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
1422 financial controls and compliance with the law.

1423 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
1424 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
1425 initiate an audit or investigation of the public entity subject to the notice to determine
1426 compliance with Section 11-41-103.

1427 (15) (a) The state auditor may not audit work that the state auditor performed before

1428 becoming state auditor.

1429 (b) If the state auditor has previously been a responsible official in state government
1430 whose work has not yet been audited, the Legislature shall:

1431 (i) designate how that work shall be audited; and
1432 (ii) provide additional funding for those audits, if necessary.

1433 (16) The state auditor shall:

1434 (a) with the assistance, advice, and recommendations of an advisory committee
1435 appointed by the state auditor from among special district boards of trustees, officers, and
1436 employees and special service district boards, officers, and employees:

1437 (i) prepare a Uniform Accounting Manual for Special Districts that:

1438 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
1439 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
1440 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
1441 District Act;

1442 (B) conforms with generally accepted accounting principles; and
1443 (C) prescribes reasonable exceptions and modifications for smaller districts to the
1444 uniform system of accounting, budgeting, and reporting;

1445 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
1446 reflect generally accepted accounting principles;

1447 (iii) conduct a continuing review and modification of procedures in order to improve
1448 them;

1449 (iv) prepare and supply each district with suitable budget and reporting forms; and
1450 (v) (A) prepare instructional materials, conduct training programs, and render other
1451 services considered necessary to assist special districts and special service districts in
1452 implementing the uniform accounting, budgeting, and reporting procedures; and
1453 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
1454 63G, Chapter 22, State Training and Certification Requirements; and

1455 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
1456 and experiences of specific special districts and special service districts selected by the state
1457 auditor and make the information available to all districts.

1458 (17) (a) The following records in the custody or control of the state auditor are

1459 protected records under Title 63G, Chapter 2, Government Records Access and Management
1460 Act:

1461 (i) records that would disclose information relating to allegations of personal
1462 misconduct, gross mismanagement, or illegal activity of a past or present governmental
1463 employee if the information or allegation cannot be corroborated by the state auditor through
1464 other documents or evidence, and the records relating to the allegation are not relied upon by
1465 the state auditor in preparing a final audit report;

1466 (ii) records and audit workpapers to the extent the workpapers would disclose the
1467 identity of an individual who during the course of an audit, communicated the existence of any
1468 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
1469 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or
1470 any recognized entity of the United States, if the information was disclosed on the condition
1471 that the identity of the individual be protected;

1472 (iii) before an audit is completed and the final audit report is released, records or drafts
1473 circulated to an individual who is not an employee or head of a governmental entity for the
1474 individual's response or information;

1475 (iv) records that would disclose an outline or part of any audit survey plans or audit
1476 program; and

1477 (v) requests for audits, if disclosure would risk circumvention of an audit.

1478 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
1479 of records or information that relate to a violation of the law by a governmental entity or
1480 employee to a government prosecutor or peace officer.

1481 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
1482 the state auditor to classify a document as public, private, controlled, or protected under Title
1483 63G, Chapter 2, Government Records Access and Management Act.

1484 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
1485 state auditor and the subject of an audit performed by the state auditor as to whether the state
1486 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
1487 auditor gained access to in the course of the state auditor's audit but which the subject of the
1488 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
1489 Access and Management Act.

1490 (ii) The state auditor may submit a record dispute to the State Records Committee,
1491 created in Section 63G-2-501, for a determination of whether the state auditor may, in
1492 conjunction with the state auditor's release of an audit report, release to the public the record
1493 that is the subject of the record dispute.

1494 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1495 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
1496 63G-2-404.

1497 (18) If the state auditor conducts an audit of an entity that the state auditor has
1498 previously audited and finds that the entity has not implemented a recommendation made by
1499 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1500 Committee through the Legislative Management Committee's audit subcommittee that the
1501 entity has not implemented that recommendation.

1502 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
1503 privacy officer described in Section 67-3-13.

1504 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
1505 another government entity reports, on the financial, operational, and performance metrics for
1506 the state system of higher education and the state system of public education, including metrics
1507 in relation to students, programs, and schools within those systems.

1508 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
1509 of:

1510 (i) the scholarship granting organization for the [~~Special Needs~~] Carson Smith
1511 Opportunity Scholarship Program, created in Section 53E-7-402;

1512 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
1513 Section 53F-4-302; and

1514 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
1515 created in Section 53F-6-402.

1516 (b) Nothing in this subsection limits or impairs the authority of the State Board of
1517 Education to administer the programs described in Subsection (21)(a).

1518 (22) The state auditor shall, based on the information posted by the Office of
1519 Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy,
1520 track and post the following information on the state auditor's website:

- 1521 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);
1522 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
1523 adopted;
1524 (c) an indication regarding whether the policy complies with the requirements
1525 established by law for the policy; and
1526 (d) a link to the policy.
- 1527 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine
1528 whether a government entity, government official, or government employee has complied with
1529 a legal obligation directly imposed, by statute, on the government entity, government official,
1530 or government employee.
- 1531 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
1532 the inquiry requested.
- 1533 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
1534 auditor shall post the results of the inquiry on the state auditor's website.
- 1535 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
1536 determination, without conducting an audit, regarding whether the obligation was fulfilled.
- 1537 **Section 22. Effective date.**
- 1538 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.
- 1539 (2) The actions affecting Section 63I-2-253 (Effective 05/01/2024) (Superseded
1540 07/01/24) take effect on July 1, 2024.