

ALTERNATIVE EDUCATION SCHOLARSHIP COMBINATION

2024 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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 47 **63I-2-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7,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 ~~[(1)]~~

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 ~~[(1)(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 ~~[(1)(a)]~~ (2)(a) if:

92 (A) the student described in Subsection ~~[(1)(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) published 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) except as provided in Subsection (3)(a)(i)(C), above 185% of the federal poverty
209 level, the value of the weighted pupil unit multiplied by two; or

210 (C) above 185% of the federal poverty level and the eligible student would have
211 received an average of 180 minutes per day or more of special education services in a public
212 school before transferring to a private school, the value of the weighted pupil unit multiplied by
213 2.5; or

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

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

217 (4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team
218 under this program does not establish eligibility for an IEP under the Individuals with

219 Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on
220 any LEA that is required to provide an IEP under the Individuals with Disabilities Education
221 Act.

222 (5) The scholarship granting organizations shall prepare and disseminate information
223 on the program to a parent applying for a scholarship on behalf of a student.

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

225 **53E-7-403. Qualifying school and qualifying provider requirements.**

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

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

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

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

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

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

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

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

244 (4) If a scholarship granting organization determines that a qualifying school or
245 qualifying provider has violated a provision of this part, the scholarship granting organization
246 may interrupt disbursement of or withhold scholarship money from the qualifying school or
247 qualifying provider.

248 (5) (a) If the state board determines that a qualifying school no longer meets the
249 eligibility requirements described in Section 53E-7-408, the state board may withdraw the state

250 board's approval of the school.

251 (b) A private school that does not have the state board's approval under Section
252 53E-7-408 may not accept scholarship money under this part.

253 (6) A qualifying school shall, when administering an annual assessment required under
254 Section 53E-7-408, ensure that the qualifying school uses a norm-referenced assessment.

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

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

260 **53E-7-404. State board duties.**

261 (1) The state board shall:

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

263 (i) information about the program; and

264 (ii) information about each scholarship granting organization;

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

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

269 (d) establish uniform financial accounting standards for scholarship granting
270 organizations;

271 ~~[(e) annually calculate the amount of the program donations cap described in Section~~
272 ~~53E-7-407, and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

326 (d) A scholarship granting organization may not accept program donations while the
327 scholarship granting organization:

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

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

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

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

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

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

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

342 (i) requiring the scholarship granting organization to:

343 (A) notify the state board; and

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

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

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

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

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

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

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

358 [~~(iv)~~] (iii) any other information requested by the Public Education Appropriations
359 Subcommittee for the state board to include in the annual report described in Section
360 53E-1-202.1.

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

362 **53E-7-405. Program donations -- Scholarship granting organization**
363 **requirements -- Legislative appropriations.**

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

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

369 (3) A scholarship granting organization shall:

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

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

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

405 (ii) the total number and total dollar amount of program donations and other funding
406 sources that the scholarship granting organization received during the previous calendar year;

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

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

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

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

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

419 ~~(+)~~ (A) receives scholarship money for tuition expenses; and

420 ~~(+)~~ (B) does not have continuing enrollment and attendance at a qualifying school[-];

421 or

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

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

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

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

430 "I acknowledge that:

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

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

435 (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to

436 services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities
437 Education Act, 20 U.S.C. Sec. 1400 et seq.; and

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

439 (c) Upon acceptance of a scholarship, the parent assumes full financial responsibility
440 for the education of the scholarship recipient.

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

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

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

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

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

451 (a) complies with the uniform financial accounting standards described in Section
452 53E-7-404; and

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

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

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

458 (A) the scholarship granting organization; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

494 (10) A scholarship granting organization may not:

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

497 (b) allocate scholarship money to a qualifying school or qualifying provider at which

498 the scholarship recipient has a relative who is an officer or an ~~[employee]~~ administrator of the
499 qualifying school or qualifying provider.

500 (11) The Legislature may appropriate funds to the board to be distributed in an equal
501 amount to each scholarship granting organization for the same purposes program donations are
502 used.

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

504 **53E-7-406. Qualifying school or qualifying provider regulatory autonomy --**
505 **Home school autonomy -- Student records -- Scholarship student status.**

506 (1) Nothing in this part:

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

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

510 (ii) students receiving education from a qualifying school, qualifying provider, or home
511 school;

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

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

518 (2) A qualifying school or qualifying provider:

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

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

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

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

533 (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

534 (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

535 (5) By virtue of a scholarship student's involvement in the program and unless
536 otherwise expressly provided in statute, a scholarship student is not:

537 (a) enrolled in the public education system; or

538 (b) otherwise subject to statute, administrative rules, or other state regulations as if the
539 student was enrolled in the public education system.

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

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

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

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

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

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

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

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

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

559 **53E-7-407. Tax credit certificates issued by a scholarship granting organization.**

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

563 (2) (a) The scholarship granting organization shall provide the information from a
564 completed tax credit certificate to the State Tax Commission electronically and in a manner
565 prescribed by the State Tax Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

603 **53E-7-408. Eligible private schools.**

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

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

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

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

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

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

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

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

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

621 (e) provide a written disclosure to the parent of each prospective student, before the

622 student is enrolled, of:

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

625 (ii) tuition costs;

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

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

629 (f) (i) administer an annual assessment of each scholarship student's academic
630 progress; and

631 (ii) report the results of the assessment described in Subsection (1)(f)(i) to the
632 scholarship student's parent;

633 (g) employ or contract with teachers who:

634 (i) hold baccalaureate or higher degrees;

635 (ii) have at least three years of teaching experience in public or private schools; or

636 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to
637 provide instruction:

638 (A) in the subject or subjects taught; and

639 (B) to the special needs students taught;

640 (h) maintain documentation demonstrating that teachers at the private school meet the
641 qualifications described in Subsection (1)(g);

642 (i) require the following individuals to submit to a nationwide, fingerprint-based
643 criminal background check and ongoing monitoring, in accordance with Section 53G-11-402,
644 as a condition for employment or appointment, as authorized by the Adam Walsh Child
645 Protection and Safety Act of 2006, Pub. L. No. 109-248:

646 (i) an employee who does not hold a current Utah educator license issued by the state
647 board under Chapter 6, Education Professional Licensure;

648 (ii) a contract employee; and

649 (iii) a volunteer who is given significant unsupervised access to a student in connection
650 with the volunteer's assignment; and

651 (j) provide to the parent of a scholarship student the relevant credentials of the teachers
652 who will be teaching the scholarship student.

653 (2) A private school is not eligible to enroll scholarship students if:

654 (a) the private school requires a student to sign a contract waiving the student's rights
655 to transfer to another qualifying school during the school year;

656 (b) the audit report submitted under Subsection (1)(b) contains a going concern
657 explanatory paragraph;

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

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

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

664 [~~(4)~~ (3) Residential treatment facilities licensed by the state are not eligible to enroll
665 scholarship students.

666 [~~(5)~~ (4) A private school intending to enroll scholarship students shall submit an
667 application to the state board.

668 [~~(6)~~ (5) The state board shall:

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

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

673 [~~(7)~~ (6) A private school approved under this section that changes ownership shall:

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

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

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

678 **53E-7-408.5. Eligible service provider.**

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

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

681 (i) a federal employer identification number;

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

683 (iii) a description of each program or service the provider proposes to offer directly to a

684 scholarship student; and

685 (iv) subject to Subsection (2), any other information as required by the scholarship

686 granting organization;

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

688 (c) may not act as a consultant, clearing house, or intermediary that connects a

689 scholarship student with or otherwise facilitates the student's engagement with a program or

690 service that another entity provides.

691 (2) The scholarship granting organization shall adopt policies that maximize the

692 number of eligible service providers, including accepting new providers throughout the school

693 year, while ensuring education programs or services provided through the program meet

694 student needs and otherwise comply with this part.

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

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

697 (b) agree to not refund, rebate, or share scholarship funds with scholarship students or

698 scholarship students' parents in any manner except remittances or refunds to a scholarship

699 account in accordance with this part and procedures that the program manager establishes.

700 (4) The scholarship granting organization shall:

701 (a) if the private program or service meets the eligibility requirements of this section,

702 recognize the private program or service as an eligible service provider and approve a private

703 program or service's application to receive scholarship funds on behalf of a scholarship student;

704 and

705 (b) make available to the public a list of eligible service providers approved under this

706 section.

707 (5) A private program or service approved under this section that changes ownership

708 shall:

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

710 (i) the program or service submits a new application to the scholarship granting

711 organization; and

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

713 (b) demonstrate that the private program or service continues to meet the eligibility

714 requirements of this section.

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

716 **53E-7-410. Background checks for scholarship granting organizations -- State**
717 **board responsibilities -- Bureau responsibilities -- Fees.**

718 (1) As used in this section:

719 (a) "Applicant" means an employee or officer of a scholarship granting organization.

720 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
721 within the Department of Public Safety.

722 (c) "Department" means the Department of Public Safety.

723 (d) "Division" means the Criminal Investigations and Technical Services Division
724 created in Section 53-10-103.

725 (e) "FBI" means the Federal Bureau of Investigation.

726 (f) "FBI Rap Back System" means the rap back system maintained by the FBI.

727 (g) "Personal identifying information" means:

728 (i) current name;

729 (ii) former names;

730 (iii) nicknames;

731 (iv) aliases;

732 (v) date of birth;

733 (vi) address;

734 (vii) telephone number;

735 (viii) driver license number or other government-issued identification number;

736 (ix) social security number; and

737 (x) fingerprints.

738 (h) "Rap back system" means a system that enables authorized entities to receive
739 ongoing status notifications of any criminal history reported on individuals whose fingerprints
740 are registered in the system.

741 (i) "WIN Database" means the Western Identification Network Database that consists
742 of eight western states sharing one electronic fingerprint database.

743 (2) The state board shall:

744 (a) require an applicant to submit to a nationwide criminal background check and
745 ongoing monitoring in accordance with Section 53E-7-404;

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

777 employees on the notification procedures and privacy risk mitigation strategies described in
778 this section.

779 (4) (a) The division shall impose fees set in accordance with Section 63J-1-504 for an
780 applicant fingerprint card, name check, and to register fingerprints under this section.

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

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

784 **53F-4-302. Scholarship program created -- Qualifications.**

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

787 (2) To qualify for a scholarship:

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

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

790 (i) an intellectual disability;

791 (ii) deafness or being hard of hearing;

792 (iii) a speech or language impairment;

793 (iv) a visual impairment;

794 (v) a serious emotional disturbance;

795 (vi) an orthopedic impairment;

796 (vii) autism;

797 (viii) traumatic brain injury;

798 (ix) other health impairment;

799 (x) specific learning disabilities;

800 (xi) deafblindness; or

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

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

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

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

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

811 (ii) have an IEP; and

812 (iii) have obtained acceptance for admission to an eligible private school.

813 (3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

814 (a) the student is enrolled or has obtained acceptance for admission to an eligible
815 private school that has previously served students with disabilities; and

816 (b) an assessment team is able to readily determine with reasonable certainty:

817 (i) that the student has a disability listed in Subsection (2)(b) and would qualify for
818 special education services, if enrolled in a public school; and

819 (ii) for the purpose of establishing the scholarship amount, the appropriate level of
820 special education services which should be provided to the student.

821 (4) (a) ~~[Fø]~~ Except as provided in Subsection (11)(a), to receive a full-year scholarship
822 under this part, a parent of a student shall submit to the LEA where the student is enrolled an
823 application on or before the August 15 immediately preceding the first day of the school year
824 for which the student would receive the scholarship.

825 (b) ~~[The]~~ Except as provided in Subsection (11)(b), the state board may waive the
826 full-year scholarship deadline described in Subsection (4)(a).

827 (c) An application for a scholarship shall contain an acknowledgment by the parent that
828 the selected school is qualified and capable of providing the level of special education services
829 required for the student.

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

831 "I acknowledge that:

832 (1) A private school may not provide the same level of special education services that
833 are provided in a public school;

834 (2) I will assume full financial responsibility for the education of my scholarship
835 student if I accept this scholarship;

836 (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to
837 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
838 U.S.C. Sec. 1400 et seq.; and

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

840 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility
841 for the education of the scholarship student.

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

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

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

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

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

851 (i) three years; or

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

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

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

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

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

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

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

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

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

869 (7) A student's parent, at any time, may remove the student from a private school and

870 place the student in another eligible private school and retain the scholarship.

871 (8) A scholarship student:

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

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

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

879 (10) The state board shall:

880 (a) notify the parents of a scholarship student in writing of the termination of the
881 existing scholarship program including when the final scholarship payment will be awarded;
882 and

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

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

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

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

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

892 ~~and]~~

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

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

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

- 901 (a) accept a new application;
 902 (b) provide a waiver of a full-year application; or
 903 (c) extend an existing scholarship as described in Subsections (6)(c) and (e).

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

905 **53F-4-304. Scholarship payments.**

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

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

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

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

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

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

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

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

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

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

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

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

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

936 (ii) the private school tuition and fees; and

937 (b) for a student who received an average of less than 180 minutes per day of special
938 education services in a public school before transferring to a private school, an amount not to
939 exceed the lesser of:

940 (i) the value of the weighted pupil unit multiplied by 1.5; or

941 (ii) the private school tuition and fees.

942 (3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day
943 preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

944 (4) If a student leaves a private school before the end of a fiscal quarter:

945 (a) the private school is only entitled to the amount of scholarship equivalent to the
946 number of days that the student attended the private school; and

947 (b) the private school shall remit a prorated amount of the scholarship to the state board
948 in accordance with the procedures described in rules adopted by the state board in accordance
949 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

950 (5) For the amount of funds remitted under Subsection (4)(b), the state board shall:

951 (a) make the amount available to the student to enroll immediately in another
952 qualifying private school; or

953 (b) refund the amount back to the Carson Smith Scholarship Program account to be
954 available to support the costs of another scholarship.

955 (6) (a) The state board shall make an additional allocation on a random basis before
956 June 30 each year only:

957 (i) if there are sufficient remaining funds in the program; and

958 (ii) for scholarships for students enrolled in a full-day preschool program.

959 (b) If the state board awards a scholarship under Subsection (6)(a), the scholarship
960 amount or supplement may not exceed the lesser of:

961 (i) the value of the weighted pupil unit multiplied by 1.0; or

962 (ii) the private school tuition and fees.

963 (c) The state board shall, when preparing annual growth projection numbers for the
964 Legislature, include the annual number of applications for additional allocations described in
965 Subsection (6)(a).

966 (7) (a) The scholarship amount for a student who receives a waiver under Subsection
967 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level
968 of special education services to be provided to the student.

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

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

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

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

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

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

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

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

991 **53F-6-401. Definitions.**

992 As used in this part:

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

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

- 1025 (i) the Carson Smith Scholarship Program established in Section 53F-4-302; or
1026 (ii) the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
1027 Section 53E-7-402; and
- 1028 (f) an agreement with the state board recognizes as a program manager, in accordance
1029 with this part.
- 1030 (5) (a) "Program manager employee" means an individual working for the program
1031 manager in a position in which the individual's salary, wages, pay, or compensation, including
1032 as a contractor, is paid from scholarship funds.
- 1033 (b) "Program manager employee" does not include:
- 1034 (i) an individual who volunteers for the program manager or for a qualifying provider;
1035 (ii) an individual who works for a qualifying provider; or
1036 (iii) a qualifying provider.
- 1037 (6) "Program manager officer" means:
- 1038 (a) a member of the board of a program manager; or
1039 (b) the chief administrative officer of a program manager.
- 1040 (7) "Qualifying provider" means one of the following entities that is not a public school
1041 and is autonomous and not an agent of the state, in accordance with Section 53F-6-406:
- 1042 (a) an eligible school that the program manager approves in accordance with Section
1043 53F-6-408; or
1044 (b) an eligible service provider that the program manager approves in accordance with
1045 Section 53F-6-409.
- 1046 (8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
1047 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
1048 sister-in-law, son-in-law, or daughter-in-law.
- 1049 (9) "Scholarship account" means the account to which a program manager allocates
1050 funds for the payment of approved scholarship expenses in accordance with this part.
- 1051 (10) "Scholarship expense" means an expense described in Section 53F-6-402 that a
1052 parent or scholarship student incurs in the education of the scholarship student for a service or
1053 goods that a qualifying provider provides, including:
- 1054 (a) tuition and fees of a qualifying provider;
1055 (b) fees and instructional materials at a technical college;

- 1056 (c) tutoring services;
- 1057 (d) fees for after-school or summer education programs;
- 1058 (e) textbooks, curricula, or other instructional materials, including any supplemental
1059 materials or associated online instruction that a curriculum or a qualifying provider
1060 recommends;
- 1061 (f) educational software and applications;
- 1062 (g) supplies or other equipment related to a scholarship student's educational needs;
- 1063 (h) computer hardware or other technological devices that are intended primarily for a
1064 scholarship student's educational needs;
- 1065 (i) fees for the following examinations, or for a preparation course for the following
1066 examinations, that the program manager approves:
- 1067 (i) a national norm-referenced or standardized assessment described in Section
1068 53F-6-410, an advanced placement examination, or another similar assessment;
- 1069 (ii) a state-recognized industry certification examination; and
- 1070 (iii) an examination related to college or university admission;
- 1071 (j) educational services for students with disabilities from a licensed or accredited
1072 practitioner or provider, including occupational, behavioral, physical, audiology, or
1073 speech-language therapies;
- 1074 (k) contracted services that the program manager approves and that an LEA provides,
1075 including individual classes, after-school tutoring services, transportation, or fees or costs
1076 associated with participation in extracurricular activities;
- 1077 (l) ride fees or fares for a fee-for-service transportation provider to transport the
1078 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school
1079 year;
- 1080 (m) expenses related to extracurricular activities, field trips, educational supplements,
1081 and other educational experiences; or
- 1082 (n) any other expense for a good or service that:
- 1083 (i) a parent or scholarship student incurs in the education of the scholarship student;
- 1084 and
- 1085 (ii) the program manager approves, in accordance with Subsection (4)(d).
- 1086 (11) "Scholarship funds" means:

1087 (a) funds that the Legislature appropriates for the program; and

1088 (b) interest that scholarship funds accrue.

1089 (12) (a) "Scholarship student" means an eligible student, including a home-based
1090 scholarship student, for whom the program manager establishes and maintains a scholarship
1091 account in accordance with this part.

1092 (b) "Scholarship student" does not include a home school student who does not receive
1093 a scholarship award under the program.

1094 (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program
1095 established in Section 53F-6-402.

1096 Section 15. Section **59-7-109.1** is amended to read:

1097 **59-7-109.1. Charitable contributions to the Carson Smith Opportunity**
1098 **Scholarship Program.**

1099 (1) Notwithstanding anything to the contrary in Section 59-7-109, a taxpayer may not
1100 subtract a charitable contribution that meets the requirements of Section 59-7-109 to the extent
1101 that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable
1102 contribution.

1103 (2) This section supersedes any conflicting provisions of Utah law.

1104 Section 16. Section **59-7-625** is amended to read:

1105 **59-7-625. Nonrefundable tax credit for donation to the Carson Smith**
1106 **Opportunity Scholarship Program.**

1107 (1) A taxpayer that makes a donation to the [~~Special Needs~~] Carson Smith Opportunity
1108 Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit
1109 equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section
1110 53E-7-407.

1111 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's
1112 liability under this chapter for a taxable year, the taxpayer:

1113 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1114 that does not exceed the next three taxable years; and

1115 (b) may carry back the amount of the tax credit that exceeds the taxpayer's tax liability
1116 to the previous taxable year.

1117 Section 17. Section **59-10-1041** is amended to read:

1118 **59-10-1041. Nonrefundable tax credit for donation to the Carson Smith**
1119 **Opportunity Scholarship Program.**

1120 (1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a
1121 donation to the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
1122 Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated
1123 on a tax credit certificate issued in accordance with Section 53E-7-407.

1124 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's,
1125 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:

1126 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1127 that does not exceed the next three taxable years; and

1128 (b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or
1129 trust's tax liability to the previous taxable year.

1130 (3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the
1131 extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized
1132 deduction on the claimant's, estate's, or trust's federal individual income tax return for that
1133 taxable year.

1134 Section 18. Section **63I-2-253 (Superseded 07/01/24)** is amended to read:

1135 **63I-2-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**

1136 (1) Section 53-1-118 is repealed on July 1, 2024.

1137 (2) Section 53-1-120 is repealed on July 1, 2024.

1138 (3) Section 53-7-109 is repealed on July 1, 2024.

1139 (4) Section 53-22-104 is repealed December 31, 2023.

1140 (5) Section 53B-6-105.7 is repealed July 1, 2024.

1141 (6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed
1142 July 1, 2023.

1143 (7) Section 53B-8-114 is repealed July 1, 2024.

1144 (8) The following provisions, regarding the Regents' scholarship program, are repealed
1145 on July 1, 2023:

1146 (a) in Subsection 53B-8-105(12), the language that states, "or any scholarship
1147 established under Sections 53B-8-202 through 53B-8-205";

1148 (b) Section 53B-8-202;

- 1149 (c) Section 53B-8-203;
- 1150 (d) Section 53B-8-204; and
- 1151 (e) Section 53B-8-205.
- 1152 (9) Section 53B-10-101 is repealed on July 1, 2027.
- 1153 (10) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation
1154 and Translation Services Procurement Advisory Council is repealed July 1, 2024.
- 1155 (11) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee
1156 evaluation and recommendations, is repealed January 1, 2024.
- 1157 (12) Subsection 53E-7-401(1)(a)(iv)(A) is repealed July 1, 2027.
- 1158 [~~(12)~~] (13) Section 53F-2-209, regarding local education agency budgetary flexibility,
1159 is repealed July 1, 2024.
- 1160 [~~(13)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the
1161 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.
- 1162 [~~(14)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments,
1163 is repealed July 1, 2024.
- 1164 (16) Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program, is repealed July
1165 1, 2027.
- 1166 [~~(15)~~] (17) Section 53F-5-221, regarding a management of energy and water pilot
1167 program, is repealed July 1, 2028.
- 1168 (18) Subsection 53F-6-401(1)(c)(i)(A) is repealed July 1, 2027.
- 1169 (19) Subsection 53F-6-401(4)(e)(i) is repealed July 1, 2027.
- 1170 [~~(16)~~] (20) Section 53F-9-401 is repealed on July 1, 2024.
- 1171 [~~(17)~~] (21) Section 53F-9-403 is repealed on July 1, 2024.
- 1172 (22) Subsection 53G-11-401(8)(a) is repealed July 1, 2027.
- 1173 [~~(18)~~] (23) On July 1, 2023, when making changes in this section, the Office of
1174 Legislative Research and General Counsel shall, in addition to the office's authority under
1175 Section 36-12-12, make corrections necessary to ensure that sections and subsections identified
1176 in this section are complete sentences and accurately reflect the office's perception of the
1177 Legislature's intent.
- 1178 Section 19. Section **63I-2-253 (Effective 07/01/24)** is amended to read:
- 1179 **63I-2-253 (Effective 07/01/24). Repeal dates: Titles 53 through 53G.**

- 1180 (1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed
1181 July 1, 2024.
- 1182 (2) Section 53-1-118 is repealed on July 1, 2024.
- 1183 (3) Section 53-1-120 is repealed on July 1, 2024.
- 1184 (4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1,
1185 2024.
- 1186 (5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
1187 53-2d-702(1)(a) is amended to read:
- 1188 "(a) provide the patient or the patient's representative with the following information
1189 before contacting an air medical transport provider:
- 1190 (i) which health insurers in the state the air medical transport provider contracts with;
1191 (ii) if sufficient data is available, the average charge for air medical transport services
1192 for a patient who is uninsured or out of network; and
- 1193 (iii) whether the air medical transport provider balance bills a patient for any charge not
1194 paid by the patient's health insurer; and".
- 1195 (6) Section 53-7-109 is repealed on July 1, 2024.
- 1196 (7) Section 53-22-104 is repealed December 31, 2023.
- 1197 (8) Section 53B-6-105.7 is repealed July 1, 2024.
- 1198 (9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed
1199 July 1, 2023.
- 1200 (10) Section 53B-8-114 is repealed July 1, 2024.
- 1201 (11) The following provisions, regarding the Regents' scholarship program, are
1202 repealed on July 1, 2023:
- 1203 (a) in Subsection 53B-8-105(12), the language that states, "or any scholarship
1204 established under Sections 53B-8-202 through 53B-8-205";
- 1205 (b) Section 53B-8-202;
- 1206 (c) Section 53B-8-203;
- 1207 (d) Section 53B-8-204; and
- 1208 (e) Section 53B-8-205.
- 1209 (12) Section 53B-10-101 is repealed on July 1, 2027.
- 1210 (13) Subsection 53E-7-401(1)(a)(iv)(A) is repealed July 1, 2027.

1211 ~~[(13)]~~ (14) Subsection 53E-1-201(1)(s) regarding the report by the Educational
 1212 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

1213 ~~[(14)]~~ (15) Section 53E-1-202.2, regarding a Public Education Appropriations
 1214 Subcommittee evaluation and recommendations, is repealed January 1, 2024.

1215 ~~[(15)]~~ (16) Section 53F-2-209, regarding local education agency budgetary flexibility,
 1216 is repealed July 1, 2024.

1217 ~~[(16)]~~ (17) Subsection 53F-2-314(4), relating to a one-time expenditure between the
 1218 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

1219 ~~[(17)]~~ (18) Section 53F-2-524, regarding teacher bonuses for extra work assignments,
 1220 is repealed July 1, 2024.

1221 (19) Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program, is repealed July
 1222 1, 2027.

1223 ~~[(18)]~~ (20) Section 53F-5-221, regarding a management of energy and water pilot
 1224 program, is repealed July 1, 2028.

1225 (21) Subsection 53F-6-401(1)(c)(i)(A) is repealed July 1, 2027.

1226 (22) Subsection 53F-6-401(4)(e)(i) is repealed July 1, 2027.

1227 ~~[(19)]~~ (23) Section 53F-9-401 is repealed on July 1, 2024.

1228 ~~[(20)]~~ (24) Section 53F-9-403 is repealed on July 1, 2024.

1229 (25) Subsection 53G-11-401(8)(a) is repealed July 1, 2027.

1230 ~~[(21)]~~ (26) On July 1, 2023, when making changes in this section, the Office of
 1231 Legislative Research and General Counsel shall, in addition to the office's authority under
 1232 Section 36-12-12, make corrections necessary to ensure that sections and subsections identified
 1233 in this section are complete sentences and accurately reflect the office's perception of the
 1234 Legislature's intent.

1235 Section 20. Section **63I-2-267** is amended to read:

1236 **63I-2-267. Repeal dates: Title 67.**

1237 Subsection 67-3-1(21)(a)(ii) is repealed July 1, 2027.

1238 Section 21. Section **67-3-1** is amended to read:

1239 **67-3-1. Functions and duties.**

1240 (1) (a) The state auditor is the auditor of public accounts and is independent of any
 1241 executive or administrative officers of the state.

- 1242 (b) The state auditor is not limited in the selection of personnel or in the determination
1243 of the reasonable and necessary expenses of the state auditor's office.
- 1244 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
1245 financial statements showing:
- 1246 (a) the condition of the state's finances;
- 1247 (b) the revenues received or accrued;
- 1248 (c) expenditures paid or accrued;
- 1249 (d) the amount of unexpended or unencumbered balances of the appropriations to the
1250 agencies, departments, divisions, commissions, and institutions; and
- 1251 (e) the cash balances of the funds in the custody of the state treasurer.
- 1252 (3) (a) The state auditor shall:
- 1253 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
1254 any department of state government or any independent agency or public corporation as the law
1255 requires, as the auditor determines is necessary, or upon request of the governor or the
1256 Legislature;
- 1257 (ii) perform the audits in accordance with generally accepted auditing standards and
1258 other auditing procedures as promulgated by recognized authoritative bodies; and
- 1259 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 1260 (A) honesty and integrity in fiscal affairs;
- 1261 (B) accuracy and reliability of financial statements;
- 1262 (C) effectiveness and adequacy of financial controls; and
- 1263 (D) compliance with the law.
- 1264 (b) If any state entity receives federal funding, the state auditor shall ensure that the
1265 audit is performed in accordance with federal audit requirements.
- 1266 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
1267 appropriation to the state auditor from the General Fund.
- 1268 (ii) If an appropriation is not provided, or if the federal government does not
1269 specifically provide for payment of audit costs, the costs of the federal compliance portions of
1270 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
1271 bears to the total federal funds received by the state.
- 1272 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit

1273 funds passed through the state to local governments and to reflect any reduction in audit time
1274 obtained through the use of internal auditors working under the direction of the state auditor.

1275 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
1276 financial audits, and as the auditor determines is necessary, conduct performance and special
1277 purpose audits, examinations, and reviews of any entity that receives public funds, including a
1278 determination of any or all of the following:

1279 (i) the honesty and integrity of all the entity's fiscal affairs;

1280 (ii) whether the entity's administrators have faithfully complied with legislative intent;

1281 (iii) whether the entity's operations have been conducted in an efficient, effective, and
1282 cost-efficient manner;

1283 (iv) whether the entity's programs have been effective in accomplishing the intended
1284 objectives; and

1285 (v) whether the entity's management, control, and information systems are adequate,
1286 effective, and secure.

1287 (b) The auditor may not conduct performance and special purpose audits,
1288 examinations, and reviews of any entity that receives public funds if the entity:

1289 (i) has an elected auditor; and

1290 (ii) has, within the entity's last budget year, had the entity's financial statements or
1291 performance formally reviewed by another outside auditor.

1292 (5) The state auditor:

1293 (a) shall administer any oath or affirmation necessary to the performance of the duties
1294 of the auditor's office; and

1295 (b) may:

1296 (i) subpoena witnesses and documents, whether electronic or otherwise; and

1297 (ii) examine into any matter that the auditor considers necessary.

1298 (6) The state auditor may require all persons who have had the disposition or
1299 management of any property of this state or its political subdivisions to submit statements
1300 regarding the property at the time and in the form that the auditor requires.

1301 (7) The state auditor shall:

1302 (a) except where otherwise provided by law, institute suits in Salt Lake County in
1303 relation to the assessment, collection, and payment of revenues against:

- 1304 (i) persons who by any means have become entrusted with public money or property
1305 and have failed to pay over or deliver the money or property; and
- 1306 (ii) all debtors of the state;
- 1307 (b) collect and pay into the state treasury all fees received by the state auditor;
- 1308 (c) perform the duties of a member of all boards of which the state auditor is a member
1309 by the constitution or laws of the state, and any other duties that are prescribed by the
1310 constitution and by law;
- 1311 (d) stop the payment of the salary of any state official or state employee who:
- 1312 (i) refuses to settle accounts or provide required statements about the custody and
1313 disposition of public funds or other state property;
- 1314 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
1315 board or department head with respect to the manner of keeping prescribed accounts or funds;
1316 or
- 1317 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
1318 official's or employee's attention;
- 1319 (e) establish accounting systems, methods, and forms for public accounts in all taxing
1320 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 1321 (f) superintend the contractual auditing of all state accounts;
- 1322 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
1323 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
1324 officials and employees in those taxing units comply with state laws and procedures in the
1325 budgeting, expenditures, and financial reporting of public funds;
- 1326 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
1327 if necessary, to ensure that officials and employees in the county comply with Section
1328 59-2-303.1; and
- 1329 (i) withhold state allocated funds or the disbursement of property taxes from a local
1330 government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if
1331 the state auditor finds the withholding necessary to ensure that the entity registers and
1332 maintains the entity's registration with the lieutenant governor, in accordance with Section
1333 67-1a-15.
- 1334 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds

1335 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
1336 written notice of noncompliance from the auditor and has been given 60 days to make the
1337 specified corrections.

1338 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
1339 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
1340 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
1341 state auditor:

1342 (i) shall provide a recommended timeline for corrective actions;

1343 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
1344 state; and

1345 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
1346 account of a financial institution by filing an action in district court requesting an order of the
1347 court to prohibit a financial institution from providing the fee-assessing unit access to an
1348 account.

1349 (c) The state auditor shall remove a limitation on accessing funds under Subsection
1350 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
1351 financial reporting of public funds.

1352 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
1353 state law, the state auditor:

1354 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
1355 comply;

1356 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
1357 state; and

1358 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
1359 account of a financial institution by:

1360 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
1361 the institution prohibit access to the account; or

1362 (B) filing an action in district court requesting an order of the court to prohibit a
1363 financial institution from providing the taxing or fee-assessing unit access to an account.

1364 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
1365 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection

1366 (8)(d).

1367 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
1368 received formal written notice of noncompliance from the auditor and has been given 60 days
1369 to make the specified corrections.

1370 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
1371 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

1372 (b) If the state auditor receives a notice of non-registration, the state auditor may
1373 prohibit the local government entity or limited purpose entity, as those terms are defined in
1374 Section 67-1a-15, from accessing:

1375 (i) money held by the state; and

1376 (ii) money held in an account of a financial institution by:

1377 (A) contacting the entity's financial institution and requesting that the institution
1378 prohibit access to the account; or

1379 (B) filing an action in district court requesting an order of the court to prohibit a
1380 financial institution from providing the entity access to an account.

1381 (c) The state auditor shall remove the prohibition on accessing funds described in
1382 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
1383 Section 67-1a-15, from the lieutenant governor.

1384 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
1385 state auditor:

1386 (a) shall authorize a disbursement by a local government entity or limited purpose
1387 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
1388 unit if the disbursement is necessary to:

1389 (i) avoid a major disruption in the operations of the local government entity, limited
1390 purpose entity, or state or local taxing or fee-assessing unit; or

1391 (ii) meet debt service obligations; and

1392 (b) may authorize a disbursement by a local government entity, limited purpose entity,
1393 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

1394 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
1395 take temporary custody of public funds if an action is necessary to protect public funds from
1396 being improperly diverted from their intended public purpose.

- 1397 (b) If the state auditor seeks relief under Subsection (12)(a):
1398 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
1399 and
1400 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
1401 court orders the public funds to be protected from improper diversion from their public
1402 purpose.
- 1403 (13) The state auditor shall:
1404 (a) establish audit guidelines and procedures for audits of local mental health and
1405 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
1406 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
1407 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
1408 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
1409 Organizations, and Other Local Entities Act; and
1410 (b) ensure that those guidelines and procedures provide assurances to the state that:
1411 (i) state and federal funds appropriated to local mental health authorities are used for
1412 mental health purposes;
1413 (ii) a private provider under an annual or otherwise ongoing contract to provide
1414 comprehensive mental health programs or services for a local mental health authority is in
1415 compliance with state and local contract requirements and state and federal law;
1416 (iii) state and federal funds appropriated to local substance abuse authorities are used
1417 for substance abuse programs and services; and
1418 (iv) a private provider under an annual or otherwise ongoing contract to provide
1419 comprehensive substance abuse programs or services for a local substance abuse authority is in
1420 compliance with state and local contract requirements, and state and federal law.
- 1421 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
1422 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
1423 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
1424 investigations of any political subdivision that are necessary to determine honesty and integrity
1425 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
1426 financial controls and compliance with the law.
- 1427 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the

1428 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
1429 initiate an audit or investigation of the public entity subject to the notice to determine
1430 compliance with Section 11-41-103.

1431 (15) (a) The state auditor may not audit work that the state auditor performed before
1432 becoming state auditor.

1433 (b) If the state auditor has previously been a responsible official in state government
1434 whose work has not yet been audited, the Legislature shall:

1435 (i) designate how that work shall be audited; and

1436 (ii) provide additional funding for those audits, if necessary.

1437 (16) The state auditor shall:

1438 (a) with the assistance, advice, and recommendations of an advisory committee
1439 appointed by the state auditor from among special district boards of trustees, officers, and
1440 employees and special service district boards, officers, and employees:

1441 (i) prepare a Uniform Accounting Manual for Special Districts that:

1442 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
1443 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
1444 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
1445 District Act;

1446 (B) conforms with generally accepted accounting principles; and

1447 (C) prescribes reasonable exceptions and modifications for smaller districts to the
1448 uniform system of accounting, budgeting, and reporting;

1449 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
1450 reflect generally accepted accounting principles;

1451 (iii) conduct a continuing review and modification of procedures in order to improve
1452 them;

1453 (iv) prepare and supply each district with suitable budget and reporting forms; and

1454 (v) (A) prepare instructional materials, conduct training programs, and render other
1455 services considered necessary to assist special districts and special service districts in
1456 implementing the uniform accounting, budgeting, and reporting procedures; and

1457 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
1458 63G, Chapter 22, State Training and Certification Requirements; and

1459 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
1460 and experiences of specific special districts and special service districts selected by the state
1461 auditor and make the information available to all districts.

1462 (17) (a) The following records in the custody or control of the state auditor are
1463 protected records under Title 63G, Chapter 2, Government Records Access and Management
1464 Act:

1465 (i) records that would disclose information relating to allegations of personal
1466 misconduct, gross mismanagement, or illegal activity of a past or present governmental
1467 employee if the information or allegation cannot be corroborated by the state auditor through
1468 other documents or evidence, and the records relating to the allegation are not relied upon by
1469 the state auditor in preparing a final audit report;

1470 (ii) records and audit workpapers to the extent the workpapers would disclose the
1471 identity of an individual who during the course of an audit, communicated the existence of any
1472 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
1473 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or
1474 any recognized entity of the United States, if the information was disclosed on the condition
1475 that the identity of the individual be protected;

1476 (iii) before an audit is completed and the final audit report is released, records or drafts
1477 circulated to an individual who is not an employee or head of a governmental entity for the
1478 individual's response or information;

1479 (iv) records that would disclose an outline or part of any audit survey plans or audit
1480 program; and

1481 (v) requests for audits, if disclosure would risk circumvention of an audit.

1482 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
1483 of records or information that relate to a violation of the law by a governmental entity or
1484 employee to a government prosecutor or peace officer.

1485 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
1486 the state auditor to classify a document as public, private, controlled, or protected under Title
1487 63G, Chapter 2, Government Records Access and Management Act.

1488 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
1489 state auditor and the subject of an audit performed by the state auditor as to whether the state

1490 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
1491 auditor gained access to in the course of the state auditor's audit but which the subject of the
1492 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
1493 Access and Management Act.

1494 (ii) The state auditor may submit a record dispute to the State Records Committee,
1495 created in Section 63G-2-501, for a determination of whether the state auditor may, in
1496 conjunction with the state auditor's release of an audit report, release to the public the record
1497 that is the subject of the record dispute.

1498 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1499 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
1500 63G-2-404.

1501 (18) If the state auditor conducts an audit of an entity that the state auditor has
1502 previously audited and finds that the entity has not implemented a recommendation made by
1503 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1504 Committee through the Legislative Management Committee's audit subcommittee that the
1505 entity has not implemented that recommendation.

1506 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
1507 privacy officer described in Section 67-3-13.

1508 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
1509 another government entity reports, on the financial, operational, and performance metrics for
1510 the state system of higher education and the state system of public education, including metrics
1511 in relation to students, programs, and schools within those systems.

1512 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
1513 of:

1514 (i) the scholarship granting organization for the [~~Special Needs~~] Carson Smith
1515 Opportunity Scholarship Program, created in Section 53E-7-402;

1516 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
1517 Section 53F-4-302; and

1518 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
1519 created in Section 53F-6-402.

1520 (b) Nothing in this subsection limits or impairs the authority of the State Board of

1521 Education to administer the programs described in Subsection (21)(a).

1522 (22) The state auditor shall, based on the information posted by the Office of
1523 Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy,
1524 track and post the following information on the state auditor's website:

1525 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

1526 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
1527 adopted;

1528 (c) an indication regarding whether the policy complies with the requirements
1529 established by law for the policy; and

1530 (d) a link to the policy.

1531 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine
1532 whether a government entity, government official, or government employee has complied with
1533 a legal obligation directly imposed, by statute, on the government entity, government official,
1534 or government employee.

1535 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
1536 the inquiry requested.

1537 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
1538 auditor shall post the results of the inquiry on the state auditor's website.

1539 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
1540 determination, without conducting an audit, regarding whether the obligation was fulfilled.

1541 **Section 22. Effective date.**

1542 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

1543 (2) The actions affecting Section 63I-2-253 (Effective 05/01/2024) (Superseded
1544 07/01/24) take effect on July 1, 2024.