

58 school-age children, solely on the basis of income level for the year immediately preceding the
59 year for which a scholarship is sought, and not on the basis of sex, race, religion, national
60 origin, or any other criteria; and

61 (5) the choice in education program authorized in this part is:

62 (a) enacted for the valid secular purpose of tailoring a child's education to that child's
63 specific needs as determined by the parent;

64 (b) neutral with respect to religion; and

65 (c) limited in its assistance to a parent, who may choose to use the scholarship to offset
66 tuition or fees charged by a private school, either sectarian or secular, in which enrollment of
67 the parent's child is sought, solely as a result of the parent's genuine and independent private
68 choices.

69 Section 3. Section **53A-1a-803** is enacted to read:

70 **53A-1a-803. Definitions.**

71 As used in this part:

72 (1) "Board" means the State Board of Education.

73 (2) "Eligible private school" means a private school that meets the requirements of
74 Section 53A-1a-805.

75 (3) "Income eligibility guideline" means the maximum annual income allowed to
76 qualify for reduced price meals for the applicable household size as published by the U.S.
77 Department of Agriculture by notice in the Federal Register.

78 (4) "Parent" includes a legal guardian.

79 (5) "Scholarship student" means a student who receives a scholarship under this part.

80 (6) "Tuition" means amounts charged for attending a private school, excluding fees for
81 extracurricular activities or transportation to the private school.

82 Section 4. Section **53A-1a-804** is enacted to read:

83 **53A-1a-804. Scholarship program created -- Qualifications -- Application.**

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

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

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

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

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

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

95 (ii) the student was enrolled as a full-time student in a Utah public school on January 1,
96 2007;

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

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

101 (d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part
102 7, Carson Smith Scholarships for Students with Special Needs Act.

103 (3) (a) To receive a scholarship, the parent of a student shall submit an application for
104 the scholarship to the board by the June 1 preceding the school year for which a scholarship is
105 sought, except the deadline for submitting an application for the 2007-08 school years is July
106 15, 2007. Along with the application, the student's parent shall submit documentation
107 verifying income as required by board rule.

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

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

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

113 "I acknowledge that:

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

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

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

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

123 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility
124 for the education of the scholarship student for the period in which the student receives the
125 scholarship.

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

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

131 Section 5. Section **53A-1a-805** is enacted to read:

132 **53A-1a-805. Eligible private schools.**

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

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

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

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

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

141 (e) disclose to the parent of each prospective student, before the student is enrolled, the

142 special education services that will be provided to the student, if any, including the cost of
143 those services;

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

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

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

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

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

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

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

154 (g) employ or contract with teachers who:

155 (i) hold baccalaureate or higher degrees; or

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

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

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

161 (2) (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are
162 as follows:

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

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

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

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

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

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

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

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

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

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

185 (b) a school that operates in a residence; or

186 (c) a residential treatment facility licensed by the state.

187 (4) (a) Except as provided in Subsection (4)(b), a private school intending to enroll
188 scholarship students shall submit an application to the board by April 1 of the school year
189 preceding the school year in which it intends to enroll scholarship students.

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

192 (5) The board shall:

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

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

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

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

199 Section 6. Section **53A-1a-806** is enacted to read:

200 **53A-1a-806. Scholarship payments.**

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

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

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

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

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

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

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

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

217 (b) (i) The board shall make rules specifying how the income of a prospective
218 scholarship student's parents shall be determined.

219 (ii) The rules shall provide that the scholarship shall be based upon parental income as
220 follows:

221 (A) if the parents are married, the income of both parents;

222 (B) if a parent is widowed, the income of the widowed parent;

223 (C) if a parent is widowed and has remarried, the income of the parent and stepparent;

224 (D) if the parents are divorced, the income of the parent with whom the scholarship
225 student resided for the greatest amount of time during the past 12 months;

226 (E) if the parents are divorced and the scholarship student resided with each parent an
227 equal amount of time, the income of the parent who provided more financial support during the
228 past 12 months;

229 (F) if the divorced parent with whom the scholarship student resided for the greatest
230 amount of time or who provided the greatest financial support has remarried, the income of the
231 parent and stepparent; and

232 (G) if the scholarship student resides with a guardian, the income of the guardian,
233 unless the guardian's income is exempt by board rule.

234 (iii) The rules shall provide that:

235 (A) if a parent filed federal or state income tax forms, income shall be based upon
236 adjusted gross income as listed on the income tax forms;

237 (B) if a parent was exempt from filing federal and state income tax forms, income shall
238 be based on income earned from work; and

239 (C) a parent shall submit documentation verifying income.

240 (3) (a) The board shall compare the income of a scholarship student's parents to the
241 maximum annual incomes listed in the income eligibility guideline as defined in Section
242 53A-1a-803 to set the scholarship amount.

243 (b) In determining scholarship amounts, the board shall use:

244 (i) the income eligibility guideline in effect for the school year immediately preceding
245 the school year for which a scholarship is sought; and

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

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

250 If the annual income of a scholarship

251 student's parents is:

252 Less than or equal to 100% of the

253 income eligibility guideline

The full-year scholarship amount is:

\$3,000

254	<u>Greater than 100% but less than or equal</u>	
255	<u>to 125% of the income eligibility guideline</u>	<u>\$2,750</u>
256	<u>Greater than 125% but less than or equal to</u>	
257	<u>150% of the income eligibility guideline</u>	<u>\$2,500</u>
258	<u>Greater than 150% but less than or equal to</u>	
259	<u>175% of the income eligibility guideline</u>	<u>\$2,250</u>
260	<u>Greater than 175% but less than or equal to</u>	
261	<u>200% of the income eligibility guideline</u>	<u>\$2,000</u>
262	<u>Greater than 200% but less than or equal to</u>	
263	<u>225% of the income eligibility guideline</u>	<u>\$1,750</u>
264	<u>Greater than 225% but less than or equal to</u>	
265	<u>250% of the income eligibility guideline</u>	<u>\$1,000</u>
266	<u>Greater than 250% of the income eligibility guideline</u>	<u>\$500</u>

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

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

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

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

281 (8) A parent of a scholarship student and the student's private school shall notify the

282 board if the student does not have continuing enrollment and attendance at the private school.

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

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

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

294 Section 7. Section **53A-1a-807** is enacted to read:

295 **53A-1a-807. Mitigation monies.**

296 (1) As provided in this section, a school district shall receive monies to mitigate
297 potential impacts due to the unplanned reduction in revenues resulting from the transfer of
298 scholarship students from the district to a private school.

299 (2) A school district shall retain in enrollment for purposes of receiving funds under
300 the minimum school program each scholarship student that:

301 (a) transfers from the school district to a private school; and

302 (b) resides within the boundaries of the school district.

303 (3) Each transferred scholarship student meeting the criteria of Subsection (2) shall be
304 retained in enrollment:

305 (a) for five years following the transfer or until the student would have graduated from
306 high school if within five years of the date of transfer; or

307 (b) until the student transfers back to the school district, if the student transfers back to
308 the school district within five years.

309 (4) For each year a school district retains in enrollment transferred scholarship students

310 as provided in this section, the board shall deduct from minimum school program funds
311 distributed to the school district an amount equal to the number of transferred scholarship
312 students retained in enrollment times the average scholarship amount for scholarship students
313 statewide.

314 (5) The monies deducted from a school district's minimum school program funds as
315 provided in Subsection (4) shall be deposited into the Uniform School Fund.

316 Section 8. Section **53A-1a-808** is enacted to read:

317 **53A-1a-808. Board to make rules.**

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

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

322 (b) establishing how the income of a scholarship student's parents shall be determined;
323 and

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

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

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

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

328 Section 9. Section **53A-1a-809** is enacted to read:

329 **53A-1a-809. Enforcement and penalties.**

330 (1) (a) The board shall require private schools to submit signed affidavits assuring the
331 private school will comply with the requirements of this part.

332 (b) If a school fails to submit a signed affidavit after having an opportunity to provide
333 explanations and request delays, the board may:

334 (i) deny the private school permission to enroll scholarship students; and

335 (ii) interrupt disbursement of or withhold scholarship payments.

336 (2) The board may investigate complaints and convene administrative hearings for an
337 alleged violation of this part.

- 338 (3) Upon a finding that this part was violated, the board may:
339 (a) deny a private school permission to enroll scholarship students;
340 (b) interrupt disbursement of or withhold scholarship payments; or
341 (c) issue an order for repayment of scholarship payments fraudulently obtained.

342 Section 10. Section **53A-1a-810** is enacted to read:

343 **53A-1a-810. Limitation on regulation of private schools.**

344 Nothing in this part grants additional authority to any state agency or school district to
345 regulate private schools except as expressly set forth in this part.

346 Section 11. Section **53A-1a-811** is enacted to read:

347 **53A-1a-811. Review by legislative auditor general.**

348 The legislative auditor general shall conduct a review and issue a report on the Parent
349 Choice in Education Program after the conclusion of the 2013-14 school year.

350 Section 12. **Appropriation.**

351 As an ongoing appropriation subject to future budget constraints, \$100,000 is
352 appropriated from the General Fund for fiscal year 2006-07 to the State Board of Education for
353 the administration of the Parent Choice in Education Act created in Title 53A, Chapter 1a, Part
354 8.