

1 **ALTERNATIVE EDUCATION SCHOLARSHIP COMBINATION**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: Candice B. Pierucci

7 **LONG TITLE**

8 **Committee Note:**

9 The Education Interim Committee recommended this bill.

10 Legislative Vote: 11 voting for 0 voting against 9 absent

11 **General Description:**

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

14 **Highlighted Provisions:**

15 This bill:

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



28 ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **53E-1-202.1**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

36 **53E-7-401**, as last amended by Laws of Utah 2023, Chapter 190

37 **53E-7-402**, as last amended by Laws of Utah 2023, Chapter 190 and last amended by
38 Coordination Clause, Laws of Utah 2023, Chapter 190

39 **53E-7-403**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

40 **53E-7-404**, as last amended by Laws of Utah 2022, Chapter 262

41 **53E-7-405**, as last amended by Laws of Utah 2023, Chapters 190, 353

42 **53E-7-406**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

43 **53E-7-407**, as last amended by Laws of Utah 2022, Chapter 262

44 **53E-7-408**, as last amended by Laws of Utah 2023, Chapter 353

45 **53E-7-410**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

46 **53F-4-302**, as last amended by Laws of Utah 2019, Chapter 186

47 **53F-4-304**, as last amended by Laws of Utah 2020, Chapter 408

48 **53F-6-401**, as enacted by Laws of Utah 2023, Chapter 1

49 **59-7-109.1**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

50 **59-7-625**, as last amended by Laws of Utah 2022, Chapter 262

51 **59-10-1041**, as last amended by Laws of Utah 2022, Chapter 262

52 **63I-2-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7,
53 21, 33, 142, 167, 168, 380, 383, and 467

54 **63I-2-253 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7, 21,
55 33, 142, 167, 168, 310, 380, 383, and 467

56 **63I-2-267**, as last amended by Laws of Utah 2023, Chapters 139, 530

57 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

58 ENACTS:

59 [53E-7-408.5](#), Utah Code Annotated 1953



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

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

63 **53E-1-202.1. Report to the Public Education Appropriations Subcommittee on**
64 **the Carson Smith Opportunity Scholarship Program.**

65 (1) Beginning in 2021, the State Board of Education shall, in accordance with Section
66 [68-3-14](#), annually submit the report described in Section [53E-7-404](#) to the Public Education
67 Appropriations Subcommittee.

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

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

70 **53E-7-401. Definitions.**

71 As used in this part:

72 (1) "The Carson Smith Opportunity Scholarship Program" or "program" means the
73 program established in Section [53E-7-402](#).

74 (2) "Eligible student" means:

75 (a) a student who:

76 (i) is:

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

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

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

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

81 (ii) is a resident of the state;

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

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

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

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

86 ~~[(B) is determined by a multidisciplinary evaluation team to be eligible for services~~

87 ~~under 20 U.S.C. Sec. 1401(3); and]~~

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

89 (A) a student who receives a scholarship under the Carson Smith Scholarship Program

90 created in Section [53F-4-302](#); or

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

92 (b) a student who:

93 (i) meets the requirement of Subsections [~~(1)(a)(i) and (ii)~~] (2)(a)(i) and (ii); and

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

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

96 (A) the student described in Subsection [~~(1)(a)~~] (2)(a) is a scholarship student and has
97 verified enrollment or intent to enroll at a qualifying school or participate in services provided
98 by a qualifying provider; and

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

101 [~~(2)~~] (3) (a) "Employee" means an individual working in a position in which the
102 individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

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

104 (ii) scholarship money allocated to a qualifying school or qualifying provider by a
105 scholarship granting organization under Section [53E-7-405](#).

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

108 [~~(3)~~] (4) "Family income" means the annual income of the parent, parents, legal
109 guardian, or legal guardians with whom a scholarship student lives.

110 [~~(4)~~] (5) "Federal poverty level" means the poverty level as defined by the most
111 recently revised poverty income guidelines published by the United States Department of
112 Health and Human Services in the Federal Register.

113 [~~(5)~~] (6) "Home-based scholarship student" means a student who:

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

115 (b) is excused from enrollment in an LEA in accordance with Section [53G-6-204](#) to
116 attend a home school; and

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

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

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

120 (b) who evaluate a child.

121 ~~[(6)]~~ (8) "Officer" means:

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

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

126 ~~[(7)]~~ (9) "Program donation" means a donation to the program under Section
127 [53E-7-405](#).

128 ~~[(8)]~~ (10) "Qualifying provider" means:

129 (a) an entity that:

130 (i) is not a public school and is autonomous and not an agent of the state, in accordance
131 with Section [53E-7-406](#); and

132 (ii) meets the requirement described in Section [53E-7-403](#); and

133 (b) is an eligible service provider approved by the scholarship granting organization in
134 accordance with Section [53E-7-408.5](#).

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

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

137 (b) is approved by the state board under Section [53E-7-408](#); and

138 (c) meets the requirements described in Section [53E-7-403](#).

139 ~~[(9)]~~ (12) "Relative" means a father, mother, husband, wife, son, daughter, sister,
140 brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
141 sister-in-law, son-in-law, or daughter-in-law.

142 ~~[(10)]~~ (13) "Scholarship" means a grant awarded to an eligible student:

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

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

145 ~~[(11)]~~ (14) "Scholarship expense" means an expense that a parent or eligible student
146 incurs in the education of the eligible student for goods or a service that a qualifying school or
147 qualifying provider provides or facilitates, including:

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

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

150 (c) tutoring services;

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

152 (e) textbooks, curricula, or other instructional materials, including any supplemental
153 materials or associated online instruction that a curriculum, qualifying provider, or a qualifying
154 school recommends;

155 (f) educational software and applications;

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

157 (h) computer hardware or other technological devices that are intended primarily for an
158 eligible student's educational needs;

159 (i) fees for the following examinations, or for a preparation course for the following
160 examinations, that the scholarship granting organization approves:

161 (i) a national norm-referenced or standardized assessment described in Section
162 [53F-6-410](#), an advanced placement examination, or another similar assessment;

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

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

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

168 (k) contracted services that the scholarship granting organization approves and that an
169 LEA provides, including individual classes, after-school tutoring services, transportation, or
170 fees or costs associated with participation in extracurricular activities;

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

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

176 (n) the scholarship granting organization approves in accordance with Subsection
177 [53E-7-405\(3\)](#).

178 [~~12~~] (15) "Scholarship granting organization" means an organization that is:

179 (a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and

180 (b) recognized through an agreement with the state board as a scholarship granting
181 organization, as described in Section [53E-7-404](#).

182 [~~13~~] (16) "Scholarship student" means an eligible student, including a home-based

183 scholarship student, who receives a scholarship under this part.

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

186 [~~(15)~~ (17) "Value of the weighted pupil unit" means the amount established each year
187 in the enacted public education budget that is multiplied by the number of weighted pupil units
188 to yield the funding level for the basic state-supported school program.

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

190 **53E-7-402. Carson Smith Opportunity Scholarship Program.**

191 (1) There is established the [~~Special Needs~~] Carson Smith Opportunity Scholarship
192 Program under which a parent may apply to a scholarship granting organization on behalf of
193 the parent's student for a scholarship to help cover the cost of a scholarship expense.

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

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

198 (i) establishing an August 10 deadline for an eligible student described in Subsection
199 **53E-7-401(1)(b)** to apply for a scholarship; and

200 (ii) awarding a scholarship to an eligible student described in Subsection
201 **53E-7-401(1)(b)** only if funds exist after awarding scholarships to all eligible students
202 described in Subsection **53E-7-401(1)(a)** who have applied and qualify.

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

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

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

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

210 (A) at or below 185% of the federal poverty level, the value of the weighted pupil unit
211 multiplied by 2.5; [~~or~~]

212 (B) except as provided in Subsection (3)(a)(i)(C), above 185% of the federal poverty
213 level, the value of the weighted pupil unit multiplied by two; or

214 (C) above 185% of the federal poverty level and the eligible student would have
215 received an average of 180 minutes per day or more of special education services in a public
216 school before transferring to a private school, the value of the weighted pupil unit multiplied by
217 2.5; or

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

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

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

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

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

229 **53E-7-403. Qualifying school and qualifying provider requirements.**

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

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

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

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

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

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

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

245 or

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

248 (4) If a scholarship granting organization determines that a qualifying school or
249 qualifying provider has violated a provision of this part, the scholarship granting organization
250 may interrupt disbursement of or withhold scholarship money from the qualifying school or
251 qualifying provider.

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

255 (b) A private school that does not have the state board's approval under Section
256 53E-7-408 may not accept scholarship money under this part.

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

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

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

264 **53E-7-404. State board duties.**

265 (1) The state board shall:

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

267 (i) information about the program; and

268 (ii) information about each scholarship granting organization;

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

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

273 (d) establish uniform financial accounting standards for scholarship granting
274 organizations;

275 ~~[(e) annually calculate the amount of the program donations cap described in Section~~

276 ~~53E-7-407; and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

304 (b) The state board may enter into an agreement described in Subsection (2)(a) with
305 additional scholarship granting organizations after January 1, 2023, if the state board makes
306 rules regarding how multiple scholarship granting organizations may issue tax credit

307 certificates in accordance with Section 53E-7-407.

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

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

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

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

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

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

330 (d) A scholarship granting organization may not accept program donations while the
331 scholarship granting organization:

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

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

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

337 (5) The state board shall provide for a process for a scholarship granting organization

338 to report information as required under Section [53E-7-405](#).

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

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

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

346 (i) requiring the scholarship granting organization to:

347 (A) notify the state board; and

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

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

353 (c) audit and report requirements as described in Section [53E-7-405](#); and

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

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

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

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

362 [~~(iv)~~] (iii) any other information requested by the Public Education Appropriations
363 Subcommittee for the state board to include in the annual report described in Section

364 [53E-1-202.1](#).

365 Section 6. Section [53E-7-405](#) is amended to read:

366 **53E-7-405. Program donations -- Scholarship granting organization**
367 **requirements -- Legislative appropriations.**

368 (1) A person that makes a donation to a scholarship granting organization to help fund

369 scholarships through the program may be eligible to receive a nonrefundable tax credit as
370 described in Sections 59-7-625 and 59-10-1041.

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

373 (3) A scholarship granting organization shall:

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

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

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

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

382 (e) adopt a process, with state board approval, that allows a parent to use a scholarship
383 to pay for a nontuition scholarship expense for the scholarship student;

384 (f) ensure that during the state fiscal year:

385 (i) at least 92% of the scholarship granting organization's revenue from program
386 donations and other funding sources is spent on scholarships;

387 (ii) up to 5% of the scholarship granting organization's revenue from program
388 donations and other funding sources is spent on administration of the program;

389 (iii) up to 3% of the scholarship granting organization's revenue from program
390 donations and other funding sources is spent on marketing and fundraising costs; and

391 (iv) all revenue from [~~program donations~~] interest or investments is spent on
392 scholarships;

393 (g) carry forward no more than 60% of the scholarship granting organization's
394 [~~program donations~~] funds, less funds for a scholarship that has been awarded, and funds
395 expended for administration and marketing, from the state fiscal year in which the scholarship
396 granting organization received the [~~program donations~~] funds to the following state fiscal year;

397 (h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater
398 than the amount described in Subsection (3)(g);

399 (i) prohibit a scholarship granting organization employee or officer from handling,

400 managing, or processing program donations or other funds, if, based on a criminal background
401 check conducted by the state board in accordance with Section 53E-7-404, the state board
402 identifies the employee or officer as posing a risk to the appropriate use of program donations
403 or other funds;

404 (j) ensure that a scholarship can be transferred during the school year to a different
405 qualifying school or qualifying provider that accepts the scholarship student;

406 (k) report to the state board on or before [~~October~~] November 1 of each year the
407 following information, prepared by a certified public accountant:

408 (i) the name and address of the scholarship granting organization;

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

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

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

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

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

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

423 [~~(i)~~] (A) receives scholarship money for tuition expenses; and

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

425 or

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

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

429 (5) (a) An application for a scholarship shall contain an acknowledgment by the
430 applicant's parent that the qualifying school or qualifying provider selected by the parent for the

431 applicant to attend or participate in using a scholarship is capable of providing the level of
432 disability services required for the student.

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

434 "I acknowledge that:

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

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

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

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

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

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

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

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

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

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

455 (a) complies with the uniform financial accounting standards described in Section
456 [53E-7-404](#); and

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

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

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

462 (A) the scholarship granting organization; and
463 (B) the scholarship granting organization's accounts and records pertaining to program
464 donations and other funding sources; and

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

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

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

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

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

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

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

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

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

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

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

491 (b) A scholarship granting organization shall notify a scholarship recipient if the
492 scholarship granting organization stops allocation of the recipient's scholarship money to a

493 qualifying school or qualifying provider under Subsection (8)(a).

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

498 (10) A scholarship granting organization may not:

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

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

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

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

508 **53E-7-406. Qualifying school or qualifying provider regulatory autonomy --**
509 **Home school autonomy -- Student records -- Scholarship student status.**

510 (1) Nothing in this part:

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

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

514 (ii) students receiving education from a qualifying school, qualifying provider, or home
515 school;

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

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

522 (2) A qualifying school or qualifying provider:

523 (a) has a right to maximum freedom from unlawful governmental control in providing

524 for the educational needs of a scholarship student who attends or engages with the qualifying
525 school or qualifying provider; and

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

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

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

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

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

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

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

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

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

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

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

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

553 ~~[(3) Except as provided in Section 53E-7-403, a qualifying school may not be required~~
554 ~~to alter the qualifying school's creed, practices, admission policy, or curriculum in order to~~

555 accept scholarship money.]

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

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

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

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

563 **53E-7-407. Tax credit certificates issued by a scholarship granting organization.**

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

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

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

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

576 [~~(b)~~] (3) (a) Before accepting a donation to the program from a person, the scholarship
577 granting organization shall provide the person with notice:

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

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

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

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

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

585 (ii) track the total amount of program donations received during the year as

586 corresponding tax credit certificates are issued.

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

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

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

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

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

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

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

607 **53E-7-408. Eligible private schools.**

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

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

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

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

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

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

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

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

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

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

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

629 (ii) tuition costs;

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

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

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

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

637 (g) employ or contract with teachers who:

638 (i) hold baccalaureate or higher degrees;

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

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

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

643 (B) to the special needs students taught;

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

646 (i) require the following individuals to submit to a nationwide, fingerprint-based
647 criminal background check and ongoing monitoring, in accordance with Section [53G-11-402](#),

648 as a condition for employment or appointment, as authorized by the Adam Walsh Child
649 Protection and Safety Act of 2006, Pub. L. No. 109-248:

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

652 (ii) a contract employee; and

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

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

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

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

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

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

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

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

668 [~~(4)~~ (3) Residential treatment facilities licensed by the state are not eligible to enroll
669 scholarship students.

670 [~~(5)~~ (4) A private school intending to enroll scholarship students shall submit an
671 application to the state board.

672 [~~(6)~~ (5) The state board shall:

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

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

677 [~~(7)~~ (6) A private school approved under this section that changes ownership shall:

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

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

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

682 **53E-7-408.5. Eligible service provider.**

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

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

685 (i) a federal employer identification number;

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

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

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

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

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

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

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

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

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

704 (4) The scholarship granting organization shall:

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

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

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

708 and

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

710 section.

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

712 shall:

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

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

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

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

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

720 **53E-7-410. Background checks for scholarship granting organizations -- State**
721 **board responsibilities -- Bureau responsibilities -- Fees.**

722 (1) As used in this section:

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

724 (b) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
725 within the Department of Public Safety.

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

727 (d) "Division" means the Criminal Investigations and Technical Services Division
728 created in Section [53-10-103](#).

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

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

731 (g) "Personal identifying information" means:

732 (i) current name;

733 (ii) former names;

734 (iii) nicknames;

735 (iv) aliases;

736 (v) date of birth;

737 (vi) address;

738 (vii) telephone number;

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

740 (ix) social security number; and

- 741 (x) fingerprints.
- 742 (h) "Rap back system" means a system that enables authorized entities to receive
743 ongoing status notifications of any criminal history reported on individuals whose fingerprints
744 are registered in the system.
- 745 (i) "WIN Database" means the Western Identification Network Database that consists
746 of eight western states sharing one electronic fingerprint database.
- 747 (2) The state board shall:
- 748 (a) require an applicant to submit to a nationwide criminal background check and
749 ongoing monitoring in accordance with Section 53E-7-404;
- 750 (b) collect the following from an applicant:
- 751 (i) personal identifying information;
- 752 (ii) a fee described in Subsection (4); and
- 753 (iii) consent, on a form specified by the state board, for:
- 754 (A) an initial fingerprint-based background check by the FBI and bureau;
- 755 (B) retention of personal identifying information for ongoing monitoring through
756 registration with the systems described in Subsection (3); and
- 757 (C) disclosure of any criminal history information to the state board;
- 758 (c) submit an applicant's personal identifying information to the bureau for:
- 759 (i) an initial fingerprint-based background check by the FBI and bureau; and
- 760 (ii) ongoing monitoring through registration with the systems described in Subsection
761 (3) if the results of the initial background check do not contain disqualifying criminal history
762 information as determined by the state board in accordance with Section 53E-7-404;
- 763 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
764 that the state board only receives notifications for individuals with whom the state board
765 maintains an authorizing relationship; and
- 766 (e) submit the information to the bureau for ongoing monitoring through registration
767 with the systems described in Subsection (3)(a).
- 768 (3) The bureau shall:
- 769 (a) upon request from the state board, register the fingerprints submitted by the state
770 board as part of a background check with:
- 771 (i) the WIN Database rap back system, or any successor system; and

- 772 (ii) the FBI Rap Back System;
- 773 (b) notify the state board when a new entry is made against an individual whose
- 774 fingerprints are registered with the rap back systems described in Subsection (3)(a) regarding:
- 775 (i) an alleged offense; or
- 776 (ii) a conviction, including a plea in abeyance;
- 777 (c) assist the state board to identify the appropriate privacy risk mitigation strategy that
- 778 is to be used to ensure that the state board only receives notifications for individuals with
- 779 whom the authorized entity maintains an authorizing relationship; and
- 780 (d) collaborate with the state board to provide training to appropriate state board
- 781 employees on the notification procedures and privacy risk mitigation strategies described in
- 782 this section.

783 (4) (a) The division shall impose fees set in accordance with Section 63J-1-504 for an

784 applicant fingerprint card, name check, and to register fingerprints under this section.

785 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund

786 as a dedicated credit by the department to cover the costs incurred in providing the information.

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

788 **53F-4-302. Scholarship program created -- Qualifications.**

789 (1) The Carson Smith Scholarship Program is created to award scholarships to students

790 with disabilities to attend a private school.

791 (2) To qualify for a scholarship:

- 792 (a) the student's custodial parent shall reside within Utah;
- 793 (b) the student shall have one or more of the following disabilities:
- 794 (i) an intellectual disability;
- 795 (ii) deafness or being hard of hearing;
- 796 (iii) a speech or language impairment;
- 797 (iv) a visual impairment;
- 798 (v) a serious emotional disturbance;
- 799 (vi) an orthopedic impairment;
- 800 (vii) autism;
- 801 (viii) traumatic brain injury;
- 802 (ix) other health impairment;

- 803 (x) specific learning disabilities;
- 804 (xi) deafblindness; or
- 805 (xii) a developmental delay, provided the student is at least three years [~~of age~~;
806 pursuant] old, as described to Subsection (2)(c), and is younger than eight years [~~of age~~] old;
- 807 (c) the student shall be at least three years [~~of age~~] old before September 2 of the year
808 in which admission to a private school is sought and under 19 years [~~of age~~] old on the last day
809 of the school year as determined by the private school, or, if the individual has not graduated
810 from high school, will be under 22 years [~~of age~~] old on the last day of the school year as
811 determined by the private school; and
- 812 (d) except as provided in Subsection (3), the student shall:
- 813 (i) be enrolled in a Utah public school in the school year prior to the school year the
814 student will be enrolled in a private school;
- 815 (ii) have an IEP; and
- 816 (iii) have obtained acceptance for admission to an eligible private school.
- 817 (3) The requirements of Subsection (2)(d) do not apply in the following circumstances:
- 818 (a) the student is enrolled or has obtained acceptance for admission to an eligible
819 private school that has previously served students with disabilities; and
- 820 (b) an assessment team is able to readily determine with reasonable certainty:
- 821 (i) that the student has a disability listed in Subsection (2)(b) and would qualify for
822 special education services, if enrolled in a public school; and
- 823 (ii) for the purpose of establishing the scholarship amount, the appropriate level of
824 special education services which should be provided to the student.
- 825 (4) (a) [~~The~~] Except as provided in Subsection (11)(a), to receive a full-year scholarship
826 under this part, a parent of a student shall submit to the LEA where the student is enrolled an
827 application on or before the August 15 immediately preceding the first day of the school year
828 for which the student would receive the scholarship.
- 829 (b) [~~The~~] Except as provided in Subsection (11)(b), the state board may waive the
830 full-year scholarship deadline described in Subsection (4)(a).
- 831 (c) An application for a scholarship shall contain an acknowledgment by the parent that
832 the selected school is qualified and capable of providing the level of special education services
833 required for the student.

834 (5) (a) The scholarship application form shall contain the following statement:
835 "I acknowledge that:
836 (1) A private school may not provide the same level of special education services that
837 are provided in a public school;
838 (2) I will assume full financial responsibility for the education of my scholarship
839 student if I accept this scholarship;
840 (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to
841 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
842 U.S.C. Sec. 1400 et seq.; and
843 (4) My child may return to a public school at any time."
844 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility
845 for the education of the scholarship student.
846 (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to
847 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
848 U.S.C. Sec. 1400 et seq.
849 (d) The creation of the scholarship program or granting of a scholarship does not:
850 (i) imply that a public school did not provide a free and appropriate public education
851 for a student; or
852 (ii) constitute a waiver or admission by the state.
853 (6) (a) Except as provided in Subsection (6)(b), a scholarship shall remain in force for
854 the lesser of:
855 (i) three years; or
856 (ii) until the student is determined ineligible for special education services.
857 (b) If a student is determined ineligible for special education services as described in
858 Subsection (6)(a)(ii) before the end of a school year, the student may remain enrolled at the
859 private school and qualifies for the scholarship until the end of the school year.
860 (c) [~~A~~] Except as provided in Subsection (11)(c), a scholarship shall be extended for an
861 additional three years, if:
862 (i) the student is evaluated by an assessment team; and
863 (ii) the assessment team determines that the student would qualify for special education
864 services, if enrolled in a public school.

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

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

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

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

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

875 (8) A scholarship student:

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

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

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

883 (10) The state board shall:

884 (a) notify the parents of a scholarship student in writing of the termination of the
885 existing scholarship program including when the final scholarship payment will be awarded;
886 and

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

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

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

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

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

896 and]

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

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

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

905 (a) accept a new application;

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

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

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

909 **53F-4-304. Scholarship payments.**

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

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

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

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

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

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

921 ~~[(B) 0.0007;]~~

922 ~~[(d)]~~ (c) If the number of scholarship students as of December 1 in any school year

923 equals or exceeds 7% of the number of students in preschool through grade 12 in public

924 schools statewide who have an IEP as of December 1 in the same school year, the Public

925 Education Appropriations Subcommittee shall study the requirement to increase appropriations

926 for scholarship payments as provided in this section.

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

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

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

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

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

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

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

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

945 (ii) the private school tuition and fees.

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

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

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

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

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

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

957 (b) refund the amount back to the Carson Smith Scholarship Program account to be

958 available to support the costs of another scholarship.

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

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

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

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

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

966 (ii) the private school tuition and fees.

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

970 (7) (a) The scholarship amount for a student who receives a waiver under Subsection
971 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level
972 of special education services to be provided to the student.

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

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

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

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

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

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

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

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

995 **53F-6-401. Definitions.**

996 As used in this part:

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

998 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through
999 12;

1000 (b) who is a resident of the state;

1001 (c) who, during the school year for which the student is applying for a scholarship
1002 account:

1003 (i) does not receive a scholarship under:

1004 (A) the Carson Smith Scholarship Program established in Section [53F-4-302](#); or

1005 (B) the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
1006 Section [53E-7-402](#); and

1007 (ii) except for a student who is enrolled part-time in accordance with Section
1008 [53G-6-702](#), is not enrolled in an LEA upon receiving the scholarship;

1009 (d) whose eligibility is not suspended or disqualified under Section [53F-6-401](#); and

1010 (e) who completes, to maintain eligibility, the portfolio requirement described in
1011 Subsection [53F-6-402\(3\)\(d\)](#).

1012 (2) "Federal poverty level" means the United States poverty level as defined by the
1013 most recently revised poverty income guidelines published by the United States Department of
1014 Health and Human Services in the Federal Register.

1015 (3) (a) "Home-based scholarship student" means a student who:

1016 (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

1017 (ii) is excused from enrollment in an LEA in accordance with Section [53G-6-204](#) to
1018 attend a home school; and

1019 (iii) receives a benefit of scholarship funds.

1020 (b) "Home-based scholarship student" does not mean a home school student who does
1021 not receive a scholarship under the program.

1022 (4) "Program manager" means an organization that:

1023 (a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

1024 (b) is not affiliated with any international organization;

1025 (c) does not harvest data for the purpose of reproducing or distributing the data to other
1026 entities;

1027 (d) has no involvement in guiding or directing any curriculum or curriculum standards;

1028 (e) does not manage or otherwise administer a scholarship under:

1029 (i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

1030 (ii) the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
1031 Section 53E-7-402; and

1032 (f) an agreement with the state board recognizes as a program manager, in accordance
1033 with this part.

1034 (5) (a) "Program manager employee" means an individual working for the program
1035 manager in a position in which the individual's salary, wages, pay, or compensation, including
1036 as a contractor, is paid from scholarship funds.

1037 (b) "Program manager employee" does not include:

1038 (i) an individual who volunteers for the program manager or for a qualifying provider;

1039 (ii) an individual who works for a qualifying provider; or

1040 (iii) a qualifying provider.

1041 (6) "Program manager officer" means:

1042 (a) a member of the board of a program manager; or

1043 (b) the chief administrative officer of a program manager.

1044 (7) "Qualifying provider" means one of the following entities that is not a public school
1045 and is autonomous and not an agent of the state, in accordance with Section 53F-6-406:

1046 (a) an eligible school that the program manager approves in accordance with Section
1047 53F-6-408; or

1048 (b) an eligible service provider that the program manager approves in accordance with
1049 Section 53F-6-409.

1050 (8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,

1051 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
1052 sister-in-law, son-in-law, or daughter-in-law.

1053 (9) "Scholarship account" means the account to which a program manager allocates
1054 funds for the payment of approved scholarship expenses in accordance with this part.

1055 (10) "Scholarship expense" means an expense described in Section 53F-6-402 that a
1056 parent or scholarship student incurs in the education of the scholarship student for a service or
1057 goods that a qualifying provider provides, including:

1058 (a) tuition and fees of a qualifying provider;

1059 (b) fees and instructional materials at a technical college;

1060 (c) tutoring services;

1061 (d) fees for after-school or summer education programs;

1062 (e) textbooks, curricula, or other instructional materials, including any supplemental
1063 materials or associated online instruction that a curriculum or a qualifying provider
1064 recommends;

1065 (f) educational software and applications;

1066 (g) supplies or other equipment related to a scholarship student's educational needs;

1067 (h) computer hardware or other technological devices that are intended primarily for a
1068 scholarship student's educational needs;

1069 (i) fees for the following examinations, or for a preparation course for the following
1070 examinations, that the program manager approves:

1071 (i) a national norm-referenced or standardized assessment described in Section
1072 53F-6-410, an advanced placement examination, or another similar assessment;

1073 (ii) a state-recognized industry certification examination; and

1074 (iii) an examination related to college or university admission;

1075 (j) educational services for students with disabilities from a licensed or accredited
1076 practitioner or provider, including occupational, behavioral, physical, audiology, or
1077 speech-language therapies;

1078 (k) contracted services that the program manager approves and that an LEA provides,
1079 including individual classes, after-school tutoring services, transportation, or fees or costs
1080 associated with participation in extracurricular activities;

1081 (l) ride fees or fares for a fee-for-service transportation provider to transport the

1082 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school
1083 year;

1084 (m) expenses related to extracurricular activities, field trips, educational supplements,
1085 and other educational experiences; or

1086 (n) any other expense for a good or service that:

1087 (i) a parent or scholarship student incurs in the education of the scholarship student;

1088 and

1089 (ii) the program manager approves, in accordance with Subsection (4)(d).

1090 (11) "Scholarship funds" means:

1091 (a) funds that the Legislature appropriates for the program; and

1092 (b) interest that scholarship funds accrue.

1093 (12) (a) "Scholarship student" means an eligible student, including a home-based
1094 scholarship student, for whom the program manager establishes and maintains a scholarship
1095 account in accordance with this part.

1096 (b) "Scholarship student" does not include a home school student who does not receive
1097 a scholarship award under the program.

1098 (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program
1099 established in Section [53F-6-402](#).

1100 Section 15. Section [59-7-109.1](#) is amended to read:

1101 **59-7-109.1. Charitable contributions to the Carson Smith Opportunity**

1102 **Scholarship Program.**

1103 (1) Notwithstanding anything to the contrary in Section [59-7-109](#), a taxpayer may not
1104 subtract a charitable contribution that meets the requirements of Section [59-7-109](#) to the extent
1105 that the taxpayer claims a tax credit under Section [59-7-625](#) for the same charitable
1106 contribution.

1107 (2) This section supersedes any conflicting provisions of Utah law.

1108 Section 16. Section [59-7-625](#) is amended to read:

1109 **59-7-625. Nonrefundable tax credit for donation to the Carson Smith**

1110 **Opportunity Scholarship Program.**

1111 (1) A taxpayer that makes a donation to the [~~Special Needs~~] Carson Smith Opportunity
1112 Scholarship Program established in Section [53E-7-402](#) may claim a nonrefundable tax credit

1113 equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section
1114 [53E-7-407](#).

1115 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's
1116 liability under this chapter for a taxable year, the taxpayer:

1117 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1118 that does not exceed the next three taxable years; and

1119 (b) may carry back the amount of the tax credit that exceeds the taxpayer's tax liability
1120 to the previous taxable year.

1121 Section 17. Section **59-10-1041** is amended to read:

1122 **59-10-1041. Nonrefundable tax credit for donation to the Carson Smith**
1123 **Opportunity Scholarship Program.**

1124 (1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a
1125 donation to the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
1126 Section [53E-7-402](#) may claim a nonrefundable tax credit equal to 100% of the amount stated
1127 on a tax credit certificate issued in accordance with Section [53E-7-407](#).

1128 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's,
1129 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:

1130 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1131 that does not exceed the next three taxable years; and

1132 (b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or
1133 trust's tax liability to the previous taxable year.

1134 (3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the
1135 extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized
1136 deduction on the claimant's, estate's, or trust's federal individual income tax return for that
1137 taxable year.

1138 Section 18. Section **63I-2-253 (Superseded 07/01/24)** is amended to read:

1139 **63I-2-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**

1140 (1) Section [53-1-118](#) is repealed on July 1, 2024.

1141 (2) Section [53-1-120](#) is repealed on July 1, 2024.

1142 (3) Section [53-7-109](#) is repealed on July 1, 2024.

1143 (4) Section [53-22-104](#) is repealed December 31, 2023.

- 1144 (5) Section [53B-6-105.7](#) is repealed July 1, 2024.
- 1145 (6) Section [53B-7-707](#) regarding performance metrics for technical colleges is repealed
1146 July 1, 2023.
- 1147 (7) Section [53B-8-114](#) is repealed July 1, 2024.
- 1148 (8) The following provisions, regarding the Regents' scholarship program, are repealed
1149 on July 1, 2023:
- 1150 (a) in Subsection [53B-8-105\(12\)](#), the language that states, "or any scholarship
1151 established under Sections [53B-8-202](#) through [53B-8-205](#)";
- 1152 (b) Section [53B-8-202](#);
- 1153 (c) Section [53B-8-203](#);
- 1154 (d) Section [53B-8-204](#); and
- 1155 (e) Section [53B-8-205](#).
- 1156 (9) Section [53B-10-101](#) is repealed on July 1, 2027.
- 1157 (10) Subsection [53E-1-201\(1\)\(s\)](#) regarding the report by the Educational Interpretation
1158 and Translation Services Procurement Advisory Council is repealed July 1, 2024.
- 1159 (11) Section [53E-1-202.2](#), regarding a Public Education Appropriations Subcommittee
1160 evaluation and recommendations, is repealed January 1, 2024.
- 1161 (12) Subsection [53E-7-401\(1\)\(a\)\(iv\)\(A\)](#) is repealed July 1, 2027.
- 1162 [~~(12)~~] (13) Section [53F-2-209](#), regarding local education agency budgetary flexibility,
1163 is repealed July 1, 2024.
- 1164 [~~(13)~~] (14) Subsection [53F-2-314\(4\)](#), relating to a one-time expenditure between the
1165 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.
- 1166 [~~(14)~~] (15) Section [53F-2-524](#), regarding teacher bonuses for extra work assignments,
1167 is repealed July 1, 2024.
- 1168 (16) Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program, is repealed July
1169 1, 2027.
- 1170 [~~(15)~~] (17) Section [53F-5-221](#), regarding a management of energy and water pilot
1171 program, is repealed July 1, 2028.
- 1172 (18) Subsection [53F-6-401\(1\)\(c\)\(i\)\(A\)](#) is repealed July 1, 2027.
- 1173 (19) Subsection [53F-6-401\(4\)\(e\)\(i\)](#) is repealed July 1, 2027.
- 1174 [~~(16)~~] (20) Section [53F-9-401](#) is repealed on July 1, 2024.

- 1175 [~~(17)~~] (21) Section [53F-9-403](#) is repealed on July 1, 2024.
- 1176 (22) Subsection [53G-11-401\(8\)\(a\)](#) is repealed July 1, 2027.
- 1177 [~~(18)~~] (23) On July 1, 2023, when making changes in this section, the Office of
- 1178 Legislative Research and General Counsel shall, in addition to the office's authority under
- 1179 Section [36-12-12](#), make corrections necessary to ensure that sections and subsections identified
- 1180 in this section are complete sentences and accurately reflect the office's perception of the
- 1181 Legislature's intent.
- 1182 Section 19. Section **63I-2-253 (Effective 07/01/24)** is amended to read:
- 1183 **63I-2-253 (Effective 07/01/24). Repeal dates: Titles 53 through 53G.**
- 1184 (1) Subsection [53-1-104\(1\)\(b\)](#), regarding the Air Ambulance Committee, is repealed
- 1185 July 1, 2024.
- 1186 (2) Section [53-1-118](#) is repealed on July 1, 2024.
- 1187 (3) Section [53-1-120](#) is repealed on July 1, 2024.
- 1188 (4) Section [53-2d-107](#), regarding the Air Ambulance Committee, is repealed July 1,
- 1189 2024.
- 1190 (5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
- 1191 [53-2d-702\(1\)\(a\)](#) is amended to read:
- 1192 "(a) provide the patient or the patient's representative with the following information
- 1193 before contacting an air medical transport provider:
- 1194 (i) which health insurers in the state the air medical transport provider contracts with;
- 1195 (ii) if sufficient data is available, the average charge for air medical transport services
- 1196 for a patient who is uninsured or out of network; and
- 1197 (iii) whether the air medical transport provider balance bills a patient for any charge not
- 1198 paid by the patient's health insurer; and".
- 1199 (6) Section [53-7-109](#) is repealed on July 1, 2024.
- 1200 (7) Section [53-22-104](#) is repealed December 31, 2023.
- 1201 (8) Section [53B-6-105.7](#) is repealed July 1, 2024.
- 1202 (9) Section [53B-7-707](#) regarding performance metrics for technical colleges is repealed
- 1203 July 1, 2023.
- 1204 (10) Section [53B-8-114](#) is repealed July 1, 2024.
- 1205 (11) The following provisions, regarding the Regents' scholarship program, are

1206 repealed on July 1, 2023:

1207 (a) in Subsection [53B-8-105\(12\)](#), the language that states, "or any scholarship
1208 established under Sections [53B-8-202](#) through [53B-8-205](#)";

1209 (b) Section [53B-8-202](#);

1210 (c) Section [53B-8-203](#);

1211 (d) Section [53B-8-204](#); and

1212 (e) Section [53B-8-205](#).

1213 (12) Section [53B-10-101](#) is repealed on July 1, 2027.

1214 (13) Subsection [53E-7-401\(1\)\(a\)\(iv\)\(A\)](#) is repealed July 1, 2027.

1215 ~~[(13)]~~ (14) Subsection [53E-1-201\(1\)\(s\)](#) regarding the report by the Educational
1216 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

1217 ~~[(14)]~~ (15) Section [53E-1-202.2](#), regarding a Public Education Appropriations
1218 Subcommittee evaluation and recommendations, is repealed January 1, 2024.

1219 ~~[(15)]~~ (16) Section [53F-2-209](#), regarding local education agency budgetary flexibility,
1220 is repealed July 1, 2024.

1221 ~~[(16)]~~ (17) Subsection [53F-2-314\(4\)](#), relating to a one-time expenditure between the
1222 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

1223 ~~[(17)]~~ (18) Section [53F-2-524](#), regarding teacher bonuses for extra work assignments,
1224 is repealed July 1, 2024.

1225 (19) Title [53F](#), Chapter 4, Part 3, Carson Smith Scholarship Program, is repealed July
1226 [1](#), 2027.

1227 ~~[(18)]~~ (20) Section [53F-5-221](#), regarding a management of energy and water pilot
1228 program, is repealed July 1, 2028.

1229 (21) Subsection [53F-6-401\(1\)\(c\)\(i\)\(A\)](#) is repealed July 1, 2027.

1230 (22) Subsection [53F-6-401\(4\)\(e\)\(i\)](#) is repealed July 1, 2027.

1231 ~~[(19)]~~ (23) Section [53F-9-401](#) is repealed on July 1, 2024.

1232 ~~[(20)]~~ (24) Section [53F-9-403](#) is repealed on July 1, 2024.

1233 (25) Subsection [53G-11-401\(8\)\(a\)](#) is repealed July 1, 2027.

1234 ~~[(21)]~~ (26) On July 1, 2023, when making changes in this section, the Office of
1235 Legislative Research and General Counsel shall, in addition to the office's authority under
1236 Section [36-12-12](#), make corrections necessary to ensure that sections and subsections identified

1237 in this section are complete sentences and accurately reflect the office's perception of the
1238 Legislature's intent.

1239 Section 20. Section **63I-2-267** is amended to read:

1240 **63I-2-267. Repeal dates: Title 67.**

1241 Subsection [67-3-1\(21\)\(a\)\(ii\)](#) is repealed July 1, 2027.

1242 Section 21. Section **67-3-1** is amended to read:

1243 **67-3-1. Functions and duties.**

1244 (1) (a) The state auditor is the auditor of public accounts and is independent of any
1245 executive or administrative officers of the state.

1246 (b) The state auditor is not limited in the selection of personnel or in the determination
1247 of the reasonable and necessary expenses of the state auditor's office.

1248 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
1249 financial statements showing:

1250 (a) the condition of the state's finances;

1251 (b) the revenues received or accrued;

1252 (c) expenditures paid or accrued;

1253 (d) the amount of unexpended or unencumbered balances of the appropriations to the
1254 agencies, departments, divisions, commissions, and institutions; and

1255 (e) the cash balances of the funds in the custody of the state treasurer.

1256 (3) (a) The state auditor shall:

1257 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
1258 any department of state government or any independent agency or public corporation as the law
1259 requires, as the auditor determines is necessary, or upon request of the governor or the
1260 Legislature;

1261 (ii) perform the audits in accordance with generally accepted auditing standards and
1262 other auditing procedures as promulgated by recognized authoritative bodies; and

1263 (iii) as the auditor determines is necessary, conduct the audits to determine:

1264 (A) honesty and integrity in fiscal affairs;

1265 (B) accuracy and reliability of financial statements;

1266 (C) effectiveness and adequacy of financial controls; and

1267 (D) compliance with the law.

1268 (b) If any state entity receives federal funding, the state auditor shall ensure that the
1269 audit is performed in accordance with federal audit requirements.

1270 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
1271 appropriation to the state auditor from the General Fund.

1272 (ii) If an appropriation is not provided, or if the federal government does not
1273 specifically provide for payment of audit costs, the costs of the federal compliance portions of
1274 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
1275 bears to the total federal funds received by the state.

1276 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
1277 funds passed through the state to local governments and to reflect any reduction in audit time
1278 obtained through the use of internal auditors working under the direction of the state auditor.

1279 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
1280 financial audits, and as the auditor determines is necessary, conduct performance and special
1281 purpose audits, examinations, and reviews of any entity that receives public funds, including a
1282 determination of any or all of the following:

1283 (i) the honesty and integrity of all the entity's fiscal affairs;

1284 (ii) whether the entity's administrators have faithfully complied with legislative intent;

1285 (iii) whether the entity's operations have been conducted in an efficient, effective, and
1286 cost-efficient manner;

1287 (iv) whether the entity's programs have been effective in accomplishing the intended
1288 objectives; and

1289 (v) whether the entity's management, control, and information systems are adequate,
1290 effective, and secure.

1291 (b) The auditor may not conduct performance and special purpose audits,
1292 examinations, and reviews of any entity that receives public funds if the entity:

1293 (i) has an elected auditor; and

1294 (ii) has, within the entity's last budget year, had the entity's financial statements or
1295 performance formally reviewed by another outside auditor.

1296 (5) The state auditor:

1297 (a) shall administer any oath or affirmation necessary to the performance of the duties
1298 of the auditor's office; and

- 1299 (b) may:
- 1300 (i) subpoena witnesses and documents, whether electronic or otherwise; and
- 1301 (ii) examine into any matter that the auditor considers necessary.
- 1302 (6) The state auditor may require all persons who have had the disposition or
- 1303 management of any property of this state or its political subdivisions to submit statements
- 1304 regarding the property at the time and in the form that the auditor requires.
- 1305 (7) The state auditor shall:
- 1306 (a) except where otherwise provided by law, institute suits in Salt Lake County in
- 1307 relation to the assessment, collection, and payment of revenues against:
- 1308 (i) persons who by any means have become entrusted with public money or property
- 1309 and have failed to pay over or deliver the money or property; and
- 1310 (ii) all debtors of the state;
- 1311 (b) collect and pay into the state treasury all fees received by the state auditor;
- 1312 (c) perform the duties of a member of all boards of which the state auditor is a member
- 1313 by the constitution or laws of the state, and any other duties that are prescribed by the
- 1314 constitution and by law;
- 1315 (d) stop the payment of the salary of any state official or state employee who:
- 1316 (i) refuses to settle accounts or provide required statements about the custody and
- 1317 disposition of public funds or other state property;
- 1318 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
- 1319 board or department head with respect to the manner of keeping prescribed accounts or funds;
- 1320 or
- 1321 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
- 1322 official's or employee's attention;
- 1323 (e) establish accounting systems, methods, and forms for public accounts in all taxing
- 1324 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 1325 (f) superintend the contractual auditing of all state accounts;
- 1326 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
- 1327 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
- 1328 officials and employees in those taxing units comply with state laws and procedures in the
- 1329 budgeting, expenditures, and financial reporting of public funds;

1330 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
1331 if necessary, to ensure that officials and employees in the county comply with Section
1332 [59-2-303.1](#); and

1333 (i) withhold state allocated funds or the disbursement of property taxes from a local
1334 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
1335 the state auditor finds the withholding necessary to ensure that the entity registers and
1336 maintains the entity's registration with the lieutenant governor, in accordance with Section
1337 [67-1a-15](#).

1338 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
1339 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
1340 written notice of noncompliance from the auditor and has been given 60 days to make the
1341 specified corrections.

1342 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
1343 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
1344 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
1345 state auditor:

1346 (i) shall provide a recommended timeline for corrective actions;

1347 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
1348 state; and

1349 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
1350 account of a financial institution by filing an action in district court requesting an order of the
1351 court to prohibit a financial institution from providing the fee-assessing unit access to an
1352 account.

1353 (c) The state auditor shall remove a limitation on accessing funds under Subsection
1354 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
1355 financial reporting of public funds.

1356 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
1357 state law, the state auditor:

1358 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
1359 comply;

1360 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the

1361 state; and

1362 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
1363 account of a financial institution by:

1364 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
1365 the institution prohibit access to the account; or

1366 (B) filing an action in district court requesting an order of the court to prohibit a
1367 financial institution from providing the taxing or fee-assessing unit access to an account.

1368 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
1369 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
1370 (8)(d).

1371 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
1372 received formal written notice of noncompliance from the auditor and has been given 60 days
1373 to make the specified corrections.

1374 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
1375 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

1376 (b) If the state auditor receives a notice of non-registration, the state auditor may
1377 prohibit the local government entity or limited purpose entity, as those terms are defined in
1378 Section 67-1a-15, from accessing:

1379 (i) money held by the state; and

1380 (ii) money held in an account of a financial institution by:

1381 (A) contacting the entity's financial institution and requesting that the institution
1382 prohibit access to the account; or

1383 (B) filing an action in district court requesting an order of the court to prohibit a
1384 financial institution from providing the entity access to an account.

1385 (c) The state auditor shall remove the prohibition on accessing funds described in
1386 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
1387 Section 67-1a-15, from the lieutenant governor.

1388 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
1389 state auditor:

1390 (a) shall authorize a disbursement by a local government entity or limited purpose
1391 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing

1392 unit if the disbursement is necessary to:

1393 (i) avoid a major disruption in the operations of the local government entity, limited
1394 purpose entity, or state or local taxing or fee-assessing unit; or

1395 (ii) meet debt service obligations; and

1396 (b) may authorize a disbursement by a local government entity, limited purpose entity,
1397 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

1398 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
1399 take temporary custody of public funds if an action is necessary to protect public funds from
1400 being improperly diverted from their intended public purpose.

1401 (b) If the state auditor seeks relief under Subsection (12)(a):

1402 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
1403 and

1404 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
1405 court orders the public funds to be protected from improper diversion from their public
1406 purpose.

1407 (13) The state auditor shall:

1408 (a) establish audit guidelines and procedures for audits of local mental health and
1409 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
1410 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
1411 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
1412 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
1413 Organizations, and Other Local Entities Act; and

1414 (b) ensure that those guidelines and procedures provide assurances to the state that:

1415 (i) state and federal funds appropriated to local mental health authorities are used for
1416 mental health purposes;

1417 (ii) a private provider under an annual or otherwise ongoing contract to provide
1418 comprehensive mental health programs or services for a local mental health authority is in
1419 compliance with state and local contract requirements and state and federal law;

1420 (iii) state and federal funds appropriated to local substance abuse authorities are used
1421 for substance abuse programs and services; and

1422 (iv) a private provider under an annual or otherwise ongoing contract to provide

1423 comprehensive substance abuse programs or services for a local substance abuse authority is in
1424 compliance with state and local contract requirements, and state and federal law.

1425 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
1426 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
1427 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
1428 investigations of any political subdivision that are necessary to determine honesty and integrity
1429 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
1430 financial controls and compliance with the law.

1431 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
1432 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
1433 initiate an audit or investigation of the public entity subject to the notice to determine
1434 compliance with Section 11-41-103.

1435 (15) (a) The state auditor may not audit work that the state auditor performed before
1436 becoming state auditor.

1437 (b) If the state auditor has previously been a responsible official in state government
1438 whose work has not yet been audited, the Legislature shall:

- 1439 (i) designate how that work shall be audited; and
1440 (ii) provide additional funding for those audits, if necessary.

1441 (16) The state auditor shall:

1442 (a) with the assistance, advice, and recommendations of an advisory committee
1443 appointed by the state auditor from among special district boards of trustees, officers, and
1444 employees and special service district boards, officers, and employees:

1445 (i) prepare a Uniform Accounting Manual for Special Districts that:

1446 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
1447 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
1448 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
1449 District Act;

1450 (B) conforms with generally accepted accounting principles; and

1451 (C) prescribes reasonable exceptions and modifications for smaller districts to the
1452 uniform system of accounting, budgeting, and reporting;

1453 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to

1454 reflect generally accepted accounting principles;

1455 (iii) conduct a continuing review and modification of procedures in order to improve

1456 them;

1457 (iv) prepare and supply each district with suitable budget and reporting forms; and

1458 (v) (A) prepare instructional materials, conduct training programs, and render other

1459 services considered necessary to assist special districts and special service districts in

1460 implementing the uniform accounting, budgeting, and reporting procedures; and

1461 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title

1462 63G, Chapter 22, State Training and Certification Requirements; and

1463 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices

1464 and experiences of specific special districts and special service districts selected by the state

1465 auditor and make the information available to all districts.

1466 (17) (a) The following records in the custody or control of the state auditor are

1467 protected records under Title 63G, Chapter 2, Government Records Access and Management

1468 Act:

1469 (i) records that would disclose information relating to allegations of personal

1470 misconduct, gross mismanagement, or illegal activity of a past or present governmental

1471 employee if the information or allegation cannot be corroborated by the state auditor through

1472 other documents or evidence, and the records relating to the allegation are not relied upon by

1473 the state auditor in preparing a final audit report;

1474 (ii) records and audit workpapers to the extent the workpapers would disclose the

1475 identity of an individual who during the course of an audit, communicated the existence of any

1476 waste of public funds, property, or manpower, or a violation or suspected violation of a law,

1477 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or

1478 any recognized entity of the United States, if the information was disclosed on the condition

1479 that the identity of the individual be protected;

1480 (iii) before an audit is completed and the final audit report is released, records or drafts

1481 circulated to an individual who is not an employee or head of a governmental entity for the

1482 individual's response or information;

1483 (iv) records that would disclose an outline or part of any audit survey plans or audit

1484 program; and

1485 (v) requests for audits, if disclosure would risk circumvention of an audit.

1486 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
1487 of records or information that relate to a violation of the law by a governmental entity or
1488 employee to a government prosecutor or peace officer.

1489 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
1490 the state auditor to classify a document as public, private, controlled, or protected under Title
1491 63G, Chapter 2, Government Records Access and Management Act.

1492 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
1493 state auditor and the subject of an audit performed by the state auditor as to whether the state
1494 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
1495 auditor gained access to in the course of the state auditor's audit but which the subject of the
1496 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
1497 Access and Management Act.

1498 (ii) The state auditor may submit a record dispute to the State Records Committee,
1499 created in Section 63G-2-501, for a determination of whether the state auditor may, in
1500 conjunction with the state auditor's release of an audit report, release to the public the record
1501 that is the subject of the record dispute.

1502 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1503 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
1504 63G-2-404.

1505 (18) If the state auditor conducts an audit of an entity that the state auditor has
1506 previously audited and finds that the entity has not implemented a recommendation made by
1507 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1508 Committee through the Legislative Management Committee's audit subcommittee that the
1509 entity has not implemented that recommendation.

1510 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
1511 privacy officer described in Section 67-3-13.

1512 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
1513 another government entity reports, on the financial, operational, and performance metrics for
1514 the state system of higher education and the state system of public education, including metrics
1515 in relation to students, programs, and schools within those systems.

1516 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
1517 of:

1518 (i) the scholarship granting organization for the [~~Special Needs~~] Carson Smith
1519 Opportunity Scholarship Program, created in Section 53E-7-402;

1520 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
1521 Section 53F-4-302; and

1522 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
1523 created in Section 53F-6-402.

1524 (b) Nothing in this subsection limits or impairs the authority of the State Board of
1525 Education to administer the programs described in Subsection (21)(a).

1526 (22) The state auditor shall, based on the information posted by the Office of
1527 Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy,
1528 track and post the following information on the state auditor's website:

1529 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

1530 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
1531 adopted;

1532 (c) an indication regarding whether the policy complies with the requirements
1533 established by law for the policy; and

1534 (d) a link to the policy.

1535 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine
1536 whether a government entity, government official, or government employee has complied with
1537 a legal obligation directly imposed, by statute, on the government entity, government official,
1538 or government employee.

1539 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
1540 the inquiry requested.

1541 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
1542 auditor shall post the results of the inquiry on the state auditor's website.

1543 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
1544 determination, without conducting an audit, regarding whether the obligation was fulfilled.

1545 Section 22. **Effective date.**

1546 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

1547 (2) The actions affecting Section [63I-2-253](#) (Superseded 07/01/24) take effect on May
1548 1, 2024.