

## SB0044S01 compared with SB0044

~~{deleted text}~~ shows text that was in SB0044 but was deleted in SB0044S01.

inserted text shows text that was not in SB0044 but was inserted into SB0044S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Lincoln Fillmore proposes the following substitute bill:

### ALTERNATIVE EDUCATION SCHOLARSHIP COMBINATION

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** ~~{}~~ Lincoln Fillmore

House Sponsor: ~~{}~~ Candice B. Pierucci

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#### LONG TITLE

##### ~~{Committee Note:~~

~~———— The Education Interim Committee recommended this bill.~~

~~———— Legislative Vote: 11 voting for 0 voting against 9 absent~~

##### ~~{General Description:~~

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

##### **Highlighted Provisions:**

This bill:

- ▶ renames the Special Needs Opportunity Scholarship program;
- ▶ allows for home school students and preschool aged students to receive a scholarship;
- ▶ adds expenses with a qualifying provider to allowable scholarship expenses;

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- ▶ provides regulatory autonomy for a qualifying school, qualifying provider, and home-school student;
- ▶ allows scholarships to be used for services from eligible service providers and establishes an approval process;
- ▶ ~~{requires the Utah State Board of Education to notify participants of termination of the current}~~ directs the reallocation of unused funds in the Carson Smith Scholarship Program;
- ▶ phases out new applications ~~{and extensions}~~ for the Carson Smith Scholarship Program after the 2023-2024 school year; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~{ 631-2-253 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467~~

~~631-2-253 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467~~

~~631-2-267, as last amended by Laws of Utah 2023, Chapters 139, 530~~

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

ENACTS:

53E-7-408.5, Utah Code Annotated 1953

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

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

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

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

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

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

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

As used in this part:

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

(2) "Eligible student" means:

(a) a student who:

(i) is:

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

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

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

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

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(ii) is a resident of the state;

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

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

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

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

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

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

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

(B) enrolled as a public school student; or

(b) a student who:

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

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

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

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

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

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

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

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

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

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

~~[(4)]~~ (5) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of

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Health and Human Services in the Federal Register.

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

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

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

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

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

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

(b) who evaluate a child.

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

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

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

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

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

(a) an entity that:

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

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

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

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

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

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

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

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

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

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- (a) by a scholarship granting organization out of program donations; and
- (b) for the purpose of paying for a scholarship expense.

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

- (a) published tuition and fees of a qualifying school or qualifying provider;
- (b) fees and instructional materials at a technical college;
- (c) tutoring services;
- (d) fees for after-school or summer education programs;
- (e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum, qualifying provider, or a qualifying school recommends;
- (f) educational software and applications;
- (g) supplies or other equipment related to an eligible student's educational needs;
- (h) computer hardware or other technological devices that are intended primarily for an eligible student's educational needs;
- (i) fees for the following examinations, or for a preparation course for the following examinations, that the scholarship granting organization approves:
  - (i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;
  - (ii) a state-recognized industry certification examination; and
  - (iii) an examination related to college or university admission;
  - (j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;
  - (k) contracted services that the scholarship granting organization approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;
  - (l) ride fees or fares for a fee-for-service transportation provider to transport the eligible student to and from a qualifying school or qualifying provider, not to exceed \$750 in a given school year;

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

(n) the scholarship granting organization approves in accordance with Subsection 53E-7-405(3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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student's sibling.

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

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

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

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

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

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

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

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

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

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

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

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

(1) A qualifying school or qualifying provider shall:

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

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

(c) submit a signed affidavit to the scholarship granting organization that the qualifying



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school ~~or~~ or qualifying provider will comply with the requirements of this part.

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

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

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

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

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

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

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

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

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

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

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

(1) The state board shall:

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

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- (i) information about the program; and
- (ii) information about each scholarship granting organization;
- (b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;
- (c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;
- (d) establish uniform financial accounting standards for scholarship granting organizations;

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

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

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

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

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

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

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

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

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

- (i) a copy of the organization's incorporation documents;
- (ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue

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Code;

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

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

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

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

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

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

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

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

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

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

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

- (i) is barred from participating in the program under Subsection (4)(c)(i); or
- (ii) has an appeal pending under Subsection (4)(c)(ii).

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

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

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

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

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

(i) requiring the scholarship granting organization to:

(A) notify the state board; and

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

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

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

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

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

~~[(ii)]~~ (i) the number of scholarship students that are eligible students described in Subsection 53E-7-401(1)(a) and the number of scholarship students that are eligible students

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described in Subsection 53E-7-401(1)(b) from each school district;

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

~~[(iv)]~~ (iii) any other information requested by the Public Education Appropriations

Subcommittee for the state board to include in the annual report described in Section 53E-1-202.1.

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

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

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

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

(3) A scholarship granting organization shall:

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

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

(c) review scholarship applications and determine scholarship awards;

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

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

(f) ensure that during the state fiscal year:

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

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

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

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(iv) all revenue from [~~program donations~~<sup>1</sup>] interest or investments is spent on scholarships;

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

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

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations or other funds, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations or other funds;

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

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

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

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

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

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

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

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

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

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scholarship recipient:

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

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

or

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

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

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

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

"I acknowledge that:

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

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

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

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

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

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

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

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

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

(6) A scholarship granting organization shall demonstrate the scholarship granting

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organization's financial accountability by annually submitting to the state board a financial information report that:

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

(b) is prepared by a certified public accountant.

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

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

(A) the scholarship granting organization; and

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

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

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

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

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

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

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

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

(8) (a) A scholarship granting organization may not allocate scholarship money to a



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qualifying school or qualifying provider if:

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

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

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

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

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

(10) A scholarship granting organization may not:

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

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

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

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

**53E-7-406. Qualifying school or qualifying provider regulatory autonomy --**

**Home school autonomy -- Student records -- Scholarship student status.**

(1) Nothing in this part:

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

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

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

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school:

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

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

(2) A qualifying school or qualifying provider:

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

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

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

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

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

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

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

(a) enrolled in the public education system; or

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

[(1) Nothing in this part]:

[(a) grants additional authority to any state agency or LEA to regulate private schools

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~~except as expressly described in this part, or]~~

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

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

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

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

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

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

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

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

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

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

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

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

~~[(b)]~~ (3) (a) Before accepting a donation to the program from a person, the

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scholarship granting organization shall provide the person with notice:

- (i) that the donation may not be eligible for a tax credit;
- (ii) of the process described in Subsection ~~[(3)](e)~~ (3)(b); and
- (iii) of the total amount of tax credit certificates that the scholarship granting

organization has issued for the calendar year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) tuition costs;

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

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

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

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

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

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

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

(A) in the subject or subjects taught; and

(B) to the special needs students taught;

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

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

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

(ii) a contract employee; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) shall provide to the scholarship granting organization:

(i) a federal employer identification number;

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

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

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

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

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

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

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

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

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

(4) The scholarship granting organization shall:

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

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

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

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

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

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

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

Section 11. Section ~~{53E-7-410}~~ 53E-4-302 is amended to read:

~~{~~ ~~53E-7-410. Background checks for scholarship granting organizations -- State board responsibilities -- Bureau responsibilities -- Fees.~~

~~\_\_\_\_\_ (1) As used in this section:~~

~~\_\_\_\_\_ (a) "Applicant" means an employee or officer of a scholarship granting organization.~~

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

~~\_\_\_\_\_ (c) "Department" means the Department of Public Safety.~~

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

~~\_\_\_\_\_ (e) "FBI" means the Federal Bureau of Investigation.~~

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

~~\_\_\_\_\_ (g) "Personal identifying information" means:~~



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- ~~—— (i) current name;~~
- ~~—— (ii) former names;~~
- ~~—— (iii) nicknames;~~
- ~~—— (iv) aliases;~~
- ~~—— (v) date of birth;~~
- ~~—— (vi) address;~~
- ~~—— (vii) telephone number;~~
- ~~—— (viii) driver license number or other government-issued identification number;~~
- ~~—— (ix) social security number; and~~
- ~~—— (x) fingerprints.~~
- ~~—— (h) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.~~
- ~~—— (i) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.~~
- ~~—— (2) The state board shall:~~
  - ~~—— (a) require an applicant to submit to a nationwide criminal background check and ongoing monitoring in accordance with Section 53E-7-404;~~
  - ~~—— (b) collect the following from an applicant:~~
    - ~~—— (i) personal identifying information;~~
    - ~~—— (ii) a fee described in Subsection (4); and~~
    - ~~—— (iii) consent, on a form specified by the state board, for:~~
      - ~~—— (A) an initial fingerprint-based background check by the FBI and bureau;~~
      - ~~—— (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection (3); and~~
      - ~~—— (C) disclosure of any criminal history information to the state board;~~
  - ~~—— (c) submit an applicant's personal identifying information to the bureau for:~~
    - ~~—— (i) an initial fingerprint-based background check by the FBI and bureau; and~~
    - ~~—— (ii) ongoing monitoring through registration with the systems described in Subsection (3) if the results of the initial background check do not contain disqualifying criminal history information as determined by the state board in accordance with Section 53E-7-404;~~

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~~— (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the state board only receives notifications for individuals with whom the state board maintains an authorizing relationship; and~~

~~— (e) submit the information to the bureau for ongoing monitoring through registration with the systems described in Subsection (3)(a).~~

~~— (3) The bureau shall:~~

~~— (a) upon request from the state board, register the fingerprints submitted by the state board as part of a background check with:~~

~~— (i) the WIN Database rap back system, or any successor system; and~~

~~— (ii) the FBI Rap Back System;~~

~~— (b) notify the state board when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (3)(a) regarding:~~

~~— (i) an alleged offense; or~~

~~— (ii) a conviction, including a plea in abeyance;~~

~~— (c) assist the state board to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the state board only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and~~

~~— (d) collaborate with the state board to provide training to appropriate state board employees on the notification procedures and privacy risk mitigation strategies described in this section.~~

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

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

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

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

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

(2) To qualify for a scholarship:

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

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

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- (i) an intellectual disability;
  - (ii) deafness or being hard of hearing;
  - (iii) a speech or language impairment;
  - (iv) a visual impairment;
  - (v) a serious emotional disturbance;
  - (vi) an orthopedic impairment;
  - (vii) autism;
  - (viii) traumatic brain injury;
  - (ix) other health impairment;
  - (x) specific learning disabilities;
  - (xi) deafblindness; or
  - (xii) a developmental delay, provided the student is at least three years ~~[of age,~~  
~~pursuant]~~ old, as described to Subsection (2)(c), and is younger than eight years ~~[of age]~~ old;
- (c) the student shall be at least three years ~~[of age]~~ old before September 2 of the year in which admission to a private school is sought and under 19 years ~~[of age]~~ old on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years ~~[of age]~~ old on the last day of the school year as determined by the private school; and
- (d) except as provided in Subsection (3), the student shall:
- (i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;
  - (ii) have an IEP; and
  - (iii) have obtained acceptance for admission to an eligible private school.
- (3) The requirements of Subsection (2)(d) do not apply in the following circumstances:
- (a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and
  - (b) an assessment team is able to readily determine with reasonable certainty:
    - (i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and
    - (ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

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

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

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

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

"I acknowledge that:

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

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

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

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

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

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

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

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

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

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

(i) three years; or

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

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

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

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

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

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

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

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

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

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

(8) A scholarship student:

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

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

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

~~[(10) { The state board shall:~~

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

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

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

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

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

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

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

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

(10) The state board shall notify the parents of a scholarship student in writing of:

(a) the termination of new applicants in the existing scholarship program; and

(b) the ability of a current scholarship student to remain in the scholarship program as described in Subsection (6)(c) and (e).

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

(a) accept a new application; ~~or~~

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

~~\_\_\_\_\_ (c) extend an existing scholarship as described in Subsections (6)(c) and (e).]~~

Section ~~{13}~~12. Section **53F-4-304** is amended to read:

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

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

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

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

~~§§~~(i) the average scholarship amount awarded as of December 1 in the previous year; and~~§§~~

~~§§~~(ii) the product of:~~§§~~

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

~~§§~~(B) 0.0007.~~§§~~

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

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

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

(f) Beginning with the 2025 fiscal year, the state board shall:

(i) calculate a maximum award cap that may not exceed the cost of the program including scholarship payments from the previous fiscal year; and

(ii) transfer any funds in excess of the amount described in Subsection (1)(f)(i) to the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402.

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

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

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

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(ii) the private school tuition and fees; and

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

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

(ii) the private school tuition and fees.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the private school tuition and fees.

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

(7) (a) The scholarship amount for a student who receives a waiver under Subsection



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

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

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

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

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

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

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

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

Section ~~{14}~~13. Section **53F-6-401** is amended to read:

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

As used in this part:

(1) "Eligible student" means a student:

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

(b) who is a resident of the state;

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

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account:

(i) does not receive a scholarship under:

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

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

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

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

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).

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

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

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

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

(iii) receives a benefit of scholarship funds.

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

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

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

(b) is not affiliated with any international organization;

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

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

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

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

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

(f) an agreement with the state board recognizes as a program manager, in accordance

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with this part.

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

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

- (i) an individual who volunteers for the program manager or for a qualifying provider;
- (ii) an individual who works for a qualifying provider; or
- (iii) a qualifying provider.

(6) "Program manager officer" means:

- (a) a member of the board of a program manager; or
- (b) the chief administrative officer of a program manager.

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

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

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

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

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

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

- (a) tuition and fees of a qualifying provider;
- (b) fees and instructional materials at a technical college;
- (c) tutoring services;
- (d) fees for after-school or summer education programs;
- (e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider

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recommends;

(f) educational software and applications;

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

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

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

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

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

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

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

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

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

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

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

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

and

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

(11) "Scholarship funds" means:

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

(b) interest that scholarship funds accrue.

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

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account in accordance with this part.

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

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

Section ~~{15}~~14. Section **59-7-109.1** is amended to read:

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

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

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

Section ~~{16}~~15. Section **59-7-625** is amended to read:

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

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

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

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

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

Section ~~{17}~~16. Section **59-10-1041** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~———— (b) Section 53B-8-202;~~

~~———— (c) Section 53B-8-203;~~

~~———— (d) Section 53B-8-204; and~~

~~———— (e) Section 53B-8-205.~~

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

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

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

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

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

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

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

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

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

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

~~———— (19) Subsection 53F-6-401(4)(c)(i) is repealed July 1, 2027.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (b) Section 53B-8-202;~~

~~—— (c) Section 53B-8-203;~~

~~—— (d) Section 53B-8-204; and~~

~~—— (e) Section 53B-8-205.~~

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

‡ Section ~~{21}~~17. Section **67-3-1** is amended to read:

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

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

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

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

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

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

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

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

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

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

- (i) has an elected auditor; and
- (ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

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

- (b) may:

- (i) subpoena witnesses and documents, whether electronic or otherwise; and
- (ii) examine into any matter that the auditor considers necessary.

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

(7) The state auditor shall:

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

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

- (ii) all debtors of the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) money held by the state; and

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

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

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

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

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

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

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

(ii) meet debt service obligations; and

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

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

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

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

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

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

(13) The state auditor shall:

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

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

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

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

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

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

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

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

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

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becoming state auditor.

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

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

(16) The state auditor shall:

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

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

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

(B) conforms with generally accepted accounting principles; and

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);
- (b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;
- (c) an indication regarding whether the policy complies with the requirements established by law for the policy; and
- (d) a link to the policy.

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

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

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

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

Section ~~{22}~~18. **Effective date.**

~~{(1) Except as provided in Subsection (2), this}~~ **This** bill takes effect on July 1, 2024.~~}~~

~~{(2) The actions affecting Section 63I-2-253 (Superseded 07/01/24) take effect on May 1, 2024.}~~