

Senator Lincoln Fillmore proposes the following substitute bill:

1 **ALTERNATIVE EDUCATION SCHOLARSHIP COMBINATION**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: Candice B. Pierucci

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

- 12 This bill:
- 13 ▶ renames the Special Needs Opportunity Scholarship program;
 - 14 ▶ allows for home school students and preschool aged students to receive a
15 scholarship;
 - 16 ▶ adds expenses with a qualifying provider to allowable scholarship expenses;
 - 17 ▶ provides regulatory autonomy for a qualifying school, qualifying provider, and
18 home-school student;
 - 19 ▶ allows scholarships to be used for services from eligible service providers and
20 establishes an approval process;
 - 21 ▶ directs the reallocation of unused funds in the Carson Smith Scholarship Program;
 - 22 ▶ phases out new applications for the Carson Smith Scholarship Program after the
23 2023-2024 school year; and
 - 24 ▶ makes technical changes.

25 **Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53E-1-202.1**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

32 **53E-7-401**, as last amended by Laws of Utah 2023, Chapter 190

33 **53E-7-402**, as last amended by Laws of Utah 2023, Chapter 190 and last amended by

34 Coordination Clause, Laws of Utah 2023, Chapter 190

35 **53E-7-403**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

36 **53E-7-404**, as last amended by Laws of Utah 2022, Chapter 262

37 **53E-7-405**, as last amended by Laws of Utah 2023, Chapters 190, 353

38 **53E-7-406**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

39 **53E-7-407**, as last amended by Laws of Utah 2022, Chapter 262

40 **53E-7-408**, as last amended by Laws of Utah 2023, Chapter 353

41 **53F-4-302**, as last amended by Laws of Utah 2019, Chapter 186

42 **53F-4-304**, as last amended by Laws of Utah 2020, Chapter 408

43 **53F-6-401**, as enacted by Laws of Utah 2023, Chapter 1

44 **59-7-109.1**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

45 **59-7-625**, as last amended by Laws of Utah 2022, Chapter 262

46 **59-10-1041**, as last amended by Laws of Utah 2022, Chapter 262

47 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

48 ENACTS:

49 **53E-7-408.5**, Utah Code Annotated 1953



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

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

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

55 (1) Beginning in 2021, the State Board of Education shall, in accordance with Section
56 **68-3-14**, annually submit the report described in Section **53E-7-404** to the Public Education

57 Appropriations Subcommittee.

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

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

60 **53E-7-401. Definitions.**

61 As used in this part:

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

64 (2) "Eligible student" means:

65 (a) a student who:

66 (i) is:

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

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

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

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

71 (ii) is a resident of the state;

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

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

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

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

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

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

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

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

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

82 (b) a student who:

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

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

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

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

88 by a qualifying provider; and

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

91 [~~2~~] (3) (a) "Employee" means an individual working in a position in which the
92 individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

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

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

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

98 [~~3~~] (4) "Family income" means the annual income of the parent, parents, legal
99 guardian, or legal guardians with whom a scholarship student lives.

100 [~~4~~] (5) "Federal poverty level" means the poverty level as defined by the most
101 recently revised poverty income guidelines published by the United States Department of
102 Health and Human Services in the Federal Register.

103 [~~5~~] (6) "Home-based scholarship student" means a student who:

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

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

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

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

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

110 (b) who evaluate a child.

111 [~~6~~] (8) "Officer" means:

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

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

116 [~~7~~] (9) "Program donation" means a donation to the program under Section
117 [53E-7-405](#).

118 [~~8~~] (10) "Qualifying provider" means:

- 119 (a) an entity that:
120 (i) is not a public school and is autonomous and not an agent of the state, in accordance
121 with Section 53E-7-406; and
122 (ii) meets the requirement described in Section 53E-7-403; and
123 (b) is an eligible service provider approved by the scholarship granting organization in
124 accordance with Section 53E-7-408.5.
- 125 (11) "Qualifying school" means a private school that:
126 (a) provides kindergarten, elementary, or secondary education;
127 (b) is approved by the state board under Section 53E-7-408; and
128 (c) meets the requirements described in Section 53E-7-403.
- 129 ~~(9)~~ (12) "Relative" means a father, mother, husband, wife, son, daughter, sister,
130 brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
131 sister-in-law, son-in-law, or daughter-in-law.
- 132 ~~(10)~~ (13) "Scholarship" means a grant awarded to an eligible student:
133 (a) by a scholarship granting organization out of program donations; and
134 (b) for the purpose of paying for a scholarship expense.
- 135 ~~(11)~~ (14) "Scholarship expense" means an expense that a parent or eligible student
136 incurs in the education of the eligible student for goods or a service that a qualifying school or
137 qualifying provider provides or facilitates, including:
- 138 (a) published tuition and fees of a qualifying school or qualifying provider;
139 (b) fees and instructional materials at a technical college;
140 (c) tutoring services;
141 (d) fees for after-school or summer education programs;
142 (e) textbooks, curricula, or other instructional materials, including any supplemental
143 materials or associated online instruction that a curriculum, qualifying provider, or a qualifying
144 school recommends;
- 145 (f) educational software and applications;
146 (g) supplies or other equipment related to an eligible student's educational needs;
147 (h) computer hardware or other technological devices that are intended primarily for an
148 eligible student's educational needs;
- 149 (i) fees for the following examinations, or for a preparation course for the following

150 examinations, that the scholarship granting organization approves:

151 (i) a national norm-referenced or standardized assessment described in Section

152 [53F-6-410](#), an advanced placement examination, or another similar assessment;

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

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

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

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

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

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

166 (n) the scholarship granting organization approves in accordance with Subsection
167 [53E-7-405](#)(3).

168 ~~[(12)]~~ (15) "Scholarship granting organization" means an organization that is:

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

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

172 ~~[(13)]~~ (16) "Scholarship student" means an eligible student, including a home-based
173 scholarship student, who receives a scholarship under this part.

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

176 ~~[(15)]~~ (17) "Value of the weighted pupil unit" means the amount established each year
177 in the enacted public education budget that is multiplied by the number of weighted pupil units
178 to yield the funding level for the basic state-supported school program.

179 Section 3. Section [53E-7-402](#) is amended to read:

180 **[53E-7-402](#). Carson Smith Opportunity Scholarship Program.**

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

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

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

188 (i) establishing an August 10 deadline for an eligible student described in Subsection
189 53E-7-401(1)(b) to apply for a scholarship; and

190 (ii) awarding a scholarship to an eligible student described in Subsection
191 53E-7-401(1)(b) only if funds exist after awarding scholarships to all eligible students
192 described in Subsection 53E-7-401(1)(a) who have applied and qualify.

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

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

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

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

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

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

204 (C) above 185% of the federal poverty level and the eligible student would have
205 received an average of 180 minutes per day or more of special education services in a public
206 school before transferring to a private school, the value of the weighted pupil unit multiplied by
207 2.5; or

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

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

211 (4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team

212 under this program does not establish eligibility for an IEP under the Individuals with
213 Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on
214 any LEA that is required to provide an IEP under the Individuals with Disabilities Education
215 Act.

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

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

219 **53E-7-403. Qualifying school and qualifying provider requirements.**

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

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

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

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

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

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

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

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

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

242 (5) (a) If the state board determines that a qualifying school no longer meets the

243 eligibility requirements described in Section 53E-7-408, the state board may withdraw the state
244 board's approval of the school.

245 (b) A private school that does not have the state board's approval under Section
246 53E-7-408 may not accept scholarship money under this part.

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

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

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

254 **53E-7-404. State board duties.**

255 (1) The state board shall:

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

257 (i) information about the program; and

258 (ii) information about each scholarship granting organization;

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

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

263 (d) establish uniform financial accounting standards for scholarship granting
264 organizations;

265 ~~[(e) annually calculate the amount of the program donations cap described in Section~~
266 ~~53E-7-407; and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

305 Tax Commission.

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

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

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

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

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

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

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

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

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

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

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

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

336 (i) requiring the scholarship granting organization to:
337 (A) notify the state board; and
338 (B) obtain reimbursement of scholarship money from the qualifying school in which
339 the eligible student is no longer enrolled or qualifying provider in which the eligible student is
340 no longer participating; and
341 (ii) requiring the qualifying school or qualifying provider in which the eligible student
342 is no longer enrolled to reimburse scholarship money to the scholarship granting organization;
343 (c) audit and report requirements as described in Section 53E-7-405; and
344 (d) requiring the scholarship granting organization, in accordance with the Family
345 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:
346 ~~[(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of~~
347 ~~tuition and fees a qualifying school charges;]~~
348 [(ii)] (i) the number of scholarship students that are eligible students described in
349 Subsection 53E-7-401(1)(a) and the number of scholarship students that are eligible students
350 described in Subsection 53E-7-401(1)(b) from each school district;
351 [(iii)] (ii) standards used to determine whether a student is an eligible student; and
352 [(iv)] (iii) any other information requested by the Public Education Appropriations
353 Subcommittee for the state board to include in the annual report described in Section
354 53E-1-202.1.
355 Section 6. Section 53E-7-405 is amended to read:
356 **53E-7-405. Program donations -- Scholarship granting organization**
357 **requirements -- Legislative appropriations.**
358 (1) A person that makes a donation to a scholarship granting organization to help fund
359 scholarships through the program may be eligible to receive a nonrefundable tax credit as
360 described in Sections 59-7-625 and 59-10-1041.
361 (2) In accordance with Section 53E-7-404, an organization may enter into an
362 agreement with the state board to be a scholarship granting organization.
363 (3) A scholarship granting organization shall:
364 (a) accept program donations and allow a person that makes a program donation to
365 designate a qualifying school or qualifying provider to which the donation shall be directed for
366 scholarships;

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

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

399 (ii) the total number and total dollar amount of program donations and other funding

400 sources that the scholarship granting organization received during the previous calendar year;

401 (iii) (A) the total number and total dollar amount of scholarships the scholarship

402 granting organization awarded during the previous state fiscal year to eligible students

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

404 (B) the total number and total dollar amount of scholarships the scholarship granting

405 organization awarded during the previous state fiscal year to eligible students described in

406 Subsection 53E-7-401(1)(b); and

407 (iv) the percentage of first-time scholarship recipients who were enrolled in a public

408 school during the previous school year or who entered kindergarten or a higher grade for the

409 first time in Utah;

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

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

412 scholarship recipient:

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

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

415 or

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

417 (4) The state treasurer shall deposit the money described in Subsection (3)(h) into the

418 Income Tax Fund.

419 (5) (a) An application for a scholarship shall contain an acknowledgment by the

420 applicant's parent that the qualifying school or qualifying provider selected by the parent for the

421 applicant to attend or participate in using a scholarship is capable of providing the level of

422 disability services required for the student.

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

424 "I acknowledge that:

425 (1) A private school may not provide the same level of disability services that are

426 provided in a public school;

427 (2) I will assume full financial responsibility for the education of my scholarship

428 recipient if I accept this scholarship;

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

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

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

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

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

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

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

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

445 (a) complies with the uniform financial accounting standards described in Section
446 [53E-7-404](#); and

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

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

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

452 (A) the scholarship granting organization; and

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

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

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

459 (i) include the scholarship granting organization's financial statements in a format that

460 meets generally accepted accounting standards; and

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

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

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

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

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

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

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

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

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

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

488 (10) A scholarship granting organization may not:

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

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

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

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

498 **53E-7-406. Qualifying school or qualifying provider regulatory autonomy --**

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

500 (1) Nothing in this part:

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

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

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

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

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

512 (2) A qualifying school or qualifying provider:

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

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

518 (3) Except as provided in Section [53E-7-403](#) regarding qualifying schools or qualifying
519 providers, Section [53E-7-408](#) regarding eligible schools, or Section [53E-7-408.5](#) regarding
520 eligible service providers, a scholarship granting organization may not require a qualifying
521 provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices,

522 or curricula in order to accept scholarship funds.

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

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

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

529 (5) By virtue of a scholarship student's involvement in the program and unless

530 otherwise expressly provided in statute, a scholarship student is not:

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

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

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

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

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

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

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

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

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

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

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

553 **53E-7-407. Tax credit certificates issued by a scholarship granting organization.**

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

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

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

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

566 (3) (a) Before accepting a donation to the program from a person, the scholarship
567 granting organization shall provide the person with notice:

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

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

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

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

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

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

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

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

583 (b) For a calendar year after 2021, the state board shall calculate the program donations

584 cap as follows:

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

589 (ii) if the total program donations for the previous calendar year did not exceed 90% of
590 the cap amount for that calendar year, the cap for the current calendar year is the same as the
591 cap amount for the previous calendar year.

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

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

596 **53E-7-408. Eligible private schools.**

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

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

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

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

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

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

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

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

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

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

615 student is enrolled, of:

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

618 (ii) tuition costs;

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

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

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

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

626 (g) employ or contract with teachers who:

627 (i) hold baccalaureate or higher degrees;

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

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

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

632 (B) to the special needs students taught;

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

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

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

641 (ii) a contract employee; and

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

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

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

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

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

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

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

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

657 [~~(4)~~] (3) Residential treatment facilities licensed by the state are not eligible to enroll
658 scholarship students.

659 [~~(5)~~] (4) A private school intending to enroll scholarship students shall submit an
660 application to the state board.

661 [~~(6)~~] (5) The state board shall:

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

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

666 [~~(7)~~] (6) A private school approved under this section that changes ownership shall:

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

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

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

671 **53E-7-408.5. Eligible service provider.**

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

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

674 (i) a federal employer identification number;

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

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

677 scholarship student; and

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

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

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

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

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

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

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

693 (4) The scholarship granting organization shall:

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

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

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

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

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

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

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

708 Section 11. Section **53F-4-302** is amended to read:

709 **53F-4-302. Scholarship program created -- Qualifications.**

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

712 (2) To qualify for a scholarship:

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

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

715 (i) an intellectual disability;

716 (ii) deafness or being hard of hearing;

717 (iii) a speech or language impairment;

718 (iv) a visual impairment;

719 (v) a serious emotional disturbance;

720 (vi) an orthopedic impairment;

721 (vii) autism;

722 (viii) traumatic brain injury;

723 (ix) other health impairment;

724 (x) specific learning disabilities;

725 (xi) deafblindness; or

726 (xii) a developmental delay, provided the student is at least three years [~~of age~~;
727 pursuant] old, as described to Subsection (2)(c), and is younger than eight years [~~of age~~] old;

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

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

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

736 (ii) have an IEP; and

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

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

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

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

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

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

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

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

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

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

756 "I acknowledge that:

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

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

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

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

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

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

770 (d) The creation of the scholarship program or granting of a scholarship does not:
771 (i) imply that a public school did not provide a free and appropriate public education
772 for a student; or
773 (ii) constitute a waiver or admission by the state.

774 (6) (a) Except as provided in Subsection (6)(b), a scholarship shall remain in force for
775 the lesser of:
776 (i) three years; or
777 (ii) until the student is determined ineligible for special education services.

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

781 (c) A scholarship [~~shall~~] may be extended for an additional three years, if:
782 (i) the student is evaluated by an assessment team; and
783 (ii) the assessment team determines that the student would qualify for special education
784 services, if enrolled in a public school.

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

788 (e) A scholarship [~~shall~~] may be extended for successive three-year periods as provided
789 in Subsections (6)(a) and (c):
790 (i) until the student graduates from high school; or
791 (ii) if the student does not graduate from high school, until the student is [~~age~~] 22 years
792 old.

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

795 (8) A scholarship student:
796 (a) may participate in the Statewide Online Education Program described in Part 5,
797 Statewide Online Education Program; and
798 (b) may not participate in a dual enrollment program pursuant to Section [53G-6-702](#).

799 (9) The parents of a scholarship student have the authority to choose the private school
800 that will best serve the interests and educational needs of that student, which may be a sectarian

801 or nonsectarian school, and to direct the scholarship resources available for that student solely
802 as a result of their genuine and independent private choices.

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

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

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

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

809 ~~and]~~

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

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

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

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

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

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

822 (a) accept a new application; or

823 (b) provide a waiver of a full-year application.

824 Section 12. Section **53F-4-304** is amended to read:

825 **53F-4-304. Scholarship payments.**

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

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

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

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

833 (ii) the product of:

834 (A) the number of students in preschool through grade 12 in public schools statewide

835 who have an IEP on December 1 of the previous year; and

836 (B) 0.0007.

837 (d) If the number of scholarship students as of December 1 in any school year equals or

838 exceeds 7% of the number of students in preschool through grade 12 in public schools

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

840 Appropriations Subcommittee shall study the requirement to increase appropriations for

841 scholarship payments as provided in this section.

842 (e) (i) If money is not available to pay for all scholarships requested, the state board

843 shall allocate scholarships on a random basis except that the state board shall give preference to

844 students who received scholarships in the previous school year.

845 (ii) If money is insufficient in a school year to pay for all the continuing scholarships,

846 the state board may not award new scholarships during that school year and the state board

847 shall prorate money available for scholarships among the eligible students who received

848 scholarships in the previous year.

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

850 (i) calculate a maximum award cap that may not exceed the cost of the program

851 including scholarship payments from the previous fiscal year; and

852 (ii) transfer any funds in excess of the amount described in Subsection (1)(f)(i) to the

853 Carson Smith Opportunity Scholarship Program established in Section [53E-7-402](#).

854 (2) Except as provided in Subsection (4), the state board shall award full-year

855 scholarships in the following amounts:

856 (a) for a student who received an average of 180 minutes per day or more of special

857 education services in a public school before transferring to a private school, an amount not to

858 exceed the lesser of:

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

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

861 (b) for a student who received an average of less than 180 minutes per day of special

862 education services in a public school before transferring to a private school, an amount not to

863 exceed the lesser of:

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

865 (ii) the private school tuition and fees.

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

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

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

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

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

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

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

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

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

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

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

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

886 (ii) the private school tuition and fees.

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

890 (7) (a) The scholarship amount for a student who receives a waiver under Subsection
891 [53F-4-302\(3\)](#) shall be based upon the assessment team's determination of the appropriate level
892 of special education services to be provided to the student.

893 (b) (i) If the student requires an average of 180 minutes per day or more of special

894 education services, a full-year scholarship shall be equal to the amount specified in Subsection
895 (2)(a).

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

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

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

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

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

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

914 Section 13. Section **53F-6-401** is amended to read:

915 **53F-6-401. Definitions.**

916 As used in this part:

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

918 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through
919 12;

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

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

923 (i) does not receive a scholarship under:

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

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

927 (ii) except for a student who is enrolled part-time in accordance with Section
928 53G-6-702, is not enrolled in an LEA upon receiving the scholarship;

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

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

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

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

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

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

939 (iii) receives a benefit of scholarship funds.

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

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

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

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

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

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

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

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

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

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

954 (5) (a) "Program manager employee" means an individual working for the program
955 manager in a position in which the individual's salary, wages, pay, or compensation, including

956 as a contractor, is paid from scholarship funds.

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

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

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

960 (iii) a qualifying provider.

961 (c) "Program manager officer" means:

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

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

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

966 (a) an eligible school that the program manager approves in accordance with Section
967 53F-6-408; or

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

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

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

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

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

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

980 (c) tutoring services;

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

982 (e) textbooks, curricula, or other instructional materials, including any supplemental
983 materials or associated online instruction that a curriculum or a qualifying provider
984 recommends;

985 (f) educational software and applications;

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

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

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

991 (i) a national norm-referenced or standardized assessment described in Section
992 53F-6-410, an advanced placement examination, or another similar assessment;

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

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

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

998 (k) contracted services that the program manager approves and that an LEA provides,
999 including individual classes, after-school tutoring services, transportation, or fees or costs
1000 associated with participation in extracurricular activities;

1001 (l) ride fees or fares for a fee-for-service transportation provider to transport the
1002 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school
1003 year;

1004 (m) expenses related to extracurricular activities, field trips, educational supplements,
1005 and other educational experiences; or

1006 (n) any other expense for a good or service that:

1007 (i) a parent or scholarship student incurs in the education of the scholarship student;

1008 and

1009 (ii) the program manager approves, in accordance with Subsection (4)(d).

1010 (11) "Scholarship funds" means:

1011 (a) funds that the Legislature appropriates for the program; and

1012 (b) interest that scholarship funds accrue.

1013 (12) (a) "Scholarship student" means an eligible student, including a home-based
1014 scholarship student, for whom the program manager establishes and maintains a scholarship
1015 account in accordance with this part.

1016 (b) "Scholarship student" does not include a home school student who does not receive
1017 a scholarship award under the program.

1018 (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program
1019 established in Section 53F-6-402.

1020 Section 14. Section 59-7-109.1 is amended to read:

1021 **59-7-109.1. Charitable contributions to the Carson Smith Opportunity**
1022 **Scholarship Program.**

1023 (1) Notwithstanding anything to the contrary in Section 59-7-109, a taxpayer may not
1024 subtract a charitable contribution that meets the requirements of Section 59-7-109 to the extent
1025 that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable
1026 contribution.

1027 (2) This section supersedes any conflicting provisions of Utah law.

1028 Section 15. Section 59-7-625 is amended to read:

1029 **59-7-625. Nonrefundable tax credit for donation to the Carson Smith**
1030 **Opportunity Scholarship Program.**

1031 (1) A taxpayer that makes a donation to the [~~Special Needs~~] Carson Smith Opportunity
1032 Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit
1033 equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section
1034 53E-7-407.

1035 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's
1036 liability under this chapter for a taxable year, the taxpayer:

1037 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1038 that does not exceed the next three taxable years; and

1039 (b) may carry back the amount of the tax credit that exceeds the taxpayer's tax liability
1040 to the previous taxable year.

1041 Section 16. Section 59-10-1041 is amended to read:

1042 **59-10-1041. Nonrefundable tax credit for donation to the Carson Smith**
1043 **Opportunity Scholarship Program.**

1044 (1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a
1045 donation to the [~~Special Needs~~] Carson Smith Opportunity Scholarship Program established in
1046 Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated
1047 on a tax credit certificate issued in accordance with Section 53E-7-407.

1048 (2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's,

1049 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:

1050 (a) may carry forward the amount of the tax credit exceeding the liability for a period
1051 that does not exceed the next three taxable years; and

1052 (b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or
1053 trust's tax liability to the previous taxable year.

1054 (3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the
1055 extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized
1056 deduction on the claimant's, estate's, or trust's federal individual income tax return for that
1057 taxable year.

1058 Section 17. Section **67-3-1** is amended to read:

1059 **67-3-1. Functions and duties.**

1060 (1) (a) The state auditor is the auditor of public accounts and is independent of any
1061 executive or administrative officers of the state.

1062 (b) The state auditor is not limited in the selection of personnel or in the determination
1063 of the reasonable and necessary expenses of the state auditor's office.

1064 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
1065 financial statements showing:

1066 (a) the condition of the state's finances;

1067 (b) the revenues received or accrued;

1068 (c) expenditures paid or accrued;

1069 (d) the amount of unexpended or unencumbered balances of the appropriations to the
1070 agencies, departments, divisions, commissions, and institutions; and

1071 (e) the cash balances of the funds in the custody of the state treasurer.

1072 (3) (a) The state auditor shall:

1073 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
1074 any department of state government or any independent agency or public corporation as the law
1075 requires, as the auditor determines is necessary, or upon request of the governor or the
1076 Legislature;

1077 (ii) perform the audits in accordance with generally accepted auditing standards and
1078 other auditing procedures as promulgated by recognized authoritative bodies; and

1079 (iii) as the auditor determines is necessary, conduct the audits to determine:

- 1080 (A) honesty and integrity in fiscal affairs;
- 1081 (B) accuracy and reliability of financial statements;
- 1082 (C) effectiveness and adequacy of financial controls; and
- 1083 (D) compliance with the law.
- 1084 (b) If any state entity receives federal funding, the state auditor shall ensure that the
- 1085 audit is performed in accordance with federal audit requirements.
- 1086 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
- 1087 appropriation to the state auditor from the General Fund.
- 1088 (ii) If an appropriation is not provided, or if the federal government does not
- 1089 specifically provide for payment of audit costs, the costs of the federal compliance portions of
- 1090 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
- 1091 bears to the total federal funds received by the state.
- 1092 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
- 1093 funds passed through the state to local governments and to reflect any reduction in audit time
- 1094 obtained through the use of internal auditors working under the direction of the state auditor.
- 1095 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
- 1096 financial audits, and as the auditor determines is necessary, conduct performance and special
- 1097 purpose audits, examinations, and reviews of any entity that receives public funds, including a
- 1098 determination of any or all of the following:
- 1099 (i) the honesty and integrity of all the entity's fiscal affairs;
- 1100 (ii) whether the entity's administrators have faithfully complied with legislative intent;
- 1101 (iii) whether the entity's operations have been conducted in an efficient, effective, and
- 1102 cost-efficient manner;
- 1103 (iv) whether the entity's programs have been effective in accomplishing the intended
- 1104 objectives; and
- 1105 (v) whether the entity's management, control, and information systems are adequate,
- 1106 effective, and secure.
- 1107 (b) The auditor may not conduct performance and special purpose audits,
- 1108 examinations, and reviews of any entity that receives public funds if the entity:
- 1109 (i) has an elected auditor; and
- 1110 (ii) has, within the entity's last budget year, had the entity's financial statements or

1111 performance formally reviewed by another outside auditor.

1112 (5) The state auditor:

1113 (a) shall administer any oath or affirmation necessary to the performance of the duties
1114 of the auditor's office; and

1115 (b) may:

1116 (i) subpoena witnesses and documents, whether electronic or otherwise; and

1117 (ii) examine into any matter that the auditor considers necessary.

1118 (6) The state auditor may require all persons who have had the disposition or
1119 management of any property of this state or its political subdivisions to submit statements
1120 regarding the property at the time and in the form that the auditor requires.

1121 (7) The state auditor shall:

1122 (a) except where otherwise provided by law, institute suits in Salt Lake County in
1123 relation to the assessment, collection, and payment of revenues against:

1124 (i) persons who by any means have become entrusted with public money or property
1125 and have failed to pay over or deliver the money or property; and

1126 (ii) all debtors of the state;

1127 (b) collect and pay into the state treasury all fees received by the state auditor;

1128 (c) perform the duties of a member of all boards of which the state auditor is a member
1129 by the constitution or laws of the state, and any other duties that are prescribed by the
1130 constitution and by law;

1131 (d) stop the payment of the salary of any state official or state employee who:

1132 (i) refuses to settle accounts or provide required statements about the custody and
1133 disposition of public funds or other state property;

1134 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
1135 board or department head with respect to the manner of keeping prescribed accounts or funds;
1136 or

1137 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
1138 official's or employee's attention;

1139 (e) establish accounting systems, methods, and forms for public accounts in all taxing
1140 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

1141 (f) superintend the contractual auditing of all state accounts;

1142 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
1143 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
1144 officials and employees in those taxing units comply with state laws and procedures in the
1145 budgeting, expenditures, and financial reporting of public funds;

1146 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
1147 if necessary, to ensure that officials and employees in the county comply with Section
1148 [59-2-303.1](#); and

1149 (i) withhold state allocated funds or the disbursement of property taxes from a local
1150 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
1151 the state auditor finds the withholding necessary to ensure that the entity registers and
1152 maintains the entity's registration with the lieutenant governor, in accordance with Section
1153 [67-1a-15](#).

1154 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
1155 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
1156 written notice of noncompliance from the auditor and has been given 60 days to make the
1157 specified corrections.

1158 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
1159 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
1160 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
1161 state auditor:

1162 (i) shall provide a recommended timeline for corrective actions;

1163 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
1164 state; and

1165 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
1166 account of a financial institution by filing an action in district court requesting an order of the
1167 court to prohibit a financial institution from providing the fee-assessing unit access to an
1168 account.

1169 (c) The state auditor shall remove a limitation on accessing funds under Subsection
1170 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
1171 financial reporting of public funds.

1172 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with

1173 state law, the state auditor:

1174 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
1175 comply;

1176 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
1177 state; and

1178 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
1179 account of a financial institution by:

1180 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
1181 the institution prohibit access to the account; or

1182 (B) filing an action in district court requesting an order of the court to prohibit a
1183 financial institution from providing the taxing or fee-assessing unit access to an account.

1184 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
1185 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
1186 (8)(d).

1187 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
1188 received formal written notice of noncompliance from the auditor and has been given 60 days
1189 to make the specified corrections.

1190 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
1191 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

1192 (b) If the state auditor receives a notice of non-registration, the state auditor may
1193 prohibit the local government entity or limited purpose entity, as those terms are defined in
1194 Section 67-1a-15, from accessing:

1195 (i) money held by the state; and

1196 (ii) money held in an account of a financial institution by:

1197 (A) contacting the entity's financial institution and requesting that the institution
1198 prohibit access to the account; or

1199 (B) filing an action in district court requesting an order of the court to prohibit a
1200 financial institution from providing the entity access to an account.

1201 (c) The state auditor shall remove the prohibition on accessing funds described in
1202 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
1203 Section 67-1a-15, from the lieutenant governor.

1204 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
1205 state auditor:

1206 (a) shall authorize a disbursement by a local government entity or limited purpose
1207 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
1208 unit if the disbursement is necessary to:

1209 (i) avoid a major disruption in the operations of the local government entity, limited
1210 purpose entity, or state or local taxing or fee-assessing unit; or

1211 (ii) meet debt service obligations; and

1212 (b) may authorize a disbursement by a local government entity, limited purpose entity,
1213 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

1214 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
1215 take temporary custody of public funds if an action is necessary to protect public funds from
1216 being improperly diverted from their intended public purpose.

1217 (b) If the state auditor seeks relief under Subsection (12)(a):

1218 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
1219 and

1220 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
1221 court orders the public funds to be protected from improper diversion from their public
1222 purpose.

1223 (13) The state auditor shall:

1224 (a) establish audit guidelines and procedures for audits of local mental health and
1225 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
1226 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
1227 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
1228 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
1229 Organizations, and Other Local Entities Act; and

1230 (b) ensure that those guidelines and procedures provide assurances to the state that:

1231 (i) state and federal funds appropriated to local mental health authorities are used for
1232 mental health purposes;

1233 (ii) a private provider under an annual or otherwise ongoing contract to provide
1234 comprehensive mental health programs or services for a local mental health authority is in

1235 compliance with state and local contract requirements and state and federal law;

1236 (iii) state and federal funds appropriated to local substance abuse authorities are used
1237 for substance abuse programs and services; and

1238 (iv) a private provider under an annual or otherwise ongoing contract to provide
1239 comprehensive substance abuse programs or services for a local substance abuse authority is in
1240 compliance with state and local contract requirements, and state and federal law.

1241 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
1242 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
1243 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
1244 investigations of any political subdivision that are necessary to determine honesty and integrity
1245 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
1246 financial controls and compliance with the law.

1247 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
1248 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
1249 initiate an audit or investigation of the public entity subject to the notice to determine
1250 compliance with Section 11-41-103.

1251 (15) (a) The state auditor may not audit work that the state auditor performed before
1252 becoming state auditor.

1253 (b) If the state auditor has previously been a responsible official in state government
1254 whose work has not yet been audited, the Legislature shall:

- 1255 (i) designate how that work shall be audited; and
- 1256 (ii) provide additional funding for those audits, if necessary.

1257 (16) The state auditor shall:

1258 (a) with the assistance, advice, and recommendations of an advisory committee
1259 appointed by the state auditor from among special district boards of trustees, officers, and
1260 employees and special service district boards, officers, and employees:

1261 (i) prepare a Uniform Accounting Manual for Special Districts that:

1262 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
1263 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
1264 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
1265 District Act;

- 1266 (B) conforms with generally accepted accounting principles; and
1267 (C) prescribes reasonable exceptions and modifications for smaller districts to the
1268 uniform system of accounting, budgeting, and reporting;
- 1269 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
1270 reflect generally accepted accounting principles;
- 1271 (iii) conduct a continuing review and modification of procedures in order to improve
1272 them;
- 1273 (iv) prepare and supply each district with suitable budget and reporting forms; and
1274 (v) (A) prepare instructional materials, conduct training programs, and render other
1275 services considered necessary to assist special districts and special service districts in
1276 implementing the uniform accounting, budgeting, and reporting procedures; and
1277 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
1278 63G, Chapter 22, State Training and Certification Requirements; and
- 1279 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
1280 and experiences of specific special districts and special service districts selected by the state
1281 auditor and make the information available to all districts.
- 1282 (17) (a) The following records in the custody or control of the state auditor are
1283 protected records under Title 63G, Chapter 2, Government Records Access and Management
1284 Act:
- 1285 (i) records that would disclose information relating to allegations of personal
1286 misconduct, gross mismanagement, or illegal activity of a past or present governmental
1287 employee if the information or allegation cannot be corroborated by the state auditor through
1288 other documents or evidence, and the records relating to the allegation are not relied upon by
1289 the state auditor in preparing a final audit report;
- 1290 (ii) records and audit workpapers to the extent the workpapers would disclose the
1291 identity of an individual who during the course of an audit, communicated the existence of any
1292 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
1293 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or
1294 any recognized entity of the United States, if the information was disclosed on the condition
1295 that the identity of the individual be protected;
- 1296 (iii) before an audit is completed and the final audit report is released, records or drafts

1297 circulated to an individual who is not an employee or head of a governmental entity for the
1298 individual's response or information;

1299 (iv) records that would disclose an outline or part of any audit survey plans or audit
1300 program; and

1301 (v) requests for audits, if disclosure would risk circumvention of an audit.

1302 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
1303 of records or information that relate to a violation of the law by a governmental entity or
1304 employee to a government prosecutor or peace officer.

1305 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
1306 the state auditor to classify a document as public, private, controlled, or protected under Title
1307 63G, Chapter 2, Government Records Access and Management Act.

1308 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
1309 state auditor and the subject of an audit performed by the state auditor as to whether the state
1310 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
1311 auditor gained access to in the course of the state auditor's audit but which the subject of the
1312 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
1313 Access and Management Act.

1314 (ii) The state auditor may submit a record dispute to the State Records Committee,
1315 created in Section 63G-2-501, for a determination of whether the state auditor may, in
1316 conjunction with the state auditor's release of an audit report, release to the public the record
1317 that is the subject of the record dispute.

1318 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1319 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
1320 63G-2-404.

1321 (18) If the state auditor conducts an audit of an entity that the state auditor has
1322 previously audited and finds that the entity has not implemented a recommendation made by
1323 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1324 Committee through the Legislative Management Committee's audit subcommittee that the
1325 entity has not implemented that recommendation.

1326 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
1327 privacy officer described in Section 67-3-13.

1328 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
1329 another government entity reports, on the financial, operational, and performance metrics for
1330 the state system of higher education and the state system of public education, including metrics
1331 in relation to students, programs, and schools within those systems.

1332 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
1333 of:

1334 (i) the scholarship granting organization for the [~~Special Needs~~] Carson Smith
1335 Opportunity Scholarship Program, created in Section [53E-7-402](#);

1336 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
1337 Section [53F-4-302](#); and

1338 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
1339 created in Section [53F-6-402](#).

1340 (b) Nothing in this subsection limits or impairs the authority of the State Board of
1341 Education to administer the programs described in Subsection (21)(a).

1342 (22) The state auditor shall, based on the information posted by the Office of
1343 Legislative Research and General Counsel under Subsection [36-12-12.1\(2\)](#), for each policy,
1344 track and post the following information on the state auditor's website:

1345 (a) the information posted under Subsections [36-12-12.1\(2\)\(a\)](#) through (e);

1346 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
1347 adopted;

1348 (c) an indication regarding whether the policy complies with the requirements
1349 established by law for the policy; and

1350 (d) a link to the policy.

1351 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine
1352 whether a government entity, government official, or government employee has complied with
1353 a legal obligation directly imposed, by statute, on the government entity, government official,
1354 or government employee.

1355 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
1356 the inquiry requested.

1357 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
1358 auditor shall post the results of the inquiry on the state auditor's website.

1359 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
1360 determination, without conducting an audit, regarding whether the obligation was fulfilled.

1361 Section 18. **Effective date.**

1362 This bill takes effect on July 1, 2024.