

1                   **JOINT RESOLUTION APPROVING SETTLEMENT**

2                                   **AGREEMENT**

3   2021 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Francis D. Gibson**

6                                   Senate Sponsor: Jerry W. Stevenson

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8 **LONG TITLE**

9 **General Description:**

10           This resolution approves a settlement agreement involving wrongful death and civil  
11 rights claims against the state of Utah and the University of Utah.

12 **Highlighted Provisions:**

13           This resolution:

14           ▶ approves a settlement for claims related to the death of Lauren McCluskey in the  
15 following cases:

16           • United States District Court, District of Utah, Civil No.  
17 2:19-cv-00449-HCN-JCB; and

18           • Third Judicial District Court, State of Utah, Civil No. 200903724.

19 **Special Clauses:**

20           None

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22 *Be it resolved by the Legislature of the state of Utah:*

23           WHEREAS, following the tragic death of Lauren McCluskey, her parents, Jill and  
24 Matthew McCluskey, individually and on her behalf sued the state of Utah and the University  
25 of Utah, including certain current and former employees of the University, in both the United  
26 States District Court, District of Utah, Civil No. 2:19-cv-00449-HCN-JCB, and the Third  
27 Judicial District Court, State of Utah, Civil No. 200903724;

28           WHEREAS, the plaintiffs claimed the defendants' conduct during the period  
29 surrounding Lauren's death violated Title IX and the Fourteenth Amendment, entitling the

30 plaintiffs to relief as well as giving rise to a "wrongful death" cause of action pursuant to Utah  
31 Code Section [78B-3-106](#);

32 WHEREAS, the plaintiffs sought at least \$56,000,000 as relief for the defendants'  
33 alleged violations and on their "wrongful death" claim;

34 WHEREAS, the plaintiffs, in Lauren's honor, established the Lauren McCluskey  
35 Foundation to promote campus safety, and specifically the safety of women on campuses,  
36 among other goals;

37 WHEREAS, the University, in order to improve campus safety, established its new  
38 Center for Violence Prevention, among other initiatives;

39 WHEREAS, on October 21, 2020, the parties, mutually desiring to resolve all litigation  
40 between them fully and finally, signed a Settlement Agreement establishing the following;

41 WHEREAS, the defendants agreed to pay the plaintiffs a settlement of \$10,500,000 no  
42 later than March 31, 2021;

43 WHEREAS, the University agreed to make a charitable donation to the Lauren  
44 McCluskey Foundation of \$3,000,000 no later than March 31, 2021;

45 WHEREAS, the parties agreed that this donation and any earnings on it will be used  
46 exclusively to support the campus safety charitable activities of the Lauren McCluskey  
47 Foundation and no other purpose, including without limitation any political action;

48 WHEREAS, the University agrees to construct a new Athletics Department facility with  
49 an indoor track suitable for a Track & Field team to practice, compete, and host competitions,  
50 and that this facility will either bear the name of Lauren McCluskey or jointly the name of  
51 Lauren McCluskey and the name of a major donor to the construction of the building, no later  
52 than December 31, 2030;

53 WHEREAS, the plaintiffs acknowledge that the University's success in raising  
54 philanthropic funds to complete the Athletics Department facility will depend in large part on  
55 the plaintiff's participation in and support of these efforts;

56 WHEREAS, should the University be unsuccessful, despite its best and good faith  
57 efforts, in raising philanthropic funds to complete the Athletics Department facility by

58 December 31, 2030, the University will make an additional donation to the Lauren McCluskey  
59 Foundation of \$3,000,000;

60 WHEREAS, the University agrees to name its Center for Violence Prevention the  
61 "McCluskey Center for Violence Prevention," in perpetuity for the life of the center;

62 WHEREAS, within 15 days of receiving the settlement and donation, the plaintiffs  
63 agree to file all documents required and take all action necessary for dismissal with prejudice  
64 of the aforementioned cases, and furthermore, upon these payments, to release the state of  
65 Utah, its Board and Commissioner of Higher Education, the University of Utah, its trustees and  
66 independent reviewers, and their agents, their insurers, their current and former employees, and  
67 all parties to the Litigation, in their official capacities and individually, from all grievances,  
68 complaints, claims, or costs of any kind, including attorney fees, that the plaintiffs had, now  
69 have, or may have in the future in connection with events causing damages of any kind relating  
70 in any way to Lauren, and any other matter known or unknown including, without limitation,  
71 claims under any governing policy, rule, regulation, or federal or state law;

72 WHEREAS, pursuant to Utah Code Section [63G-10-202](#), litigation settlements which  
73 will cost government entities more than \$1,000,000 to implement require the Utah Legislature's  
74 approval before execution; and

75 WHEREAS, after the Legislature grants approval by means of this resolution, the state  
76 risk manager shall have authority to settle the above-referenced claims pursuant to Utah Code  
77 Subsection 63G-10-503(5):

78 NOW, THEREFORE, BE IT RESOLVED that the Utah Legislature approves the  
79 proposed settlement agreement for McCluskey v. Utah, Civil No. 2:19-cv-00449-HCN-JCB,  
80 and McCluskey v. Utah, Civil No. 200903724.