

**Representative Candice B. Pierucci** proposes the following substitute bill:

**HOPE SCHOLARSHIP PROGRAM**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Candice B. Pierucci**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill creates the Hope Scholarship Program.

**Highlighted Provisions:**

This bill:

- ▶ requires a scholarship granting organization and the state auditor to submit reports on the Hope Scholarship Program (program);
- ▶ defines terms;
- ▶ authorizes a scholarship granting organization to establish scholarship accounts on behalf of eligible students to pay for private education goods and services starting in the 2023-24 school year;
- ▶ requires the board to contract with, no later than October 1, 2022, a scholarship granting organization to administer the program;
- ▶ prohibits a scholarship granting organization from accepting scholarship funds in certain circumstances;
- ▶ requires private schools and service providers to meet certain standards to be eligible to receive scholarship funds;
- ▶ authorizes a scholarship granting organization to receive donations to the program;
- ▶ requires the scholarship granting organization to conduct audits;



- 26           ▶ prohibits certain regulations of eligible schools and eligible service providers;
- 27           ▶ requires background checks for employees and officers of a scholarship granting
- 28 organization;
- 29           ▶ enacts program funding provisions;
- 30           ▶ classifies scholarship student's and scholarship account information as a protected
- 31 record; and
- 32           ▶ repeals a provision codifying a chapter title.

33 **Money Appropriated in this Bill:**

34           This bill appropriates in fiscal year 2023:

- 35           ▶ to State Board of Education -- Contracted Initiatives and Grants -- Hope Scholarship
- 36 Program, as an appropriation:
- 37           • from Education Fund, ongoing \$36,000,000; and
- 38           • from Education Fund, one-time (\$34,000,000), leaving \$2,000,000 for Fiscal
- 39 Year 2023.

40 **Other Special Clauses:**

41           None

42 **Utah Code Sections Affected:**

43 AMENDS:

44           **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,

45 and 382

46 ENACTS:

- 47           **53E-1-202.3**, Utah Code Annotated 1953
- 48           **53F-6-401**, Utah Code Annotated 1953
- 49           **53F-6-402**, Utah Code Annotated 1953
- 50           **53F-6-403**, Utah Code Annotated 1953
- 51           **53F-6-404**, Utah Code Annotated 1953
- 52           **53F-6-405**, Utah Code Annotated 1953
- 53           **53F-6-406**, Utah Code Annotated 1953
- 54           **53F-6-407**, Utah Code Annotated 1953
- 55           **53F-6-408**, Utah Code Annotated 1953
- 56           **53F-6-409**, Utah Code Annotated 1953

57 [53F-6-410](#), Utah Code Annotated 1953

58 [53F-6-411](#), Utah Code Annotated 1953

59 REPEALS:

60 [53F-6-101](#), as enacted by Laws of Utah 2018, Chapter 2



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

63 Section 1. Section [53E-1-202.3](#) is enacted to read:

64 **[53E-1-202.3. Report to the Public Education Appropriations Subcommittee on the](#)**  
65 **Hope Scholarship Program.**

66 Beginning in 2024, a scholarship granting organization, as defined in Section  
67 [53F-6-401](#), and the state auditor, shall, in accordance with Section [68-3-14](#), annually submit the  
68 respective reports described in Section [53F-6-411](#) to the Public Education Appropriations  
69 Subcommittee.

70 Section 2. Section [53F-6-401](#) is enacted to read:

71 **CHAPTER 6. STATE FUNDING -- PROGRAMS ADMINISTERED BY OTHER**  
72 **ENTITIES**

73 **Part 4. Hope Scholarship Program**

74 **[53F-6-401. Definitions.](#)**

75 (1) (a) "Eligible school" means a private school that:

76 (i) provides kindergarten, elementary, or secondary education; and

77 (ii) meets the requirements of and is approved by a scholarship granting organization  
78 under Section [53F-6-408](#).

79 (b) "Eligible school" does not include an eligible service provider.

80 (2) "Eligible student" means a student who:

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

82 (b) is a resident of the state; and

83 (c) during the school year for which the student is applying for a scholarship, account is  
84 not:

85 (i) a student who receives a scholarship under the Carson Smith Scholarship Program  
86 created in Section [53F-4-302](#);

87 (ii) a student who receives a scholarship under the Special Needs Opportunity

88 Scholarship Program established in Section 53E-7-402; or

89 (iii) enrolled in an LEA.

90 (3) (a) "Eligible service provider" means a private program or service that:

91 (i) provides educational services; and

92 (ii) meets the requirements of and is approved by a scholarship granting organization  
93 under Section 53F-6-409.

94 (b) "Eligible service provider" does not include:

95 (i) an eligible school; or

96 (ii) a retailer or other private business that provides goods for a one-time purchase or  
97 rental.

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

101 (5) "Hope Scholarship Program" or "program" means the scholarship program created  
102 in Section 53F-6-402.

103 (6) "Officer" means:

104 (a) a member of the board of a scholarship granting organization; or

105 (b) the chief administrative officer of a scholarship granting organization.

106 (7) "Program donation" means a donation to the program described in Section  
107 53F-6-405.

108 (8) "Qualifying service provider" means:

109 (a) an eligible school approved by the scholarship granting organization in accordance  
110 with Section 53F-6-408; or

111 (b) an eligible service provider approved by the scholarship granting organization in  
112 accordance with Section 53F-6-409.

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

116 (10) "Scholarship account" means an account established and maintained by a  
117 scholarship granting organization on behalf of a scholarship student for the purpose of paying  
118 for a scholarship expense with scholarship funds.

119 (11) "Scholarship expense" means an expense incurred in the education of a  
120 scholarship student as described in Section 53F-6-402 for:

121 (a) a service provided by a qualifying service provider; or  
122 (b) goods.

123 (12) "Scholarship funds" means funds:

124 (a) appropriated by the Legislature for the program; or  
125 (b) donated under Section 53F-6-405.

126 (13) "Scholarship granting organization" means an organization that is:

127 (a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and  
128 (b) recognized through an agreement with the state board as a scholarship granting  
129 organization, as described in Section 53F-6-404.

130 (14) (a) "Scholarship employee" means an individual working in a position in which  
131 the individual's salary, wages, pay, or compensation, including as a contractor, is paid from  
132 scholarship funds.

133 (b) "Scholarship employee" does not include an individual who volunteers at a  
134 scholarship granting organization or qualifying service provider.

135 (15) "Scholarship student" means an eligible student for whom a scholarship account is  
136 established and maintained in accordance with this part.

137 Section 3. Section 53F-6-402 is enacted to read:

138 **53F-6-402. Hope Scholarship Program -- Scholarship account application --**  
139 **Scholarship expenses -- Program information.**

140 (1) There is established the Hope Scholarship Program under which, beginning in the  
141 2023-24 school year, a parent may apply to a scholarship granting organization on behalf of the  
142 parent's student to establish and maintain a scholarship account to cover the cost of a  
143 scholarship expense.

144 (2) (a) The scholarship granting organization shall establish and maintain, in  
145 accordance with this part, a scholarship account for an eligible student.

146 (b) The scholarship granting organization shall:

147 (i) determine that a student meets the requirements to be an eligible student; and

148 (ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a  
149 scholarship account for the scholarship student to pay for the cost of one or more scholarship

150 expenses incurred by the student.

151 (c) Each year, subject to this part, an eligible student is eligible for no more than:

152 (i) for an eligible student in grades 1 through 12 whose family income is:

153 (A) at or below 200% of the federal poverty level, an amount equivalent to the value of

154 the weighted pupil unit multiplied by 2;

155 (B) between 200% and 370% of the federal poverty level, an amount equivalent to the

156 value of the weighted pupil unit multiplied by 1.5;

157 (C) between 370% and 555% of the federal poverty level, an amount equivalent to the

158 value of the weighted pupil unit multiplied by 1; and

159 (D) subject to Subsection (3)(d), at or above 555% of the federal poverty level, an

160 amount equivalent to the value of the weighted pupil unit multiplied by 0.75; and

161 (ii) for an eligible student in kindergarten whose family income is:

162 (A) at or below 200% of the federal poverty level, an amount equivalent to the value of

163 the weighted pupil unit multiplied by 1;

164 (B) between 200% and 370% of the federal poverty level, an amount equivalent to the

165 value of the weighted pupil unit multiplied by 0.75;

166 (C) between 370% and 555% of the federal poverty level, an amount equivalent to the

167 value of the weighted pupil unit multiplied by 0.5; and

168 (D) subject to Subsection (3)(d), at or above 555% of the federal poverty level, an

169 amount equivalent to the value of the weighted pupil unit multiplied by 0.375.

170 (d) Any increase in the value of the weighted pupil unit shall be reflected in funds

171 available for the scholarship student in the student's scholarship account during the time that

172 the student is a scholarship student.

173 (3) (a) A scholarship granting organization shall establish a scholarship account on

174 behalf of an eligible student who submits a timely application, unless the number of

175 applications exceed available scholarship funds for the school year and except as provided in

176 Subsection (3)(d).

177 (b) If the number of applications exceeds the available scholarship funds for a school

178 year, the scholarship granting organization shall select students on a random basis, except as

179 provided in Subsection (6).

180 (c) An eligible student shall submit an application for each school year that the student

181 intends to receive scholarship funds.

182 (d) (i) A scholarship granting organization may not approve an application by or  
183 establish a scholarship account on behalf of a student whose family income is at or above  
184 1,000% of the federal poverty level.

185 (ii) Notwithstanding Subsection (3)(d)(i), if in the 2026-27 school year or after, the  
186 scholarship granting organization disburses 25% of scholarship funds to scholarship accounts  
187 maintained for students whose family income is at or below 200% of the federal poverty level,  
188 in the following and subsequent school years, the scholarship granting organization may  
189 approve an application and establish a scholarship account on behalf of an eligible student  
190 whose family income is at or above 1,000% of the federal poverty level.

191 (4) (a) An application for a scholarship account shall contain an acknowledgment by  
192 the student's parent that the qualifying service provider selected by the parent for the student to  
193 enroll in or engage is capable of providing education services appropriate for the student.

194 (b) A scholarship account application form shall contain the following statement:  
195 "I acknowledge that: A private education service provider may not provide the same  
196 level of disability services that are provided in a public school;

197 (1) I will assume full financial responsibility for the education of my scholarship  
198 recipient if I agree to this scholarship account;

199 (2) Agreeing to establish this scholarship account has the same effect as a parental  
200 refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the  
201 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

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

203 (c) Upon agreeing to establish a scholarship account, the parent assumes full financial  
204 responsibility for the education of the scholarship student, including the balance of any expense  
205 incurred at a qualifying service provider or for goods that are not paid for by the scholarship  
206 student's scholarship account.

207 (d) Agreeing to establish a scholarship account has the same effect as a parental refusal  
208 to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with  
209 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

210 (e) The creation of the program or establishment of a scholarship account on behalf of  
211 a student does not:

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

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

215 (5) A scholarship granting organization may not charge a scholarship account  
216 application fee.

217 (6) A scholarship granting organization:

218 (a) shall give an enrollment preference to an eligible student whose family income is at  
219 or below 200% of the federal poverty level; and

220 (b) may give an enrollment preference to the following eligible students:

221 (i) an eligible student who in the previous school year used a scholarship account  
222 established under this part to enroll in a qualifying service provider; or

223 (ii) a sibling of an eligible student who:

224 (A) is receiving scholarship funds from a scholarship account at the time the sibling  
225 applies for a scholarship account; or

226 (B) received scholarship funds in the school year immediately preceding the school  
227 year for which the sibling is applying for a scholarship account.

228 (7) (a) Subject to Subsections (7)(c) and (d), a scholarship account may be used to pay  
229 for an expense:

230 (i) incurred in the education of a scholarship student; and

231 (ii) approved by the scholarship granting organization.

232 (b) An approved scholarship expense includes:

233 (i) tuition, fees, textbooks, or other curricular or extracurricular materials, including  
234 supplemental materials or associated online instruction required by a curriculum;

235 (ii) tutoring services;

236 (iii) fees associated with standardized assessments, advanced placement examinations,  
237 a state-recognized industry certification examination, or any examination related to college or  
238 university admission;

239 (iv) fees for a preparatory course for an exam described in Subsection (7)(b)(iii);

240 (v) fees for after-school or summer education programs;

241 (vi) educational therapy, if the educational therapy is provided by a licensed physician  
242 or licensed practitioner, including occupational, behavioral, physical, or speech-language



243 therapies;  
244 (vii) fees for transportation paid to a fee-for-service transportation provider for a  
245 scholarship student to travel to and from a qualifying service provider; and  
246 (viii) any other expense for a good or service incurred in the education of a scholarship  
247 student.  
248 (c) A scholarship account may not be used for an expense that is not incurred in  
249 advancing an eligible student's education, including:  
250 (i) a rehabilitation program that is not primarily for education purposes; or  
251 (ii) a travel expense other than the expense described in Subsection (7)(b)(vii).  
252 (d) If a scholarship expense is:  
253 (i) for a service, the scholarship granting organization may not approve the scholarship  
254 expense unless:  
255 (A) the service is provided by a qualifying service provider; and  
256 (B) the scholarship granting organization determines that the expense is incurred in the  
257 education of the scholarship student; or  
258 (ii) for a good, the scholarship granting organization may not approve the scholarship  
259 expense unless:  
260 (A) the scholarship student submits a receipt showing the cost and type of good and  
261 name of retailer; and  
262 (B) the scholarship granting organization determines that the expense is incurred in the  
263 education of the scholarship student.  
264 (e) The parent of a scholarship student may not receive scholarship funds as payment  
265 for the parent's time spent educating the parent's child.  
266 (8) Funds disbursed under this part to a scholarship account on behalf of a scholarship  
267 student do not constitute state taxable income to the parent of the scholarship student.  
268 (9) The scholarship granting organization shall prepare and disseminate to a parent  
269 applying for a scholarship account on behalf of a student:  
270 (a) information on the program; and  
271 (b) information on how a parent may enroll the parent's student in a public school.  
272 (10) The state board shall provide information on the state board's website, including  
273 scholarship account information, the scholarship granting organization's contact information,

274 and an overview of the program.

275 Section 4. Section **53F-6-403** is enacted to read:

276 **53F-6-403. Qualifying service providers.**

277 (1) Before the beginning of the school year immediately following a school year in  
278 which a qualifying service provider receives scholarship funds equal to or more than \$250,000,  
279 the qualifying service provider shall file with the scholarship granting organization:

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

282 (b) financial information that demonstrates the financial viability of the qualifying  
283 service provider, as required by the scholarship granting organization.

284 (2) If a scholarship granting organization determines that a qualifying service provider  
285 has violated a provision of this part, the scholarship granting organization may interrupt  
286 disbursement of or withhold scholarship funds from the qualifying service provider.

287 (3) (a) If the scholarship granting organization determines that a qualifying service  
288 provider no longer meets the eligibility requirements described in this part, the scholarship  
289 granting organization may withdraw the organization's approval of the qualifying service  
290 provider.

291 (b) A person that does not have the scholarship granting organization's approval under  
292 Section [53F-6-408](#) or Section [53F-6-409](#), respectively, may not accept scholarship funds for  
293 services under this part.

294 (4) A qualifying service provider shall, when administering an annual assessment  
295 required under Section [53F-6-408](#), ensure that the qualifying service provider uses a  
296 norm-referenced assessment.

297 Section 5. Section **53F-6-404** is enacted to read:

298 **53F-6-404. State board procurement and review of scholarship granting**  
299 **organization -- Failure to comply.**

300 (1) (a) In accordance with Subsection (2) and Title 63G, Chapter 6a, Utah Procurement  
301 Code, the state board shall issue a request for proposals and enter an agreement with no more  
302 than one organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue  
303 Code, to be recognized by the state board as a scholarship granting organization.

304 (b) An organization that responds to a request for proposals described in Subsection

305 (1)(a) shall submit the following information in the organization's response:

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

307 (ii) a copy of the organization's Internal Revenue Service determination letter

308 qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue

309 Code;

310 (iii) a description of the methodology the organization will use to verify that a student

311 is an eligible student under this part; and

312 (iv) a description of the organization's proposed scholarship account application

313 process.

314 (2) The state board shall enter into an agreement described in Subsection (1)(a) on or

315 before October 1, 2022.

316 (3) The state board may regulate and take enforcement action as necessary against a

317 scholarship granting organization in accordance with Section [53E-3-401](#).

318 (4) (a) If the state board determines that a scholarship granting organization has

319 violated a provision of this part or state board rule, the state board shall send written notice to

320 the scholarship granting organization explaining the violation and the remedial action required

321 to correct the violation.

322 (b) A scholarship granting organization that receives a notice described in Subsection

323 (4)(a) shall, no later than 60 days after the day on which the scholarship granting organization

324 receives the notice, correct the violation and report the correction to the state board.

325 (c) (i) If a scholarship granting organization that receives a notice described in

326 Subsection (4)(a) fails to correct a violation in the time period described in Subsection (4)(b),

327 the state board may bar the scholarship granting organization from further participation in the

328 program.

329 (ii) A scholarship granting organization may appeal a decision made by the state board

330 under Subsection (4)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures

331 Act.

332 (d) A scholarship granting organization may not accept program donations or state

333 funds while the scholarship granting organization:

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

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

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

339 (5) The state board shall provide for a process for a scholarship granting organization  
340 to report information as required under Section [53F-6-405](#).

341 (6) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah  
342 Administrative Rulemaking Act for:

343 (a) subject to Subsection (7), the administration of scholarship accounts and  
344 disbursement of scholarship funds if a scholarship granting organization is barred from  
345 participating in the program under Subsection (4)(c)(i); and

346 (b) audit and report requirements as described in Section [53F-7-405](#).

347 (7) The state board shall include in a rule made under Subsection (6)(a) measures,  
348 which may include entering a new contract with an alternative scholarship granting  
349 organization under this section, to ensure that the establishment and maintenance of  
350 scholarship accounts and enrollment in the program are not disrupted if the scholarship  
351 granting organization is barred from participating in the program.

352 Section 6. Section **53F-6-405** is enacted to read:

353 **53F-6-405. Scholarship granting organization duties -- Program donations --**  
354 **Audit -- Prohibitions.**

355 (1) A scholarship granting organization shall:

356 (a) review applications from and determine if a person is:

357 (i) an eligible school under Section [53F-6-408](#); or

358 (ii) an eligible service provider under Section [53F-6-409](#);

359 (b) accept program donations;

360 (c) adopt an application process, including application deadlines, in accordance with  
361 Section [53F-6-402](#);

362 (d) review and approve an application for a scholarship account;

363 (e) disburse through each scholarship account scholarship funds on the parent's behalf  
364 to a qualifying service provider in which the parent's scholarship student is enrolled or has  
365 engaged;

366 (f) adopt a process that allows a parent to use a scholarship account to receive a

367 reimbursement for a good that is a scholarship expense;

368 (g) ensure that all revenue from program donations' interest or investments is spent on  
369 scholarship expenses;

370 (h) prohibit a scholarship granting organization scholarship employee or officer from  
371 handling, managing, or processing scholarship funds, if, based on a criminal background check  
372 conducted by the state board in accordance with Section 53F-6-407, the state board identifies  
373 the scholarship granting organization scholarship employee or officer as posing a risk to the  
374 appropriate use of scholarship funds;

375 (i) ensure that scholarship funds in a scholarship account can be transferred during the  
376 school year to a different qualifying service provider that accepts or engages with the  
377 scholarship student;

378 (j) report to the state board on or before June 1 of each year the following information,  
379 prepared by a certified public accountant:

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

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

383 (iii) the total number and total dollar amount of scholarship funds disbursed during the  
384 previous calendar year;

385 (k) (i) require a parent to notify the scholarship granting organization if the parent's  
386 scholarship student:

387 (A) receives scholarship funds; and

388 (B) is no longer enrolled in or engaging a qualifying service provider;

389 (ii) obtain reimbursement of scholarship funds from the qualifying service provider in  
390 which the scholarship student is no longer enrolled or engaging; and

391 (iii) require the qualifying service provider to reimburse scholarship funds to the  
392 scholarship granting organization; and

393 (l) provide an online portal for the parent of a scholarship student to access the  
394 scholarship student's account.

395 (2) A scholarship granting organization shall demonstrate the scholarship granting  
396 organization's financial accountability by annually submitting to the state board a financial  
397 information report that is prepared by a certified public accountant.

398 (3) (a) The scholarship granting organization shall:  
399 (i) contract for an annual and random audits on scholarship accounts, conducted by a  
400 certified public accountant who is independent from:  
401 (A) the scholarship granting organization; and  
402 (B) the scholarship granting organization's accounts and records pertaining to  
403 scholarship funds; and  
404 (ii) in accordance with Subsection (3)(b), report the results of the audit to the state  
405 board for review.  
406 (b) For the report described in Subsection (3)(a)(ii), the scholarship granting  
407 organization shall:  
408 (i) include the scholarship granting organization's financial statements in a format that  
409 meets generally accepted accounting principles; and  
410 (ii) submit the report to the state board no later than 180 days after the last day of a  
411 scholarship granting organization's fiscal year.  
412 (c) The certified public accountant shall conduct an audit described in Subsection  
413 (3)(a)(i) in accordance with generally accepted auditing standards.  
414 (d) (i) The state board shall review a report submitted under this section and may  
415 request that the scholarship granting organization revise or supplement the report if the report  
416 is not in compliance with the provisions of this Subsection (3).  
417 (ii) A scholarship granting organization shall provide a revised report or supplement to  
418 the report no later than 45 days after the day on which the state board makes a request  
419 described in Subsection (3)(d)(i).  
420 (4) (a) A scholarship granting organization may not:  
421 (i) disburse scholarship funds to a qualifying service provider if:  
422 (A) the scholarship granting organization determines that the qualifying service  
423 provider intentionally or substantially misrepresented information on overpayment;  
424 (B) the qualifying service provider fails to refund an overpayment in a timely manner;  
425 or  
426 (C) the qualifying service provider routinely fails to provide scholarship students with  
427 promised educational services; or  
428 (ii) reimburse with scholarship funds an individual for the purchase of a good if the

429 scholarship granting organization determines that:

430 (A) the scholarship student, or parent of the scholarship student, requesting  
431 reimbursement intentionally or substantially misrepresented the cost or educational purpose of  
432 the good; or

433 (B) the good was not used exclusively by the scholarship student seeking  
434 reimbursement.

435 (b) A scholarship granting organization shall notify a scholarship student if the  
436 scholarship granting organization stops disbursement of the scholarship student's scholarship  
437 funds to a qualifying service provider under Subsection (4)(a)(i) or refuses reimbursement  
438 under Subsection (4)(a)(ii).

439 (5) (a) At any time, a scholarship student may change the qualifying service provider to  
440 whom the scholarship student's scholarship account makes distributions.

441 (b) If a scholarship student changes during the school year the student's enrollment in  
442 or engagement with a qualifying service provider to another qualifying service provider, the  
443 scholarship granting organization may prorate scholarship funds between the qualifying service  
444 providers based on the time the scholarship student was enrolled with, or the goods or services  
445 were received by, the scholarship student.

446 (6) A scholarship granting organization may not:

447 (a) establish a scholarship account on behalf of a relative of the scholarship granting  
448 organization's officer or scholarship employee; or

449 (b) disburse scholarship funds to a qualifying service provider at which the scholarship  
450 student has a relative who is an officer.

451 Section 7. Section **53F-6-406** is enacted to read:

452 **53F-6-406. Qualifying service provider regulation -- Student records -- Status of**  
453 **scholarship student.**

454 (1) Nothing in this part:

455 (a) grants additional authority to any state agency or LEA to regulate private schools or  
456 providers except as expressly described in this part; or

457 (b) expands the regulatory authority of the state, a state office holder, or a local school  
458 district to impose any additional regulation of a qualifying service provider beyond those  
459 necessary to enforce the requirements of this part.

460 (2) A qualifying service provider shall be given the maximum freedom to provide for  
461 the educational needs of a scholarship student who attends or engages with the qualifying  
462 service provider without unlawful governmental control.

463 (3) Except as provided in Section 53F-7-403 and, respectively, Section 53F-6-408 or  
464 53F-6-409, a qualifying service provider may not be required to alter the qualifying service  
465 provider's creed, practices, admission policy, or curriculum in order to accept scholarship  
466 funds.

467 (4) A local education agency or school in a local education agency in which a  
468 scholarship student was previously enrolled shall provide to a qualifying service provider in  
469 which the scholarship student is currently enrolled or engaging a copy of all requested school  
470 records relating to the scholarship student, subject to:

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

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

473 (5) A scholarship student is not:

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

475 (b) subject to state statute, state administrative rules, or other state regulations that  
476 govern the attendance and education of a student enrolled in the public education system unless  
477 otherwise explicitly provided in state statute.

478 Section 8. Section 53F-6-407 is enacted to read:

479 **53F-6-407. Background checks for scholarship granting organization -- Bureau**  
480 **responsibilities -- Fees.**

481 (1) As used in this section:

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

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

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

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

488 (e) "Personal identifying information" means:

489 (i) current name;

490 (ii) former names;



- 491 (iii) nicknames;
- 492 (iv) aliases;
- 493 (v) date of birth;
- 494 (vi) address;
- 495 (vii) telephone number;
- 496 (viii) driver license number or other government-issued identification number;
- 497 (ix) social security number; and
- 498 (x) fingerprints.
- 499 (f) "Rap back system" means a system that enables authorized entities to receive
- 500 ongoing status notifications of any criminal history reported on individuals whose fingerprints
- 501 are registered in the system.
- 502 (g) "WIN Database" means the Western Identification Network Database that consists
- 503 of eight western states sharing one electronic fingerprint database.
- 504 (2) The scholarship granting organization shall:
- 505 (a) require an applicant to submit to a criminal background check and ongoing
- 506 monitoring;
- 507 (b) collect the following from an applicant:
- 508 (i) personal identifying information;
- 509 (ii) a fee described in Subsection (4); and
- 510 (iii) consent, on a form specified by the scholarship granting organization, for:
- 511 (A) an initial fingerprint-based background check by the bureau;
- 512 (B) retention of personal identifying information for ongoing monitoring through
- 513 registration with the systems described in Subsection (3); and
- 514 (C) disclosure of any criminal history information to the scholarship granting
- 515 organization;
- 516 (c) submit an applicant's personal identifying information to the bureau for:
- 517 (i) an initial fingerprint-based background check by the bureau; and
- 518 (ii) ongoing monitoring through registration with the systems described in Subsection
- 519 (3) if the results of the initial background check do not contain disqualifying criminal history
- 520 information as determined by the scholarship granting organization;
- 521 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure

522 that the scholarship granting organization only receives notifications for individuals with whom  
523 the scholarship granting organization maintains an authorizing relationship; and

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

526 (3) The bureau shall:

527 (a) upon request from the scholarship granting organization, register the fingerprints  
528 submitted by the scholarship granting organization as part of a background check with the WIN  
529 Database rap back system, or any successor system;

530 (b) notify the scholarship granting organization when a new entry is made against an  
531 individual whose fingerprints are registered with the WIN database rap back regarding:

532 (i) an alleged offense; or

533 (ii) a conviction, including a plea in abeyance;

534 (c) assist the scholarship granting organization to identify the appropriate privacy risk  
535 mitigation strategy that is to be used to ensure that the scholarship granting organization only  
536 receives notifications for individuals with whom the authorized entity maintains an authorizing  
537 relationship; and

538 (d) collaborate with the scholarship granting organization to provide training to  
539 appropriate scholarship granting organization employees on the notification procedures and  
540 privacy risk mitigation strategies described in this section.

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

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

545 Section 9. Section **53F-6-408** is enacted to read:

546 **53F-6-408. Eligible schools.**

547 (1) To be an eligible school to receive scholarship funds on behalf of a scholarship  
548 student, a private school with 150 or more enrolled students shall:

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

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

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

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

559 (ii) submit the audit report or report of the agreed upon procedure to the scholarship  
560 granting organization when the private school applies to receive scholarship funds;

561 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;  
562 (c) provide a written disclosure to the parent of each prospective scholarship student,  
563 before the student is enrolled, of:

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

566 (ii) tuition costs;  
567 (iii) additional fees a parent will be required to pay during the school year; and  
568 (iv) the skill or grade level of the curriculum in which the prospective scholarship  
569 student will participate;

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

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

574 (e) employ or contract with teachers who:

575 (i) hold baccalaureate or higher degrees;  
576 (ii) have at least three years of teaching experience in public or private schools; or  
577 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to  
578 provide instruction in the subject or subjects taught;

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

583 (i) an employee who does not hold:

584 (A) a current Utah educator license issued by the state board under Title 53E, Chapter  
585 6, Education Professional Licensure; or  
586 (B) if the private school is not physically located in Utah, a current educator license in  
587 the state where the private school is physically located;  
588 (ii) a contract employee; and  
589 (iii) a volunteer who is given significant unsupervised access to a student in connection  
590 with the volunteer's assignment; and  
591 (g) provide to the parent of a scholarship student the relevant credentials of the teachers  
592 who will be teaching the scholarship student.  
593 (2) A private school described in Subsection (1) is not eligible to enroll a scholarship  
594 student if:  
595 (a) the private school requires a scholarship student to sign a contract waiving the  
596 student's rights to transfer to another qualifying service provider during the school year;  
597 (b) the audit report submitted under Subsection (1)(a) contains a going concern  
598 explanatory paragraph; or  
599 (c) the report of the agreed upon procedures submitted under Subsection (1)(a) shows  
600 that the private school does not have adequate working capital to maintain operations for the  
601 first full year, as determined under Subsection (1)(a).  
602 (3) A private school with fewer than 150 enrolled students shall:  
603 (a) meet the requirements set forth in Subsections (2)(a), (5), and (7); and  
604 (b) meet the same requirements set forth for an eligible service provider as described in  
605 Subsection [53F-6-409\(1\)](#).  
606 (4) Residential treatment facilities licensed by the state are not eligible to receive  
607 scholarship funds.  
608 (5) A private school intending to receive scholarship funds shall submit an application  
609 to the scholarship granting organization.  
610 (6) The scholarship granting organization shall:  
611 (a) if the private school meets the eligibility requirements of this section, recognize the  
612 private school as an eligible school and approve the private school's application to disburse  
613 scholarship funds on behalf of a scholarship student; and  
614 (b) make available to the public a list of eligible schools approved under this section.

615 (7) A private school approved under this section that changes ownership shall:  
616 (a) submit a new application to the scholarship granting organization; and  
617 (b) demonstrate that the private school continues to meet the eligibility requirements of  
618 this section.

619 Section 10. Section **53F-6-409** is enacted to read:

620 **53F-6-409. Eligible service providers.**

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

622 (a) provide to the scholarship granting organization:

623 (i) a federal employer identification number;

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

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

626 scholarship student and per student costs for each program or service; and

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

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

630 (2) The scholarship granting organization shall adopt policies that maximize the  
631 number of eligible service providers while ensuring education programs or services provided  
632 through the program meet student needs and otherwise comply with this part.

633 (3) A private program or service intending to receive scholarship funds shall submit an  
634 application to the scholarship granting organization.

635 (4) The scholarship granting organization shall:

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

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

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

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

645 (b) demonstrate that the private program or service continues to meet the eligibility

646 requirements of this section.

647 Section 11. Section **53F-6-410** is enacted to read:

648 **53F-6-410. Program funding.**

649 (1) Subject to budget constraints, beginning in a fiscal year that starts July 1, 2025, the  
650 Legislature shall appropriate to the program:

651 (a) an amount equal to the amount appropriated to the program in the previous fiscal  
652 year; and

653 (b) a sum equal to:

654 (i) the amount appropriated in the previous fiscal year; and

655 (ii) the annual inflation adjustment as described in Subsection [53F-2-208\(1\)\(a\)](#).

656 (2) For each fiscal year, the state board shall distribute to the scholarship granting  
657 organization:

658 (a) no later than August 1, 50% of available appropriated state funds;

659 (b) no later than November 1, the next 25% of available appropriated state funds; and

660 (c) no later than February 1, any remaining appropriated state funds.

661 (3) If during the school year a scholarship student enters or reenters the public  
662 education system:

663 (a) no later than five business days after the student withdraws from the program, the  
664 scholarship granting organization shall immediately remit the balance in the scholarship  
665 student's scholarship account to the state board;

666 (b) no later than five business days upon receiving the payment described in Subsection  
667 (3)(a), the state board shall forward the balance to the LEA in which the student is enrolled;  
668 and

669 (c) the state board may not distribute any remaining state funds under Subsection (2) to  
670 the scholarship granting organization for the student who enters or reenters the public  
671 education system.

672 (4) At the end of a school year, a scholarship granting organization shall withdraw any  
673 remaining scholarship funds in a scholarship account and retain the scholarship funds for  
674 disbursement in the following year.

675 (5) (a) The scholarship granting organization may use for administration of the  
676 program up to 5 percent of funds appropriated by the Legislature.

677 (b) Subject to Subsection (5)(c), funds the scholarship granting organization receives  
678 for administration of the program are nonlapsing.

679 (c) The scholarship granting organization may not retain administrative cost balances  
680 in excess of 25% of total administrative costs in any fiscal year.

681 Section 12. Section **53F-6-411** is enacted to read:

682 **53F-6-411. Reports.**

683 (1) Subject to Subsection (2), and in accordance with Section [53E-1-202.3](#) and the  
684 Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, a scholarship granting  
685 organization shall, beginning in 2024, annually submit a report on the program to the Public  
686 Education Appropriations Subcommittee no later than September 1 that includes:

687 (a) the total amount of tuition and fees qualifying service providers charged for the  
688 current year and previous two years;

689 (b) the total amount of goods paid for with scholarship funds in the previous year and a  
690 general characterization of the types of goods;

691 (c) administrative costs of the program;

692 (d) the number of scholarship students from each school district;

693 (e) the percentage of first-time scholarship students who were enrolled in a public  
694 school during the previous school year or who entered kindergarten or a higher grade for the  
695 first time in Utah;

696 (f) methods used by the scholarship granting organization to determine whether a  
697 student is an eligible student;

698 (g) the scholarship granting organization strategy and outreach efforts to reach eligible  
699 students whose family income is at or below 200% of the federal poverty level and obstacles to  
700 enrolling those eligible students; and

701 (h) any other information requested by the subcommittee.

702 (2) The scholarship granting organization shall include in the report submitted in 2024  
703 information on steps the scholarship granting organization has taken and processes adopted to  
704 implement the program.

705 (3) In accordance with Section [53E-1-202.3](#) and the Family Educational Rights and  
706 Privacy Act, 20 U.S.C. Sec. 1232g, the state auditor shall, beginning in 2024, annually submit a  
707 report on the cost-effectiveness of the program to the Public Education Appropriations

708 Subcommittee no later than September 1.

709 Section 13. Section **63G-2-305** is amended to read:

710 **63G-2-305. Protected records.**

711 The following records are protected if properly classified by a governmental entity:

712 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret  
713 has provided the governmental entity with the information specified in Section [63G-2-309](#);

714 (2) commercial information or nonindividual financial information obtained from a  
715 person if:

716 (a) disclosure of the information could reasonably be expected to result in unfair  
717 competitive injury to the person submitting the information or would impair the ability of the  
718 governmental entity to obtain necessary information in the future;

719 (b) the person submitting the information has a greater interest in prohibiting access  
720 than the public in obtaining access; and

721 (c) the person submitting the information has provided the governmental entity with  
722 the information specified in Section [63G-2-309](#);

723 (3) commercial or financial information acquired or prepared by a governmental entity  
724 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
725 commodities that will interfere with a planned transaction by the governmental entity or cause  
726 substantial financial injury to the governmental entity or state economy;

727 (4) records, the disclosure of which could cause commercial injury to, or confer a  
728 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
729 defined in Subsection [11-13-103\(4\)](#);

730 (5) test questions and answers to be used in future license, certification, registration,  
731 employment, or academic examinations;

732 (6) records, the disclosure of which would impair governmental procurement  
733 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
734 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
735 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
736 grant has been awarded and signed by all parties:

737 (a) a bid, proposal, application, or other information submitted to or by a governmental  
738 entity in response to:



- 739 (i) an invitation for bids;
- 740 (ii) a request for proposals;
- 741 (iii) a request for quotes;
- 742 (iv) a grant; or
- 743 (v) other similar document; or
- 744 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 745 (7) information submitted to or by a governmental entity in response to a request for
- 746 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 747 the right of a person to have access to the information, after:
- 748 (a) a contract directly relating to the subject of the request for information has been
- 749 awarded and signed by all parties; or
- 750 (b) (i) a final determination is made not to enter into a contract that relates to the
- 751 subject of the request for information; and
- 752 (ii) at least two years have passed after the day on which the request for information is
- 753 issued;
- 754 (8) records that would identify real property or the appraisal or estimated value of real
- 755 or personal property, including intellectual property, under consideration for public acquisition
- 756 before any rights to the property are acquired unless:
- 757 (a) public interest in obtaining access to the information is greater than or equal to the
- 758 governmental entity's need to acquire the property on the best terms possible;
- 759 (b) the information has already been disclosed to persons not employed by or under a
- 760 duty of confidentiality to the entity;
- 761 (c) in the case of records that would identify property, potential sellers of the described
- 762 property have already learned of the governmental entity's plans to acquire the property;
- 763 (d) in the case of records that would identify the appraisal or estimated value of
- 764 property, the potential sellers have already learned of the governmental entity's estimated value
- 765 of the property; or
- 766 (e) the property under consideration for public acquisition is a single family residence
- 767 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
- 768 the property as required under Section [78B-6-505](#);
- 769 (9) records prepared in contemplation of sale, exchange, lease, rental, or other

770 compensated transaction of real or personal property including intellectual property, which, if  
771 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
772 of the subject property, unless:

773 (a) the public interest in access is greater than or equal to the interests in restricting  
774 access, including the governmental entity's interest in maximizing the financial benefit of the  
775 transaction; or

776 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
777 the value of the subject property have already been disclosed to persons not employed by or  
778 under a duty of confidentiality to the entity;

779 (10) records created or maintained for civil, criminal, or administrative enforcement  
780 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
781 release of the records:

782 (a) reasonably could be expected to interfere with investigations undertaken for  
783 enforcement, discipline, licensing, certification, or registration purposes;

784 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
785 proceedings;

786 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
787 hearing;

788 (d) reasonably could be expected to disclose the identity of a source who is not  
789 generally known outside of government and, in the case of a record compiled in the course of  
790 an investigation, disclose information furnished by a source not generally known outside of  
791 government if disclosure would compromise the source; or

792 (e) reasonably could be expected to disclose investigative or audit techniques,  
793 procedures, policies, or orders not generally known outside of government if disclosure would  
794 interfere with enforcement or audit efforts;

795 (11) records the disclosure of which would jeopardize the life or safety of an  
796 individual;

797 (12) records the disclosure of which would jeopardize the security of governmental  
798 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
799 or other appropriation or use contrary to law or public policy;

800 (13) records that, if disclosed, would jeopardize the security or safety of a correctional

801 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
802 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

803 (14) records that, if disclosed, would reveal recommendations made to the Board of  
804 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
805 Board of Pardons and Parole, or the Department of Human Services that are based on the  
806 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
807 jurisdiction;

808 (15) records and audit workpapers that identify audit, collection, and operational  
809 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
810 audits or collections;

811 (16) records of a governmental audit agency relating to an ongoing or planned audit  
812 until the final audit is released;

813 (17) records that are subject to the attorney client privilege;

814 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
815 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
816 quasi-judicial, or administrative proceeding;

817 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
818 from a member of the Legislature; and

819 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
820 legislative action or policy may not be classified as protected under this section; and

821 (b) (i) an internal communication that is part of the deliberative process in connection  
822 with the preparation of legislation between:

823 (A) members of a legislative body;

824 (B) a member of a legislative body and a member of the legislative body's staff; or

825 (C) members of a legislative body's staff; and

826 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
827 legislative action or policy may not be classified as protected under this section;

828 (20) (a) records in the custody or control of the Office of Legislative Research and  
829 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
830 legislation or contemplated course of action before the legislator has elected to support the  
831 legislation or course of action, or made the legislation or course of action public; and

832 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
833 Office of Legislative Research and General Counsel is a public document unless a legislator  
834 asks that the records requesting the legislation be maintained as protected records until such  
835 time as the legislator elects to make the legislation or course of action public;

836 (21) research requests from legislators to the Office of Legislative Research and  
837 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
838 in response to these requests;

839 (22) drafts, unless otherwise classified as public;

840 (23) records concerning a governmental entity's strategy about:

841 (a) collective bargaining; or

842 (b) imminent or pending litigation;

843 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
844 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
845 Uninsured Employers' Fund, or similar divisions in other governmental entities;

846 (25) records, other than personnel evaluations, that contain a personal recommendation  
847 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
848 personal privacy, or disclosure is not in the public interest;

849 (26) records that reveal the location of historic, prehistoric, paleontological, or  
850 biological resources that if known would jeopardize the security of those resources or of  
851 valuable historic, scientific, educational, or cultural information;

852 (27) records of independent state agencies if the disclosure of the records would  
853 conflict with the fiduciary obligations of the agency;

854 (28) records of an institution within the state system of higher education defined in  
855 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,  
856 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
857 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
858 the final decisions about tenure, appointments, retention, promotions, or those students  
859 admitted, may not be classified as protected under this section;

860 (29) records of the governor's office, including budget recommendations, legislative  
861 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
862 policies or contemplated courses of action before the governor has implemented or rejected

863 those policies or courses of action or made them public;

864 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
865 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
866 recommendations in these areas;

867 (31) records provided by the United States or by a government entity outside the state  
868 that are given to the governmental entity with a requirement that they be managed as protected  
869 records if the providing entity certifies that the record would not be subject to public disclosure  
870 if retained by it;

871 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
872 public body except as provided in Section 52-4-206;

873 (33) records that would reveal the contents of settlement negotiations but not including  
874 final settlements or empirical data to the extent that they are not otherwise exempt from  
875 disclosure;

876 (34) memoranda prepared by staff and used in the decision-making process by an  
877 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
878 other body charged by law with performing a quasi-judicial function;

879 (35) records that would reveal negotiations regarding assistance or incentives offered  
880 by or requested from a governmental entity for the purpose of encouraging a person to expand  
881 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
882 person or place the governmental entity at a competitive disadvantage, but this section may not  
883 be used to restrict access to a record evidencing a final contract;

884 (36) materials to which access must be limited for purposes of securing or maintaining  
885 the governmental entity's proprietary protection of intellectual property rights including patents,  
886 copyrights, and trade secrets;

887 (37) the name of a donor or a prospective donor to a governmental entity, including an  
888 institution within the state system of higher education defined in Section 53B-1-102, and other  
889 information concerning the donation that could reasonably be expected to reveal the identity of  
890 the donor, provided that:

891 (a) the donor requests anonymity in writing;

892 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
893 classified protected by the governmental entity under this Subsection (37); and

894 (c) except for an institution within the state system of higher education defined in  
895 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
896 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
897 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
898 by the donor or the donor's immediate family;

899 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
900 73-18-13;

901 (39) a notification of workers' compensation insurance coverage described in Section  
902 34A-2-205;

903 (40) (a) the following records of an institution within the state system of higher  
904 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
905 or received by or on behalf of faculty, staff, employees, or students of the institution:

906 (i) unpublished lecture notes;

907 (ii) unpublished notes, data, and information:

908 (A) relating to research; and

909 (B) of:

910 (I) the institution within the state system of higher education defined in Section  
911 53B-1-102; or

912 (II) a sponsor of sponsored research;

913 (iii) unpublished manuscripts;

914 (iv) creative works in process;

915 (v) scholarly correspondence; and

916 (vi) confidential information contained in research proposals;

917 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
918 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

919 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

920 (41) (a) records in the custody or control of the Office of the Legislative Auditor

921 General that would reveal the name of a particular legislator who requests a legislative audit  
922 prior to the date that audit is completed and made public; and

923 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
924 Office of the Legislative Auditor General is a public document unless the legislator asks that

925 the records in the custody or control of the Office of the Legislative Auditor General that would  
926 reveal the name of a particular legislator who requests a legislative audit be maintained as  
927 protected records until the audit is completed and made public;

928 (42) records that provide detail as to the location of an explosive, including a map or  
929 other document that indicates the location of:

930 (a) a production facility; or

931 (b) a magazine;

932 (43) information:

933 (a) contained in the statewide database of the Division of Aging and Adult Services  
934 created by Section [62A-3-311.1](#); or

935 (b) received or maintained in relation to the Identity Theft Reporting Information  
936 System (IRIS) established under Section [67-5-22](#);

937 (44) information contained in the Licensing Information System described in Title  
938 62A, Chapter 4a, Child and Family Services;

939 (45) information regarding National Guard operations or activities in support of the  
940 National Guard's federal mission;

941 (46) records provided by any pawn or secondhand business to a law enforcement  
942 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
943 Secondhand Merchandise Transaction Information Act;

944 (47) information regarding food security, risk, and vulnerability assessments performed  
945 by the Department of Agriculture and Food;

946 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
947 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
948 prepared or maintained by the Division of Emergency Management, and the disclosure of  
949 which would jeopardize:

950 (a) the safety of the general public; or

951 (b) the security of:

952 (i) governmental property;

953 (ii) governmental programs; or

954 (iii) the property of a private person who provides the Division of Emergency  
955 Management information;

956 (49) records of the Department of Agriculture and Food that provides for the  
957 identification, tracing, or control of livestock diseases, including any program established under  
958 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
959 of Animal Disease;

960 (50) as provided in Section 26-39-501:

961 (a) information or records held by the Department of Health related to a complaint  
962 regarding a child care program or residential child care which the department is unable to  
963 substantiate; and

964 (b) information or records related to a complaint received by the Department of Health  
965 from an anonymous complainant regarding a child care program or residential child care;

966 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
967 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
968 personal mobile phone number, if:

969 (a) the individual is required to provide the information in order to comply with a law,  
970 ordinance, rule, or order of a government entity; and

971 (b) the subject of the record has a reasonable expectation that this information will be  
972 kept confidential due to:

973 (i) the nature of the law, ordinance, rule, or order; and

974 (ii) the individual complying with the law, ordinance, rule, or order;

975 (52) the portion of the following documents that contains a candidate's residential or  
976 mailing address, if the candidate provides to the filing officer another address or phone number  
977 where the candidate may be contacted:

978 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
979 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,  
980 20A-9-408.5, 20A-9-502, or 20A-9-601;

981 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

982 (c) a notice of intent to gather signatures for candidacy, described in Section  
983 20A-9-408;

984 (53) the name, home address, work addresses, and telephone numbers of an individual  
985 that is engaged in, or that provides goods or services for, medical or scientific research that is:

986 (a) conducted within the state system of higher education, as defined in Section



987 53B-1-102; and

988 (b) conducted using animals;

989 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
990 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
991 recommend that the voters retain a judge including information disclosed under Subsection  
992 78A-12-203(5)(e);

993 (55) information collected and a report prepared by the Judicial Performance  
994 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter  
995 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
996 the information or report;

997 (56) records provided or received by the Public Lands Policy Coordinating Office in  
998 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

999 (57) information requested by and provided to the 911 Division under Section  
1000 63H-7a-302;

1001 (58) in accordance with Section 73-10-33:

1002 (a) a management plan for a water conveyance facility in the possession of the Division  
1003 of Water Resources or the Board of Water Resources; or

1004 (b) an outline of an emergency response plan in possession of the state or a county or  
1005 municipality;

1006 (59) the following records in the custody or control of the Office of Inspector General  
1007 of Medicaid Services, created in Section 63A-13-201:

1008 (a) records that would disclose information relating to allegations of personal  
1009 misconduct, gross mismanagement, or illegal activity of a person if the information or  
1010 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
1011 through other documents or evidence, and the records relating to the allegation are not relied  
1012 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
1013 report or final audit report;

1014 (b) records and audit workpapers to the extent they would disclose the identity of a  
1015 person who, during the course of an investigation or audit, communicated the existence of any  
1016 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
1017 regulation adopted under the laws of this state, a political subdivision of the state, or any

1018 recognized entity of the United States, if the information was disclosed on the condition that  
1019 the identity of the person be protected;

1020 (c) before the time that an investigation or audit is completed and the final  
1021 investigation or final audit report is released, records or drafts circulated to a person who is not  
1022 an employee or head of a governmental entity for the person's response or information;

1023 (d) records that would disclose an outline or part of any investigation, audit survey  
1024 plan, or audit program; or

1025 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
1026 investigation or audit;

1027 (60) records that reveal methods used by the Office of Inspector General of Medicaid  
1028 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or  
1029 abuse;

1030 (61) information provided to the Department of Health or the Division of Occupational  
1031 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections  
1032 58-68-304(3) and (4);

1033 (62) a record described in Section 63G-12-210;

1034 (63) captured plate data that is obtained through an automatic license plate reader  
1035 system used by a governmental entity as authorized in Section 41-6a-2003;

1036 (64) any record in the custody of the Utah Office for Victims of Crime relating to a  
1037 victim, including:

1038 (a) a victim's application or request for benefits;

1039 (b) a victim's receipt or denial of benefits; and

1040 (c) any administrative notes or records made or created for the purpose of, or used to,  
1041 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
1042 Reparations Fund;

1043 (65) an audio or video recording created by a body-worn camera, as that term is  
1044 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
1045 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
1046 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
1047 that term is defined in Section 62A-2-101, except for recordings that:

1048 (a) depict the commission of an alleged crime;

1049 (b) record any encounter between a law enforcement officer and a person that results in  
1050 death or bodily injury, or includes an instance when an officer fires a weapon;

1051 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
1052 a law enforcement officer or law enforcement agency;

1053 (d) contain an officer involved critical incident as defined in Subsection  
1054 76-2-408(1)(f); or

1055 (e) have been requested for reclassification as a public record by a subject or  
1056 authorized agent of a subject featured in the recording;

1057 (66) a record pertaining to the search process for a president of an institution of higher  
1058 education described in Section 53B-2-102, except for application materials for a publicly  
1059 announced finalist;

1060 (67) an audio recording that is:

1061 (a) produced by an audio recording device that is used in conjunction with a device or  
1062 piece of equipment designed or intended for resuscitating an individual or for treating an  
1063 individual with a life-threatening condition;

1064 (b) produced during an emergency event when an individual employed to provide law  
1065 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1066 (i) is responding to an individual needing resuscitation or with a life-threatening  
1067 condition; and

1068 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
1069 individual or for treating an individual with a life-threatening condition; and

1070 (c) intended and used for purposes of training emergency responders how to improve  
1071 their response to an emergency situation;

1072 (68) records submitted by or prepared in relation to an applicant seeking a  
1073 recommendation by the Research and General Counsel Subcommittee, the Budget  
1074 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an  
1075 employment position with the Legislature;

1076 (69) work papers as defined in Section 31A-2-204;

1077 (70) a record made available to Adult Protective Services or a law enforcement agency  
1078 under Section 61-1-206;

1079 (71) a record submitted to the Insurance Department in accordance with Section

1080 31A-37-201;

1081 (72) a record described in Section 31A-37-503;

1082 (73) any record created by the Division of Occupational and Professional Licensing as

1083 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1084 (74) a record described in Section 72-16-306 that relates to the reporting of an injury

1085 involving an amusement ride;

1086 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual

1087 on a political petition, or on a request to withdraw a signature from a political petition,

1088 including a petition or request described in the following titles:

1089 (a) Title 10, Utah Municipal Code;

1090 (b) Title 17, Counties;

1091 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1092 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1093 (e) Title 20A, Election Code;

1094 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in

1095 a voter registration record;

1096 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a

1097 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a

1098 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

1099 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part

1100 5, Victims Guidelines for Prosecutors Act;

1101 (79) a record submitted to the Insurance Department under Subsection

1102 31A-48-103(1)(b);

1103 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is

1104 prohibited under Section 63G-26-103;

1105 (81) (a) an image taken of an individual during the process of booking the individual

1106 into jail, unless:

1107 (i) the individual is convicted of a criminal offense based upon the conduct for which

1108 the individual was incarcerated at the time the image was taken;

1109 (ii) a law enforcement agency releases or disseminates the image after determining

1110 that:

1111 (A) the individual is a fugitive or an imminent threat to an individual or to public  
1112 safety; and

1113 (B) releasing or disseminating the image will assist in apprehending the individual or  
1114 reducing or eliminating the threat; or

1115 (iii) a judge orders the release or dissemination of the image based on a finding that the  
1116 release or dissemination is in furtherance of a legitimate law enforcement interest[-];

1117 (82) a record:

1118 (a) concerning an interstate claim to the use of waters in the Colorado River system;

1119 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
1120 representative from another state or the federal government as provided in Section  
1121 [63M-14-205](#); and

1122 (c) the disclosure of which would:

1123 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
1124 Colorado River system;

1125 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to  
1126 negotiate the best terms and conditions regarding the use of water in the Colorado River  
1127 system; or

1128 (iii) give an advantage to another state or to the federal government in negotiations  
1129 regarding the use of water in the Colorado River system; [~~and~~]

1130 (83) any part of an application described in Section [63N-16-201](#) that the Governor's  
1131 Office of Economic Opportunity determines is nonpublic, confidential information that if  
1132 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may  
1133 not be used to restrict access to a record evidencing a final contract or approval decision[-]; and

1134 (84) any part of an application for a scholarship account as described in Section  
1135 [53F-6-402](#) or other information identifying a scholarship student as defined in Section  
1136 [53F-6-401](#).

1137 **Section 14. Repealer.**

1138 This bill repeals:

1139 Section [53F-6-101](#), Title.

1140 **Section 15. Appropriation.**

1141 The following sums of money are appropriated for the fiscal year beginning July 1,

1142 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for  
 1143 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
 1144 Act, the Legislature appropriates the following sums of money from the funds or accounts  
 1145 indicated for the use and support of the government of the state of Utah.

1146 ITEM 1

1147 To State Board of Education -- Contracted Initiatives and Grants

1148	<u>From Education Fund</u>	<u>\$36,000,000</u>
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1149	<u>From Education Fund, One-time</u>	<u>(\$34,000,000)</u>
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1150 Schedule of Programs:

1151	<u>Hope Scholarship Program</u>	<u>\$2,000,000</u>
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1152 The Legislature intends that, in fiscal year 2023, the State Board of Education may  
 1153 provide up to \$2,000,000 to a scholarship granting organization contracted with the State  
 1154 Board of Education in accordance with Section [53F-6-404](#) for start-up, marketing, and other  
 1155 costs with initiating the Hope Scholarship Program created in Section [53F-6-402](#).