

**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           **53F-4-505**, as last amended by Laws of Utah 2021, Chapter 362
- 45           **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
- 46 and 382

47 ENACTS:

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

57 [53F-6-409](#), Utah Code Annotated 1953  
58 [53F-6-410](#), Utah Code Annotated 1953  
59 [53F-6-411](#), Utah Code Annotated 1953

60 REPEALS:

61 [53F-6-101](#), as enacted by Laws of Utah 2018, Chapter 2

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

64 Section 1. Section **53E-1-202.3** is enacted to read:

65 **53E-1-202.3. Report to the Public Education Appropriations Subcommittee on the**  
66 **Hope Scholarship Program.**

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

71 Section 2. Section **53F-4-505** is amended to read:

72 **53F-4-505. Payment for an online course.**

73 (1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1  
74 credit online course is:

75 (a) \$200 for the following courses, except a concurrent enrollment course:

76 (i) financial literacy;

77 (ii) health;

78 (iii) fitness for life; and

79 (iv) computer literacy;

80 (b) \$200 for driver education;

81 (c) \$250 for a course that meets core standards for Utah public schools in fine arts or  
82 career and technical education, except a concurrent enrollment course;

83 (d) \$300 for the following courses:

84 (i) a course that meets core standards for Utah public schools requirements in social  
85 studies, except a concurrent enrollment course; and

86 (ii) a world language course, except a concurrent enrollment course;

87 (e) \$350 for the following courses:

- 88 (i) a course that meets core standards for Utah public schools requirements for  
89 language arts, mathematics, or science; and
- 90 (ii) a concurrent enrollment course; and
- 91 (f) \$250 for a course not described in Subsections (1)(a) through (e).
- 92 (2) If a course meets the requirements of more than one course fee category described  
93 in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.
- 94 (3) Beginning with the 2013-14 school year, the online course fees described in  
95 Subsection (1) shall be adjusted each school year in accordance with the percentage change in  
96 value of the weighted pupil unit from the previous school year.
- 97 (4) An online learning provider shall receive payment for an online course as follows:
- 98 (a) for a .5 credit online course, 50% of the online course fee after the withdrawal  
99 period described in Section 53F-4-506;
- 100 (b) for a 1 credit online course, 25% of the online course fee after the withdrawal  
101 period described in Section 53F-4-506 and 25% of the online course fee upon the beginning of  
102 the second .5 credit of the online course; and
- 103 (c) if a student completes a 1 credit online course within 12 months or a .5 credit  
104 course within nine weeks following the end of a traditional semester, 50% of the online course  
105 fee.
- 106 (5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit  
107 course within nine weeks following the end of a traditional semester, the student may continue  
108 to be enrolled in the course until the student graduates from high school.
- 109 (b) To encourage an online course provider to provide remediation to a student who  
110 remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit  
111 recovery, an online course provider shall receive a payment equal to 30% of the online course  
112 fee if the student completes the online course:
- 113 (i) for a high school online course, before the student graduates from high school; or  
114 (ii) for a middle school online course, before the student completes middle school.
- 115 (6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a  
116 school district or charter school may:
- 117 (a) negotiate a fee with an online course provider for an amount up to the amount  
118 prescribed in Subsections (1) through (3); and

119 (b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

120 (7) An online course provider who contracts with a vendor for the acquisition of online  
121 course content or online course instruction may negotiate the payment for the vendor's service  
122 independent of the fees specified in Subsections (1) through (3).

123 (8) A scholarship student, as defined in Section [53F-6-401](#), shall pay for an online  
124 course with scholarship funds, as defined in Section [53F-6-401](#), or with the student's personal  
125 funds.

126 Section 3. Section **53F-6-401** is enacted to read:

127 **CHAPTER 6. STATE FUNDING -- PROGRAMS ADMINISTERED BY OTHER**  
128 **ENTITIES**

129 **Part 4. Hope Scholarship Program**

130 **53F-6-401. Definitions.**

131 (1) "Bullying" means the same as that term is defined in Section [53G-9-602](#).

132 (2) "Cyber-bullying" means the same as that term is defined in Section [53G-9-602](#).

133 (3) (a) "Eligible school" means a private school that:

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

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

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

138 (4) "Eligible student" means a student who:

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

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

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

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

145 (ii) a student who receives a scholarship under the Special Needs Opportunity  
146 Scholarship Program established in Section [53E-7-402](#); or

147 (iii) enrolled in an LEA.

148 (5) (a) "Eligible service provider" means a private program or service that:

149 (i) provides educational services; and

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

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

153 (i) an eligible school; or

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

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

159 (7) "Hazing" means the same as that term is defined in Section 53G-9-601.

160 (8) "Hope Scholarship Program" or "program" means the scholarship program created  
161 in Section 53F-6-402.

162 (9) "Officer" means:

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

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

165 (10) "Program donation" means a donation to the program described in Section  
166 53F-6-405.

167 (11) "Qualifying service provider" means:

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

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

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

175 (13) "Scholarship account" means an account established and maintained by a  
176 scholarship granting organization on behalf of a scholarship student for the purpose of paying  
177 for a scholarship expense with scholarship funds.

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

180 (a) a service provided by a qualifying service provider; or

181 (b) goods.  
182 (15) "Scholarship funds" means funds:  
183 (a) appropriated by the Legislature for the program; or  
184 (b) donated under Section 53F-6-405.  
185 (16) "Scholarship granting organization" means an organization that is:  
186 (a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and  
187 (b) recognized through an agreement with the state board as a scholarship granting  
188 organization, as described in Section 53F-6-404.  
189 (17) (a) "Scholarship employee" means an individual working in a position in which  
190 the individual's salary, wages, pay, or compensation, including as a contractor, is paid from  
191 scholarship funds.

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

194 (18) "Scholarship student" means an eligible student for whom a scholarship account is  
195 established and maintained in accordance with this part.

196 Section 4. Section 53F-6-402 is enacted to read:

197 **53F-6-402. Hope Scholarship Program -- Scholarship account application --**  
198 **Scholarship expenses -- Program information.**

199 (1) There is established the Hope Scholarship Program under which, beginning in the  
200 2023-24 school year, a parent may apply to a scholarship granting organization on behalf of the  
201 parent's student to establish and maintain a scholarship account to cover the cost of a  
202 scholarship expense.

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

205 (b) The scholarship granting organization shall:

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

207 (ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a  
208 scholarship account for the scholarship student to pay for the cost of one or more scholarship  
209 expenses incurred by the student.

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

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

212 (A) at or below 200% of the federal poverty level, an amount equivalent to the value of  
213 the weighted pupil unit multiplied by 2;

214 (B) between 200% and 370% of the federal poverty level, an amount equivalent to the  
215 value of the weighted pupil unit multiplied by 1.5;

216 (C) between 370% and 555% of the federal poverty level, an amount equivalent to the  
217 value of the weighted pupil unit multiplied by 1; and

218 (D) subject to Subsection (3)(d), at or above 555% of the federal poverty level, an  
219 amount equivalent to the value of the weighted pupil unit multiplied by 0.75; and

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

221 (A) at or below 200% of the federal poverty level, an amount equivalent to the value of  
222 the weighted pupil unit multiplied by 1;

223 (B) between 200% and 370% of the federal poverty level, an amount equivalent to the  
224 value of the weighted pupil unit multiplied by 0.75;

225 (C) between 370% and 555% of the federal poverty level, an amount equivalent to the  
226 value of the weighted pupil unit multiplied by 0.5; and

227 (D) subject to Subsection (3)(d), at or above 555% of the federal poverty level, an  
228 amount equivalent to the value of the weighted pupil unit multiplied by 0.375.

229 (d) Any increase in the value of the weighted pupil unit shall be reflected in funds  
230 available for the scholarship student in the student's scholarship account during the time that  
231 the student is a scholarship student.

232 (3) (a) A scholarship granting organization shall establish a scholarship account on  
233 behalf of an eligible student who submits a timely application, unless the number of  
234 applications exceed available scholarship funds for the school year and except as provided in  
235 Subsection (3)(d).

236 (b) If the number of applications exceeds the available scholarship funds for a school  
237 year, the scholarship granting organization shall select students on a random basis, except as  
238 provided in Subsection (6).

239 (c) An eligible student shall submit an application for each school year that the student  
240 intends to receive scholarship funds.

241 (d) (i) A scholarship granting organization may not approve an application by or  
242 establish a scholarship account on behalf of a student whose family income is at or above



243 1,000% of the federal poverty level.

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

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

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

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

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

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

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

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

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

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

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

274 (5) A scholarship granting organization may not charge a scholarship account  
275 application fee.

276 (6) A scholarship granting organization:

277 (a) shall give an enrollment preference to an eligible student:

278 (i) whose family income is at or below 200% of the federal poverty level; or  
279 (ii) who demonstrates that the eligible student has experienced bullying,  
280 cyber-bullying, or hazing in violation of Section 53G-9-602; and

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

282 (i) an eligible student who in the previous school year used a scholarship account; or  
283 (ii) a sibling of an eligible student who:

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

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

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

290 (i) incurred in the education of a scholarship student; and  
291 (ii) approved by the scholarship granting organization.

292 (b) An approved scholarship expense includes:

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

295 (ii) tutoring services;

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

299 (iv) fees for a preparatory course for an exam described in Subsection (7)(b)(iii);  
300 (v) fees for after-school or summer education programs;

301 (vi) educational therapy, if the educational therapy is provided by a licensed physician  
302 or licensed practitioner, including occupational, behavioral, physical, or speech-language  
303 therapies;

304 (vii) fees for transportation paid to a fee-for-service transportation provider for a

305 scholarship student to travel to and from a qualifying service provider;

306 (viii) an expense incurred for participation in an LEA activity or service; and

307 (ix) any other expense for a good or service incurred in the education of a scholarship  
308 student and approved by the scholarship granting organization.

309 (c) A scholarship account may not be used for an expense that is not incurred in  
310 advancing an eligible student's education, including:

311 (i) a rehabilitation program that is not primarily for education purposes; or

312 (ii) a travel expense other than the expense described in Subsection (7)(b)(vii).

313 (d) If a scholarship expense is:

314 (i) for a service provided by a qualifying service provider, the scholarship granting

315 organization may not approve the scholarship expense unless the scholarship granting

316 organization determines that the expense is incurred in the education of the scholarship student;

317 or

318 (ii) for a service provided by a provider other than a qualifying service provider or

319 good, the scholarship granting organization may not reimburse the scholarship expense unless:

320 (A) the scholarship student submits a receipt showing the cost and type of service or

321 good and name of provider; and

322 (B) the scholarship granting organization determines that the expense is incurred in the

323 education of the scholarship student.

324 (e) The parent of a scholarship student may not receive scholarship funds as payment

325 for the parent's time spent educating the parent's child.

326 (8) Funds disbursed under this part to a scholarship account on behalf of a scholarship

327 student do not constitute state taxable income to the parent of the scholarship student.

328 (9) The scholarship granting organization shall prepare and disseminate to a parent

329 applying for a scholarship account on behalf of a student:

330 (a) information on the program; and

331 (b) information on how a parent may enroll the parent's student in a public school.

332 (10) The state board shall provide information on the state board's website, including

333 scholarship account information, the scholarship granting organization's contact information,

334 and an overview of the program.

335 Section 5. Section **53F-6-403** is enacted to read:

336 **53F-6-403. Qualifying service providers.**

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

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

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

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

347 (3) (a) If the scholarship granting organization determines that a qualifying service  
348 provider no longer meets the eligibility requirements described in this part, the scholarship  
349 granting organization may withdraw the organization's approval of the qualifying service  
350 provider.

351 (b) A person that does not have the scholarship granting organization's approval under  
352 Section 53F-6-408 or Section 53F-6-409, respectively, may not accept scholarship funds for  
353 services under this part.

354 (4) A qualifying service provider shall, when administering an annual assessment  
355 required under Section 53F-6-408, ensure that the qualifying service provider uses a  
356 norm-referenced assessment.

357 Section 6. Section 53F-6-404 is enacted to read:

358 **53F-6-404. State board procurement and review of scholarship granting**  
359 **organization -- Failure to comply.**

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

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

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

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

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

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

374 (2) The state board shall enter into an agreement described in Subsection (1)(a) on or  
375 before October 1, 2022.

376 (3) The state board may regulate and take enforcement action as necessary against a  
377 scholarship granting organization in accordance with Section [53E-3-401](#).

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

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

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

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

392 (d) A scholarship granting organization may not accept program donations or state  
393 funds while the scholarship granting organization:

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

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

396 (e) A scholarship granting organization that has an appeal pending under Subsection  
397 (4)(c)(ii) may continue to administer scholarship accounts from previously donated program

398 donations during the pending appeal.

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

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

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

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

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

412 Section 7. Section **53F-6-405** is enacted to read:

413 **53F-6-405. Scholarship granting organization duties -- Program donations --**

414 **Audit -- Prohibitions.**

415 (1) A scholarship granting organization shall:

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

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

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

419 (b) accept program donations;

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

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

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

426 (f) adopt a process that allows a parent to use a scholarship account to receive a  
427 reimbursement for a good that is a scholarship expense;

428 (g) ensure that all revenue from program donations' interest or investments is spent on

429 scholarship expenses;

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

435 (i) ensure that scholarship funds in a scholarship account are readily available to a  
436 scholarship student;

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

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

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

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

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

446 (A) receives scholarship funds to pay for a service that is provided to the scholarship  
447 student for an entire school year; and

448 (B) is no longer enrolled in or engaging the service described in Subsection

449 (1)(k)(i)(A); and

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

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

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

457 (3) (a) The scholarship granting organization shall:

458 (i) contract for an annual and random audits on scholarship accounts, conducted by a  
459 certified public accountant who is independent from:

460 (A) the scholarship granting organization; and

461 (B) the scholarship granting organization's accounts and records pertaining to  
462 scholarship funds; and

463 (ii) in accordance with Subsection (3)(b), report the results of the audit to the state  
464 board for review.

465 (b) For the report described in Subsection (3)(a)(ii), the scholarship granting  
466 organization shall:

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

469 (ii) submit the report to the state board no later than 180 days after the last day of a  
470 scholarship granting organization's fiscal year.

471 (c) The certified public accountant shall conduct an audit described in Subsection  
472 (3)(a)(i) in accordance with generally accepted auditing standards.

473 (d) (i) The state board shall review a report submitted under this section and may  
474 request that the scholarship granting organization revise or supplement the report if the report  
475 is not in compliance with the provisions of this Subsection (3).

476 (ii) A scholarship granting organization shall provide a revised report or supplement to  
477 the report no later than 45 days after the day on which the state board makes a request  
478 described in Subsection (3)(d)(i).

479 (4) (a) A scholarship granting organization may not:

480 (i) disburse scholarship funds to a qualifying service provider or allow a qualifying  
481 service provider to use scholarship funds if:

482 (A) the scholarship granting organization determines that the qualifying service  
483 provider intentionally or substantially misrepresented information on overpayment;

484 (B) the qualifying service provider fails to refund an overpayment in a timely manner;  
485 or

486 (C) the qualifying service provider routinely fails to provide scholarship students with  
487 promised educational services; or

488 (ii) reimburse with scholarship funds an individual for the purchase of a good or  
489 service if the scholarship granting organization determines that:

490 (A) the scholarship student, or parent of the scholarship student, requesting



491 reimbursement intentionally or substantially misrepresented the cost or educational purpose of  
492 the good; or

493 (B) the good was not used exclusively by the scholarship student seeking  
494 reimbursement.

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

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

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

506 (6) A scholarship granting organization may not:

507 (a) establish a scholarship account on behalf of a relative of the scholarship granting  
508 organization's officer; or

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

511 (7) A scholarship granting organization may contract with a software provider to  
512 facilitate establishing scholarship accounts and distribution of scholarship funds.

513 Section 8. Section **53F-6-406** is enacted to read:

514 **53F-6-406. Qualifying service provider regulation -- Student records -- Status of**  
515 **scholarship student.**

516 (1) Nothing in this part:

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

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

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

525 (3) Except as provided in Section 53F-7-403 and, respectively, Section 53F-6-408 or  
526 53F-6-409, a qualifying service provider may not be required to alter the qualifying service  
527 provider's creed, practices, admission policy, or curriculum in order to accept scholarship  
528 funds.

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

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

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

535 (5) A scholarship student is not:

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

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

540 Section 9. Section 53F-6-407 is enacted to read:

541 **53F-6-407. Background checks for scholarship granting organization -- Bureau**  
542 **responsibilities -- Fees.**

543 (1) As used in this section:

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

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

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

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

550 (e) "Personal identifying information" means:

551 (i) current name;

552 (ii) former names;

- 553 (iii) nicknames;  
554 (iv) aliases;  
555 (v) date of birth;  
556 (vi) address;  
557 (vii) telephone number;  
558 (viii) driver license number or other government-issued identification number;  
559 (ix) social security number; and  
560 (x) fingerprints.
- 561 (f) "Rap back system" means a system that enables authorized entities to receive  
562 ongoing status notifications of any criminal history reported on individuals whose fingerprints  
563 are registered in the system.
- 564 (g) "WIN Database" means the Western Identification Network Database that consists  
565 of eight western states sharing one electronic fingerprint database.
- 566 (2) The scholarship granting organization shall:
- 567 (a) require an applicant to submit to a criminal background check and ongoing  
568 monitoring;
- 569 (b) collect the following from an applicant:
- 570 (i) personal identifying information;  
571 (ii) a fee described in Subsection (4); and  
572 (iii) consent, on a form specified by the scholarship granting organization, for:
- 573 (A) an initial fingerprint-based background check by the bureau;  
574 (B) retention of personal identifying information for ongoing monitoring through  
575 registration with the systems described in Subsection (3); and
- 576 (C) disclosure of any criminal history information to the scholarship granting  
577 organization;
- 578 (c) submit an applicant's personal identifying information to the bureau for:
- 579 (i) an initial fingerprint-based background check by the bureau; and  
580 (ii) ongoing monitoring through registration with the systems described in Subsection  
581 (3) if the results of the initial background check do not contain disqualifying criminal history  
582 information as determined by the scholarship granting organization;
- 583 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure

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

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

588 (3) The bureau shall:

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

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

594 (i) an alleged offense; or

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

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

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

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

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

607 Section 10. Section **53F-6-408** is enacted to read:

608 **53F-6-408. Eligible schools.**

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

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

- 615 (A) the audit shall be performed in accordance with generally accepted auditing  
616 standards;
- 617 (B) the financial statements shall be presented in accordance with generally accepted  
618 accounting principles; and
- 619 (C) the audited financial statements shall be as of a period within the last 12 months;  
620 and
- 621 (ii) submit the audit report or report of the agreed upon procedure to the scholarship  
622 granting organization when the private school applies to receive scholarship funds;
- 623 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
- 624 (c) provide a written disclosure to the parent of each prospective scholarship student,  
625 before the student is enrolled, of:
- 626 (i) the education services that will be provided to the scholarship student, including the  
627 cost of those services;
- 628 (ii) tuition costs;
- 629 (iii) additional fees a parent will be required to pay during the school year; and
- 630 (iv) the skill or grade level of the curriculum in which the prospective scholarship  
631 student will participate;
- 632 (d) (i) administer an annual assessment of each scholarship student's academic  
633 progress; and
- 634 (ii) report the results of the assessment described in Subsection (1)(d)(i) to the  
635 scholarship student's parent;
- 636 (e) employ or contract with teachers who:
- 637 (i) hold baccalaureate or higher degrees;
- 638 (ii) have at least three years of teaching experience in public or private schools; or
- 639 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to  
640 provide instruction in the subject or subjects taught;
- 641 (f) require the following individuals to submit to a nationwide, fingerprint-based  
642 criminal background check and ongoing monitoring, in accordance with Section [53G-11-402](#),  
643 as a condition for employment or appointment, as authorized by the Adam Walsh Child  
644 Protection and Safety Act of 2006, Pub. L. No. 109-248:
- 645 (i) an employee who does not hold:

646 (A) a current Utah educator license issued by the state board under Title 53E, Chapter  
647 6, Education Professional Licensure; or

648 (B) if the private school is not physically located in Utah, a current educator license in  
649 the state where the private school is physically located; and

650 (ii) a contract employee; and

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

653 (2) A private school described in Subsection (1) is not eligible to receive scholarship  
654 funds if:

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

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

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

662 (3) A private school with fewer than 150 enrolled students shall:

663 (a) meet the requirements set forth in Subsections (2)(a), (5), and (7); and

664 (b) meet the same requirements set forth for an eligible service provider as described in  
665 Subsection [53F-6-409\(1\)](#).

666 (4) Residential treatment facilities licensed by the state are not eligible to receive  
667 scholarship funds.

668 (5) A private school intending to receive scholarship funds shall submit an application  
669 to the scholarship granting organization.

670 (6) The scholarship granting organization shall:

671 (a) if the private school meets the eligibility requirements of this section, recognize the  
672 private school as an eligible school and approve the private school's application; and

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

674 (7) A private school approved under this section that changes ownership shall:

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

676 (b) demonstrate that the private school continues to meet the eligibility requirements of

677 this section.

678 Section 11. Section **53F-6-409** is enacted to read:

679 **53F-6-409. Eligible service providers.**

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

681 (a) provide to the scholarship granting organization:

682 (i) a federal employer identification number;

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

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

685 scholarship student; and

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

687 granting organization; and

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

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

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

694 (4) The scholarship granting organization shall:

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

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

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

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

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

706 Section 12. Section **53F-6-410** is enacted to read:

707 **53F-6-410. Program funding.**

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

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

712 (b) a sum equal to:

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

714 (ii) the annual inflation adjustment as described in Subsection 53F-2-208(1)(a).

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

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

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

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

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

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

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

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

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

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

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

738 (c) The scholarship granting organization may not retain administrative cost balances



739 in excess of 25% of total administrative costs in any fiscal year.

740 Section 13. Section **53F-6-411** is enacted to read:

741 **53F-6-411. Reports.**

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

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

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

750 (c) administrative costs of the program;

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

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

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

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

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

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

764 (3) In accordance with Section [53E-1-202.3](#) and the Family Educational Rights and  
765 Privacy Act, 20 U.S.C. Sec. 1232g, the state auditor shall, beginning in 2024, annually submit a  
766 report on the cost-effectiveness of the program to the Public Education Appropriations  
767 Subcommittee no later than September 1.

768 Section 14. Section **63G-2-305** is amended to read:

769 **63G-2-305. Protected records.**

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

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

773 (2) commercial information or nonindividual financial information obtained from a  
774 person if:

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

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

780 (c) the person submitting the information has provided the governmental entity with  
781 the information specified in Section 63G-2-309;

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

786 (4) records, the disclosure of which could cause commercial injury to, or confer a  
787 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
788 defined in Subsection 11-13-103(4);

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

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

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

798 (i) an invitation for bids;

799 (ii) a request for proposals;

800 (iii) a request for quotes;

- 801 (iv) a grant; or
- 802 (v) other similar document; or
- 803 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 804 (7) information submitted to or by a governmental entity in response to a request for
- 805 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 806 the right of a person to have access to the information, after:
  - 807 (a) a contract directly relating to the subject of the request for information has been
  - 808 awarded and signed by all parties; or
  - 809 (b) (i) a final determination is made not to enter into a contract that relates to the
  - 810 subject of the request for information; and
  - 811 (ii) at least two years have passed after the day on which the request for information is
  - 812 issued;
  - 813 (8) records that would identify real property or the appraisal or estimated value of real
  - 814 or personal property, including intellectual property, under consideration for public acquisition
  - 815 before any rights to the property are acquired unless:
    - 816 (a) public interest in obtaining access to the information is greater than or equal to the
    - 817 governmental entity's need to acquire the property on the best terms possible;
    - 818 (b) the information has already been disclosed to persons not employed by or under a
    - 819 duty of confidentiality to the entity;
    - 820 (c) in the case of records that would identify property, potential sellers of the described
    - 821 property have already learned of the governmental entity's plans to acquire the property;
    - 822 (d) in the case of records that would identify the appraisal or estimated value of
    - 823 property, the potential sellers have already learned of the governmental entity's estimated value
    - 824 of the property; or
    - 825 (e) the property under consideration for public acquisition is a single family residence
    - 826 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
    - 827 the property as required under Section [78B-6-505](#);
    - 828 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
    - 829 compensated transaction of real or personal property including intellectual property, which, if
    - 830 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
    - 831 of the subject property, unless:

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

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

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

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

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

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

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

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

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

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

859 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
860 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
861 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

862 (14) records that, if disclosed, would reveal recommendations made to the Board of

863 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
864 Board of Pardons and Parole, or the Department of Human Services that are based on the  
865 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
866 jurisdiction;

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

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

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

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

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

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

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

882 (A) members of a legislative body;

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

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

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

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

891 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
892 Office of Legislative Research and General Counsel is a public document unless a legislator  
893 asks that the records requesting the legislation be maintained as protected records until such

894 time as the legislator elects to make the legislation or course of action public;

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

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

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

900 (a) collective bargaining; or  
901 (b) imminent or pending litigation;

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

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

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

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

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

919 (29) records of the governor's office, including budget recommendations, legislative  
920 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
921 policies or contemplated courses of action before the governor has implemented or rejected  
922 those policies or courses of action or made them public;

923 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
924 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

925 recommendations in these areas;

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

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

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

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

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

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

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

950 (a) the donor requests anonymity in writing;

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

953 (c) except for an institution within the state system of higher education defined in  
954 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
955 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority

956 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
957 by the donor or the donor's immediate family;

958 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and  
959 [73-18-13](#);

960 (39) a notification of workers' compensation insurance coverage described in Section  
961 [34A-2-205](#);

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

965 (i) unpublished lecture notes;

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

967 (A) relating to research; and

968 (B) of:

969 (I) the institution within the state system of higher education defined in Section  
970 [53B-1-102](#); or

971 (II) a sponsor of sponsored research;

972 (iii) unpublished manuscripts;

973 (iv) creative works in process;

974 (v) scholarly correspondence; and

975 (vi) confidential information contained in research proposals;

976 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
977 information required pursuant to Subsection [53B-16-302](#)(2)(a) or (b); and

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

979 (41) (a) records in the custody or control of the Office of the Legislative Auditor  
980 General that would reveal the name of a particular legislator who requests a legislative audit  
981 prior to the date that audit is completed and made public; and

982 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
983 Office of the Legislative Auditor General is a public document unless the legislator asks that  
984 the records in the custody or control of the Office of the Legislative Auditor General that would  
985 reveal the name of a particular legislator who requests a legislative audit be maintained as  
986 protected records until the audit is completed and made public;



987 (42) records that provide detail as to the location of an explosive, including a map or  
988 other document that indicates the location of:  
989 (a) a production facility; or  
990 (b) a magazine;

991 (43) information:  
992 (a) contained in the statewide database of the Division of Aging and Adult Services  
993 created by Section [62A-3-311.1](#); or  
994 (b) received or maintained in relation to the Identity Theft Reporting Information  
995 System (IRIS) established under Section [67-5-22](#);

996 (44) information contained in the Licensing Information System described in Title  
997 62A, Chapter 4a, Child and Family Services;

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

1000 (46) records provided by any pawn or secondhand business to a law enforcement  
1001 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
1002 Secondhand Merchandise Transaction Information Act;

1003 (47) information regarding food security, risk, and vulnerability assessments performed  
1004 by the Department of Agriculture and Food;

1005 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
1006 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
1007 prepared or maintained by the Division of Emergency Management, and the disclosure of  
1008 which would jeopardize:  
1009 (a) the safety of the general public; or  
1010 (b) the security of:  
1011 (i) governmental property;  
1012 (ii) governmental programs; or  
1013 (iii) the property of a private person who provides the Division of Emergency  
1014 Management information;

1015 (49) records of the Department of Agriculture and Food that provides for the  
1016 identification, tracing, or control of livestock diseases, including any program established under  
1017 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

1018 of Animal Disease;

1019 (50) as provided in Section 26-39-501:

1020 (a) information or records held by the Department of Health related to a complaint  
1021 regarding a child care program or residential child care which the department is unable to  
1022 substantiate; and

1023 (b) information or records related to a complaint received by the Department of Health  
1024 from an anonymous complainant regarding a child care program or residential child care;

1025 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
1026 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
1027 personal mobile phone number, if:

1028 (a) the individual is required to provide the information in order to comply with a law,  
1029 ordinance, rule, or order of a government entity; and

1030 (b) the subject of the record has a reasonable expectation that this information will be  
1031 kept confidential due to:

1032 (i) the nature of the law, ordinance, rule, or order; and

1033 (ii) the individual complying with the law, ordinance, rule, or order;

1034 (52) the portion of the following documents that contains a candidate's residential or  
1035 mailing address, if the candidate provides to the filing officer another address or phone number  
1036 where the candidate may be contacted:

1037 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
1038 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,  
1039 20A-9-408.5, 20A-9-502, or 20A-9-601;

1040 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

1041 (c) a notice of intent to gather signatures for candidacy, described in Section  
1042 20A-9-408;

1043 (53) the name, home address, work addresses, and telephone numbers of an individual  
1044 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1045 (a) conducted within the state system of higher education, as defined in Section  
1046 53B-1-102; and

1047 (b) conducted using animals;

1048 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance

1049 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
1050 recommend that the voters retain a judge including information disclosed under Subsection  
1051 [78A-12-203\(5\)\(e\)](#);

1052 (55) information collected and a report prepared by the Judicial Performance  
1053 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
1054 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
1055 the information or report;

1056 (56) records provided or received by the Public Lands Policy Coordinating Office in  
1057 furtherance of any contract or other agreement made in accordance with Section [63L-11-202](#);

1058 (57) information requested by and provided to the 911 Division under Section  
1059 [63H-7a-302](#);

1060 (58) in accordance with Section [73-10-33](#):

1061 (a) a management plan for a water conveyance facility in the possession of the Division  
1062 of Water Resources or the Board of Water Resources; or

1063 (b) an outline of an emergency response plan in possession of the state or a county or  
1064 municipality;

1065 (59) the following records in the custody or control of the Office of Inspector General  
1066 of Medicaid Services, created in Section [63A-13-201](#):

1067 (a) records that would disclose information relating to allegations of personal  
1068 misconduct, gross mismanagement, or illegal activity of a person if the information or  
1069 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
1070 through other documents or evidence, and the records relating to the allegation are not relied  
1071 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
1072 report or final audit report;

1073 (b) records and audit workpapers to the extent they would disclose the identity of a  
1074 person who, during the course of an investigation or audit, communicated the existence of any  
1075 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
1076 regulation adopted under the laws of this state, a political subdivision of the state, or any  
1077 recognized entity of the United States, if the information was disclosed on the condition that  
1078 the identity of the person be protected;

1079 (c) before the time that an investigation or audit is completed and the final

1080 investigation or final audit report is released, records or drafts circulated to a person who is not  
1081 an employee or head of a governmental entity for the person's response or information;

1082 (d) records that would disclose an outline or part of any investigation, audit survey  
1083 plan, or audit program; or

1084 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
1085 investigation or audit;

1086 (60) records that reveal methods used by the Office of Inspector General of Medicaid  
1087 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or  
1088 abuse;

1089 (61) information provided to the Department of Health or the Division of Occupational  
1090 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections  
1091 58-68-304(3) and (4);

1092 (62) a record described in Section 63G-12-210;

1093 (63) captured plate data that is obtained through an automatic license plate reader  
1094 system used by a governmental entity as authorized in Section 41-6a-2003;

1095 (64) any record in the custody of the Utah Office for Victims of Crime relating to a  
1096 victim, including:

1097 (a) a victim's application or request for benefits;

1098 (b) a victim's receipt or denial of benefits; and

1099 (c) any administrative notes or records made or created for the purpose of, or used to,  
1100 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
1101 Reparations Fund;

1102 (65) an audio or video recording created by a body-worn camera, as that term is  
1103 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
1104 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
1105 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
1106 that term is defined in Section 62A-2-101, except for recordings that:

1107 (a) depict the commission of an alleged crime;

1108 (b) record any encounter between a law enforcement officer and a person that results in  
1109 death or bodily injury, or includes an instance when an officer fires a weapon;

1110 (c) record any encounter that is the subject of a complaint or a legal proceeding against

1111 a law enforcement officer or law enforcement agency;

1112 (d) contain an officer involved critical incident as defined in Subsection

1113 76-2-408(1)(f); or

1114 (e) have been requested for reclassification as a public record by a subject or

1115 authorized agent of a subject featured in the recording;

1116 (66) a record pertaining to the search process for a president of an institution of higher

1117 education described in Section 53B-2-102, except for application materials for a publicly

1118 announced finalist;

1119 (67) an audio recording that is:

1120 (a) produced by an audio recording device that is used in conjunction with a device or

1121 piece of equipment designed or intended for resuscitating an individual or for treating an

1122 individual with a life-threatening condition;

1123 (b) produced during an emergency event when an individual employed to provide law

1124 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1125 (i) is responding to an individual needing resuscitation or with a life-threatening

1126 condition; and

1127 (ii) uses a device or piece of equipment designed or intended for resuscitating an

1128 individual or for treating an individual with a life-threatening condition; and

1129 (c) intended and used for purposes of training emergency responders how to improve

1130 their response to an emergency situation;

1131 (68) records submitted by or prepared in relation to an applicant seeking a

1132 recommendation by the Research and General Counsel Subcommittee, the Budget

1133 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an

1134 employment position with the Legislature;

1135 (69) work papers as defined in Section 31A-2-204;

1136 (70) a record made available to Adult Protective Services or a law enforcement agency

1137 under Section 61-1-206;

1138 (71) a record submitted to the Insurance Department in accordance with Section

1139 31A-37-201;

1140 (72) a record described in Section 31A-37-503;

1141 (73) any record created by the Division of Occupational and Professional Licensing as

1142 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);  
1143 (74) a record described in Section 72-16-306 that relates to the reporting of an injury  
1144 involving an amusement ride;  
1145 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual  
1146 on a political petition, or on a request to withdraw a signature from a political petition,  
1147 including a petition or request described in the following titles:  
1148 (a) Title 10, Utah Municipal Code;  
1149 (b) Title 17, Counties;  
1150 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;  
1151 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and  
1152 (e) Title 20A, Election Code;  
1153 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in  
1154 a voter registration record;  
1155 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a  
1156 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a  
1157 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;  
1158 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part  
1159 5, Victims Guidelines for Prosecutors Act;  
1160 (79) a record submitted to the Insurance Department under Subsection  
1161 31A-48-103(1)(b);  
1162 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is  
1163 prohibited under Section 63G-26-103;  
1164 (81) (a) an image taken of an individual during the process of booking the individual  
1165 into jail, unless:  
1166 (i) the individual is convicted of a criminal offense based upon the conduct for which  
1167 the individual was incarcerated at the time the image was taken;  
1168 (ii) a law enforcement agency releases or disseminates the image after determining  
1169 that:  
1170 (A) the individual is a fugitive or an imminent threat to an individual or to public  
1171 safety; and  
1172 (B) releasing or disseminating the image will assist in apprehending the individual or

1173 reducing or eliminating the threat; or  
1174 (iii) a judge orders the release or dissemination of the image based on a finding that the  
1175 release or dissemination is in furtherance of a legitimate law enforcement interest[-];  
1176 (82) a record:  
1177 (a) concerning an interstate claim to the use of waters in the Colorado River system;  
1178 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
1179 representative from another state or the federal government as provided in Section  
1180 [63M-14-205](#); and  
1181 (c) the disclosure of which would:  
1182 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
1183 Colorado River system;  
1184 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to  
1185 negotiate the best terms and conditions regarding the use of water in the Colorado River  
1186 system; or  
1187 (iii) give an advantage to another state or to the federal government in negotiations  
1188 regarding the use of water in the Colorado River system; [~~and~~]  
1189 (83) any part of an application described in Section [63N-16-201](#) that the Governor's  
1190 Office of Economic Opportunity determines is nonpublic, confidential information that if  
1191 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may  
1192 not be used to restrict access to a record evidencing a final contract or approval decision[-]; and  
1193 (84) any part of an application for a scholarship account as described in Section  
1194 [53F-6-402](#) or other information identifying a scholarship student as defined in Section  
1195 [53F-6-401](#).  
1196 **Section 15. Repealer.**  
1197 This bill repeals:  
1198 Section [53F-6-101](#), Title.  
1199 **Section 16. Appropriation.**  
1200 The following sums of money are appropriated for the fiscal year beginning July 1,  
1201 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for  
1202 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
1203 Act, the Legislature appropriates the following sums of money from the funds or accounts

1204 indicated for the use and support of the government of the state of Utah.

1205 ITEM 1

1206 To State Board of Education -- Contracted Initiatives and Grants

1207 From Education Fund \$36,000,000

1208 From Education Fund, One-time (\$34,000,000)

1209 Schedule of Programs:

1210 Hope Scholarship Program \$2,000,000

1211 The Legislature intends that, in fiscal year 2023, the State Board of Education may

1212 provide up to \$2,000,000 to a scholarship granting organization contracted with the State

1213 Board of Education in accordance with Section [53F-6-404](#) for start-up, marketing, and other

1214 costs with initiating the Hope Scholarship Program created in Section [53F-6-402](#).