

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

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 State Board of Education 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

62

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 -- Assessment -- 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; and

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

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

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

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

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

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

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

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

237 (d) A scholarship granting organization may not approve an application by or establish
238 a scholarship account on behalf of a student whose family income is at or above 555% of the
239 federal poverty level.

240 (e) The LEA in which a scholarship student was enrolled immediately before the
241 student received a scholarship under this part, shall continue to count the student in the LEA's
242 pupil in average daily membership in accordance with Section [53F-2-102](#), for as long as the

243 student is receiving a scholarship under this part.

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

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

248 "I acknowledge that: A private education service provider may not provide the same
249 level of disability services that are provided in a public school;

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

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

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

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

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

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

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

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

268 (5) A scholarship granting organization may not charge a scholarship account
269 application fee.

270 (6) A scholarship granting organization:

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

272 (i) whose family income is at or below 200% of the federal poverty level; or

273 (ii) who demonstrates that:

274 (A) the eligible student has experienced bullying, cyber-bullying, or hazing in violation
275 of Section 53G-9-602; and

276 (B) the bullying, cyber-bullying, or hazing was reported, documented, and investigated
277 by the student's school or law enforcement; and

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

279 (i) an eligible student who in the previous school year used a scholarship account; or

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

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

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

285 (7) (a) In making the demonstration described in Subsection (6)(a)(ii), a student shall
286 provide any documentation the scholarship organization requests.

287 (b) A scholarship granting organization shall make a determination about whether a
288 student has fulfilled the requirements of Subsection (6)(a)(ii) based on the facts documented.

289 (8) (a) Subject to Subsections (8)(c) and (d), a scholarship account may be used to pay
290 for an expense:

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

292 (ii) approved by the scholarship granting organization.

293 (b) An approved scholarship expense includes:

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

296 (ii) tutoring services;

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

300 (iv) fees for a preparatory course for an exam described in Subsection (8)(b)(iii);

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

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

305 (vii) fees for transportation paid to a fee-for-service transportation provider for a
306 scholarship student to travel to and from a qualifying service provider;

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

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

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

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

313 (ii) a travel expense other than the expense described in Subsection (8)(b)(vii).

314 (d) If a scholarship expense is:

315 (i) for a service provided by a qualifying service provider, the scholarship granting
316 organization may not approve the scholarship expense unless the scholarship granting
317 organization determines that the expense is incurred in the education of the scholarship student;
318 or

319 (ii) for a service provided by a provider other than a qualifying service provider or
320 good, the scholarship granting organization may not reimburse the scholarship expense unless:

321 (A) the scholarship student submits a receipt showing the cost and type of service or
322 good and name of provider; and

323 (B) the scholarship granting organization determines that the expense is incurred in the
324 education of the scholarship student.

325 (e) The parent of a scholarship student may not receive scholarship funds as payment
326 for the parent's time spent educating the parent's child.

327 (9) Funds disbursed under this part to a scholarship account on behalf of a scholarship
328 student do not constitute state taxable income to the parent of the scholarship student.

329 (10) (a) For each school year that a scholarship student receives scholarship funds, the
330 scholarship student shall report the score of a norm-referenced assessment approved and
331 administered by the scholarship granting organization measuring the scholarship student's
332 academic progress to the scholarship granting organization.

333 (b) In accordance with Section [53F-6-411](#), the scholarship granting organization shall
334 report, in the aggregate, assessment scores described in Subsection (10)(a).

335 (c) (i) Notwithstanding Subsection (10)(a), a scholarship student may select to opt-out

336 of an assessment described in Subsection (10)(a) by notifying the scholarship granting
337 organization each year the student intends to opt-out.

338 (ii) The scholarship granting organization shall keep a record of students who opt-out
339 of an assessment as described in subsection (10)(c)(i).

340 (11) The scholarship granting organization shall prepare and disseminate to a parent
341 applying for a scholarship account on behalf of a student:

342 (a) information on the program; and

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

344 (12) The state board shall provide information on the state board's website, including
345 scholarship account information, the scholarship granting organization's contact information,
346 and an overview of the program.

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

348 **53F-6-403. Qualifying service providers.**

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

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

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

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

359 (3) (a) If the scholarship granting organization determines that a qualifying service
360 provider no longer meets the eligibility requirements described in this part, the scholarship
361 granting organization may withdraw the organization's approval of the qualifying service
362 provider.

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

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

367 **53F-6-404. State board procurement and review of scholarship granting**
368 **organization -- Failure to comply.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

422 **53F-6-405. Scholarship granting organization duties -- Program donations --**
423 **Audit -- Prohibitions.**

424 (1) A scholarship granting organization shall:

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

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

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

428 (b) accept program donations;

- 429 (c) adopt an application process, including application deadlines, in accordance with
430 Section 53F-6-402;
- 431 (d) review and approve an application for a scholarship account;
- 432 (e) disburse through each scholarship account scholarship funds on the parent's behalf
433 to a qualifying service provider in which the parent's scholarship student is enrolled or has
434 engaged;
- 435 (f) adopt a process that allows a parent to use a scholarship account to receive a
436 reimbursement for a good that is a scholarship expense;
- 437 (g) ensure that all revenue from program donations' interest or investments is spent on
438 scholarship expenses;
- 439 (h) prohibit a scholarship granting organization scholarship employee or officer from
440 handling, managing, or processing scholarship funds, if, based on a criminal background check
441 conducted by the state board in accordance with Section 53F-6-407, the state board identifies
442 the scholarship granting organization scholarship employee or officer as posing a risk to the
443 appropriate use of scholarship funds;
- 444 (i) ensure that scholarship funds in a scholarship account are readily available to a
445 scholarship student;
- 446 (j) report to the state board on or before June 1 of each year the following information,
447 prepared by a certified public accountant:
- 448 (i) the name and address of the scholarship granting organization;
- 449 (ii) the total number and total dollar amount of program donations that the scholarship
450 granting organization received during the previous calendar year; and
- 451 (iii) the total number and total dollar amount of scholarship funds disbursed during the
452 previous calendar year;
- 453 (k) (i) require a parent to notify the scholarship granting organization if the parent's
454 scholarship student:
- 455 (A) receives scholarship funds to pay for a service that is provided to the scholarship
456 student for an entire school year; and
- 457 (B) is no longer enrolled in or engaging the service described in Subsection
458 (1)(k)(i)(A); and
- 459 (ii) obtain reimbursement of scholarship funds from the qualifying service provider in

460 which the scholarship student is no longer enrolled or engaging; and

461 (1) provide an online portal for the parent of a scholarship student to access the
462 scholarship student's account.

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

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

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

469 (A) the scholarship granting organization; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

499 (A) the scholarship student, or parent of the scholarship student, requesting
500 reimbursement intentionally or substantially misrepresented the cost or educational purpose of
501 the good; or

502 (B) the good was not used exclusively by the scholarship student seeking
503 reimbursement.

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

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

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

515 (6) A scholarship granting organization may not:

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

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

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

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

523 **53F-6-406. Qualifying service provider regulation -- Student records -- Status of**
524 **scholarship student.**

525 (1) Nothing in this part:

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

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

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

534 (3) Except as provided in Section [53F-6-403](#) and, respectively, Section [53F-6-408](#) or
535 [53F-6-409](#), a qualifying service provider may not be required to alter the qualifying service
536 provider's creed, practices, admission policy, or curriculum in order to accept scholarship
537 funds.

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

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

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

544 (5) A scholarship student is not:

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

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

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

550 **53F-6-407. Background checks for scholarship granting organization -- Bureau**
551 **responsibilities -- Fees.**

552 (1) As used in this section:

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

554 (b) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)

555 within the Department of Public Safety.

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

557 (d) "Division" means the Criminal Investigations and Technical Services Division

558 created in Section [53-10-103](#).

559 (e) "Personal identifying information" means:

560 (i) current name;

561 (ii) former names;

562 (iii) nicknames;

563 (iv) aliases;

564 (v) date of birth;

565 (vi) address;

566 (vii) telephone number;

567 (viii) driver license number or other government-issued identification number;

568 (ix) social security number; and

569 (x) fingerprints.

570 (f) "Rap back system" means a system that enables authorized entities to receive

571 ongoing status notifications of any criminal history reported on individuals whose fingerprints

572 are registered in the system.

573 (g) "WIN Database" means the Western Identification Network Database that consists

574 of eight western states sharing one electronic fingerprint database.

575 (2) The scholarship granting organization shall:

576 (a) require an applicant to submit to a criminal background check and ongoing

577 monitoring;

578 (b) collect the following from an applicant:

579 (i) personal identifying information;

580 (ii) a fee described in Subsection (4); and

581 (iii) consent, on a form specified by the scholarship granting organization, for:

582 (A) an initial fingerprint-based background check by the bureau;

583 (B) retention of personal identifying information for ongoing monitoring through

584 registration with the systems described in Subsection (3); and
585 (C) disclosure of any criminal history information to the scholarship granting
586 organization;
587 (c) submit an applicant's personal identifying information to the bureau for:
588 (i) an initial fingerprint-based background check by the bureau; and
589 (ii) ongoing monitoring through registration with the systems described in Subsection
590 (3) if the results of the initial background check do not contain disqualifying criminal history
591 information as determined by the scholarship granting organization;
592 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
593 that the scholarship granting organization only receives notifications for individuals with whom
594 the scholarship granting organization maintains an authorizing relationship; and
595 (e) submit the information to the bureau for ongoing monitoring through registration
596 with the systems described in Subsection (3)(a).
597 (3) The bureau shall:
598 (a) upon request from the scholarship granting organization, register the fingerprints
599 submitted by the scholarship granting organization as part of a background check with the WIN
600 Database rap back system, or any successor system;
601 (b) notify the scholarship granting organization when a new entry is made against an
602 individual whose fingerprints are registered with the WIN database rap back regarding:
603 (i) an alleged offense; or
604 (ii) a conviction, including a plea in abeyance;
605 (c) assist the scholarship granting organization to identify the appropriate privacy risk
606 mitigation strategy that is to be used to ensure that the scholarship granting organization only
607 receives notifications for individuals with whom the authorized entity maintains an authorizing
608 relationship; and
609 (d) collaborate with the scholarship granting organization to provide training to
610 appropriate scholarship granting organization employees on the notification procedures and
611 privacy risk mitigation strategies described in this section.
612 (4) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for an
613 applicant fingerprint card, name check, and to register fingerprints under this section.
614 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund

615 as a dedicated credit by the department to cover the costs incurred in providing the information.

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

617 **53F-6-408. Eligible schools.**

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

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

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

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

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

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

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

633 (c) provide a written disclosure to the parent of each prospective scholarship student,
634 before the student is enrolled, of:

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

637 (ii) tuition costs;

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

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

641 (d) employ or contract with teachers who:

642 (i) hold baccalaureate or higher degrees;

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

644 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to
645 provide instruction in the subject or subjects taught;

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

650 (i) an employee who does not hold:

651 (A) a current Utah educator license issued by the state board under Title 53E, Chapter
652 6, Education Professional Licensure; or

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

655 (ii) a contract employee; and

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

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

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

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

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

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

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

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

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

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

675 (6) The scholarship granting organization shall:

676 (a) if the private school meets the eligibility requirements of this section, recognize the

677 private school as an eligible school and approve the private school's application; and
678 (b) make available to the public a list of eligible schools approved under this section.
679 (7) A private school approved under this section that changes ownership shall:
680 (a) submit a new application to the scholarship granting organization; and
681 (b) demonstrate that the private school continues to meet the eligibility requirements of
682 this section.

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

684 **53F-6-409. Eligible service providers.**

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

686 (a) provide to the scholarship granting organization:

687 (i) a federal employer identification number;

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

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

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

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

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

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

699 (4) The scholarship granting organization shall:

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

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

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

- 708 (a) submit a new application to the scholarship granting organization; and
- 709 (b) demonstrate that the private program or service continues to meet the eligibility
- 710 requirements of this section.

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

712 **53F-6-410. Program funding.**

713 (1) Subject to budget constraints, beginning in a fiscal year that starts July 1, 2025, the

714 Legislature shall appropriate to the program:

- 715 (a) an amount equal to the amount appropriated to the program in the previous fiscal
- 716 year; and
- 717 (b) a sum equal to:

- 718 (i) the amount appropriated in the previous fiscal year; and
- 719 (ii) the annual inflation adjustment as described in Subsection [53F-2-208\(1\)\(a\)](#).

720 (2) For each fiscal year, the state board shall distribute to the scholarship granting

721 organization:

- 722 (a) no later than August 1, 50% of available appropriated state funds;
- 723 (b) no later than November 1, the next 25% of available appropriated state funds; and
- 724 (c) no later than February 1, any remaining appropriated state funds.

725 (3) If during the school year a scholarship student enters or reenters the public

726 education system:

727 (a) no later than five business days after the student withdraws from the program, the

728 scholarship granting organization shall immediately remit the balance in the scholarship

729 student's scholarship account to the state board;

730 (b) no later than five business days upon receiving the payment described in Subsection

731 (3)(a), the state board shall forward the balance to the LEA in which the student is enrolled;

732 and

733 (c) the state board may not distribute any remaining state funds under Subsection (2) to

734 the scholarship granting organization for the student who enters or reenters the public

735 education system.

736 (4) At the end of a school year, a scholarship granting organization shall withdraw any

737 remaining scholarship funds in a scholarship account and retain the scholarship funds for

738 disbursement in the following year.

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

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

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

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

746 **53F-6-411. Reports.**

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

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

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

755 (c) administrative costs of the program;

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

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

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

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

765 (h) the scores, in the aggregate, of a scholarship student on a norm-referenced
766 assessment approved by the scholarship granting organization; and

767 (i) any other information requested by the subcommittee.

768 (2) The scholarship granting organization shall include in the report submitted in 2024
769 information on steps the scholarship granting organization has taken and processes adopted to

770 implement the program.

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

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

776 **63G-2-305. Protected records.**

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

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

780 (2) commercial information or nonindividual financial information obtained from a
781 person if:

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

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

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

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

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

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

798 (6) records, the disclosure of which would impair governmental procurement
799 proceedings or give an unfair advantage to any person proposing to enter into a contract or
800 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this

801 Subsection (6) does not restrict the right of a person to have access to, after the contract or
802 grant has been awarded and signed by all parties:

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

805 (i) an invitation for bids;

806 (ii) a request for proposals;

807 (iii) a request for quotes;

808 (iv) a grant; or

809 (v) other similar document; or

810 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

811 (7) information submitted to or by a governmental entity in response to a request for
812 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
813 the right of a person to have access to the information, after:

814 (a) a contract directly relating to the subject of the request for information has been
815 awarded and signed by all parties; or

816 (b) (i) a final determination is made not to enter into a contract that relates to the
817 subject of the request for information; and

818 (ii) at least two years have passed after the day on which the request for information is
819 issued;

820 (8) records that would identify real property or the appraisal or estimated value of real
821 or personal property, including intellectual property, under consideration for public acquisition
822 before any rights to the property are acquired unless:

823 (a) public interest in obtaining access to the information is greater than or equal to the
824 governmental entity's need to acquire the property on the best terms possible;

825 (b) the information has already been disclosed to persons not employed by or under a
826 duty of confidentiality to the entity;

827 (c) in the case of records that would identify property, potential sellers of the described
828 property have already learned of the governmental entity's plans to acquire the property;

829 (d) in the case of records that would identify the appraisal or estimated value of
830 property, the potential sellers have already learned of the governmental entity's estimated value
831 of the property; or

832 (e) the property under consideration for public acquisition is a single family residence
833 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
834 the property as required under Section 78B-6-505;

835 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
836 compensated transaction of real or personal property including intellectual property, which, if
837 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
838 of the subject property, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

889 (A) members of a legislative body;

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

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

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

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

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

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

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

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

907 (a) collective bargaining; or

908 (b) imminent or pending litigation;

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

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

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

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

920 (28) records of an institution within the state system of higher education defined in
921 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
922 retention decisions, and promotions, which could be properly discussed in a meeting closed in
923 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
924 the final decisions about tenure, appointments, retention, promotions, or those students

925 admitted, may not be classified as protected under this section;

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

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

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

937 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
938 public body except as provided in Section [52-4-206](#);

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

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

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

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

953 (37) the name of a donor or a prospective donor to a governmental entity, including an
954 institution within the state system of higher education defined in Section [53B-1-102](#), and other
955 information concerning the donation that could reasonably be expected to reveal the identity of

956 the donor, provided that:

957 (a) the donor requests anonymity in writing;

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

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

965 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
966 73-18-13;

967 (39) a notification of workers' compensation insurance coverage described in Section
968 34A-2-205;

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

972 (i) unpublished lecture notes;

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

974 (A) relating to research; and

975 (B) of:

976 (I) the institution within the state system of higher education defined in Section
977 53B-1-102; or

978 (II) a sponsor of sponsored research;

979 (iii) unpublished manuscripts;

980 (iv) creative works in process;

981 (v) scholarly correspondence; and

982 (vi) confidential information contained in research proposals;

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

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

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

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

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

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

996 (a) a production facility; or

997 (b) a magazine;

998 (43) information:

999 (a) contained in the statewide database of the Division of Aging and Adult Services
1000 created by Section [62A-3-311.1](#); or

1001 (b) received or maintained in relation to the Identity Theft Reporting Information
1002 System (IRIS) established under Section [67-5-22](#);

1003 (44) information contained in the Licensing Information System described in Title
1004 62A, Chapter 4a, Child and Family Services;

1005 (45) information regarding National Guard operations or activities in support of the
1006 National Guard's federal mission;

1007 (46) records provided by any pawn or secondhand business to a law enforcement
1008 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
1009 Secondhand Merchandise Transaction Information Act;

1010 (47) information regarding food security, risk, and vulnerability assessments performed
1011 by the Department of Agriculture and Food;

1012 (48) except to the extent that the record is exempt from this chapter pursuant to Section
1013 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
1014 prepared or maintained by the Division of Emergency Management, and the disclosure of
1015 which would jeopardize:

1016 (a) the safety of the general public; or

1017 (b) the security of:

- 1018 (i) governmental property;
- 1019 (ii) governmental programs; or
- 1020 (iii) the property of a private person who provides the Division of Emergency
- 1021 Management information;
- 1022 (49) records of the Department of Agriculture and Food that provides for the
- 1023 identification, tracing, or control of livestock diseases, including any program established under
- 1024 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
- 1025 of Animal Disease;
- 1026 (50) as provided in Section [26-39-501](#):
- 1027 (a) information or records held by the Department of Health related to a complaint
- 1028 regarding a child care program or residential child care which the department is unable to
- 1029 substantiate; and
- 1030 (b) information or records related to a complaint received by the Department of Health
- 1031 from an anonymous complainant regarding a child care program or residential child care;
- 1032 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
- 1033 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
- 1034 personal mobile phone number, if:
- 1035 (a) the individual is required to provide the information in order to comply with a law,
- 1036 ordinance, rule, or order of a government entity; and
- 1037 (b) the subject of the record has a reasonable expectation that this information will be
- 1038 kept confidential due to:
- 1039 (i) the nature of the law, ordinance, rule, or order; and
- 1040 (ii) the individual complying with the law, ordinance, rule, or order;
- 1041 (52) the portion of the following documents that contains a candidate's residential or
- 1042 mailing address, if the candidate provides to the filing officer another address or phone number
- 1043 where the candidate may be contacted:
- 1044 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
- 1045 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
- 1046 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);
- 1047 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or
- 1048 (c) a notice of intent to gather signatures for candidacy, described in Section

1049 20A-9-408;

1050 (53) the name, home address, work addresses, and telephone numbers of an individual
1051 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1052 (a) conducted within the state system of higher education, as defined in Section

1053 53B-1-102; and

1054 (b) conducted using animals;

1055 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance

1056 Evaluation Commission concerning an individual commissioner's vote on whether or not to

1057 recommend that the voters retain a judge including information disclosed under Subsection

1058 78A-12-203(5)(e);

1059 (55) information collected and a report prepared by the Judicial Performance

1060 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter

1061 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,

1062 the information or report;

1063 (56) records provided or received by the Public Lands Policy Coordinating Office in
1064 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

1065 (57) information requested by and provided to the 911 Division under Section

1066 63H-7a-302;

1067 (58) in accordance with Section 73-10-33:

1068 (a) a management plan for a water conveyance facility in the possession of the Division
1069 of Water Resources or the Board of Water Resources; or

1070 (b) an outline of an emergency response plan in possession of the state or a county or
1071 municipality;

1072 (59) the following records in the custody or control of the Office of Inspector General
1073 of Medicaid Services, created in Section 63A-13-201:

1074 (a) records that would disclose information relating to allegations of personal
1075 misconduct, gross mismanagement, or illegal activity of a person if the information or
1076 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1077 through other documents or evidence, and the records relating to the allegation are not relied
1078 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1079 report or final audit report;

1080 (b) records and audit workpapers to the extent they would disclose the identity of a
1081 person who, during the course of an investigation or audit, communicated the existence of any
1082 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1083 regulation adopted under the laws of this state, a political subdivision of the state, or any
1084 recognized entity of the United States, if the information was disclosed on the condition that
1085 the identity of the person be protected;

1086 (c) before the time that an investigation or audit is completed and the final
1087 investigation or final audit report is released, records or drafts circulated to a person who is not
1088 an employee or head of a governmental entity for the person's response or information;

1089 (d) records that would disclose an outline or part of any investigation, audit survey
1090 plan, or audit program; or

1091 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1092 investigation or audit;

1093 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1094 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
1095 abuse;

1096 (61) information provided to the Department of Health or the Division of Occupational
1097 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1098 58-68-304(3) and (4);

1099 (62) a record described in Section 63G-12-210;

1100 (63) captured plate data that is obtained through an automatic license plate reader
1101 system used by a governmental entity as authorized in Section 41-6a-2003;

1102 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
1103 victim, including:

1104 (a) a victim's application or request for benefits;

1105 (b) a victim's receipt or denial of benefits; and

1106 (c) any administrative notes or records made or created for the purpose of, or used to,
1107 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
1108 Reparations Fund;

1109 (65) an audio or video recording created by a body-worn camera, as that term is
1110 defined in Section 77-7a-103, that records sound or images inside a hospital or health care

1111 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
1112 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
1113 that term is defined in Section 62A-2-101, except for recordings that:

1114 (a) depict the commission of an alleged crime;

1115 (b) record any encounter between a law enforcement officer and a person that results in
1116 death or bodily injury, or includes an instance when an officer fires a weapon;

1117 (c) record any encounter that is the subject of a complaint or a legal proceeding against
1118 a law enforcement officer or law enforcement agency;

1119 (d) contain an officer involved critical incident as defined in Subsection
1120 76-2-408(1)(f); or

1121 (e) have been requested for reclassification as a public record by a subject or
1122 authorized agent of a subject featured in the recording;

1123 (66) a record pertaining to the search process for a president of an institution of higher
1124 education described in Section 53B-2-102, except for application materials for a publicly
1125 announced finalist;

1126 (67) an audio recording that is:

1127 (a) produced by an audio recording device that is used in conjunction with a device or
1128 piece of equipment designed or intended for resuscitating an individual or for treating an
1129 individual with a life-threatening condition;

1130 (b) produced during an emergency event when an individual employed to provide law
1131 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1132 (i) is responding to an individual needing resuscitation or with a life-threatening
1133 condition; and

1134 (ii) uses a device or piece of equipment designed or intended for resuscitating an
1135 individual or for treating an individual with a life-threatening condition; and

1136 (c) intended and used for purposes of training emergency responders how to improve
1137 their response to an emergency situation;

1138 (68) records submitted by or prepared in relation to an applicant seeking a
1139 recommendation by the Research and General Counsel Subcommittee, the Budget
1140 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
1141 employment position with the Legislature;

- 1142 (69) work papers as defined in Section 31A-2-204;
- 1143 (70) a record made available to Adult Protective Services or a law enforcement agency
- 1144 under Section 61-1-206;
- 1145 (71) a record submitted to the Insurance Department in accordance with Section
- 1146 31A-37-201;
- 1147 (72) a record described in Section 31A-37-503;
- 1148 (73) any record created by the Division of Occupational and Professional Licensing as
- 1149 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 1150 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
- 1151 involving an amusement ride;
- 1152 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
- 1153 on a political petition, or on a request to withdraw a signature from a political petition,
- 1154 including a petition or request described in the following titles:
- 1155 (a) Title 10, Utah Municipal Code;
- 1156 (b) Title 17, Counties;
- 1157 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
- 1158 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 1159 (e) Title 20A, Election Code;
- 1160 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
- 1161 a voter registration record;
- 1162 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
- 1163 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
- 1164 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 1165 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
- 1166 5, Victims Guidelines for Prosecutors Act;
- 1167 (79) a record submitted to the Insurance Department under Subsection
- 1168 31A-48-103(1)(b);
- 1169 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
- 1170 prohibited under Section 63G-26-103;
- 1171 (81) (a) an image taken of an individual during the process of booking the individual
- 1172 into jail, unless:

1173 (i) the individual is convicted of a criminal offense based upon the conduct for which
1174 the individual was incarcerated at the time the image was taken;

1175 (ii) a law enforcement agency releases or disseminates the image after determining
1176 that:

1177 (A) the individual is a fugitive or an imminent threat to an individual or to public
1178 safety; and

1179 (B) releasing or disseminating the image will assist in apprehending the individual or
1180 reducing or eliminating the threat; or

1181 (iii) a judge orders the release or dissemination of the image based on a finding that the
1182 release or dissemination is in furtherance of a legitimate law enforcement interest[-];

1183 (82) a record:

1184 (a) concerning an interstate claim to the use of waters in the Colorado River system;

1185 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1186 representative from another state or the federal government as provided in Section

1187 [63M-14-205](#); and

1188 (c) the disclosure of which would:

1189 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1190 Colorado River system;

1191 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
1192 negotiate the best terms and conditions regarding the use of water in the Colorado River
1193 system; or

1194 (iii) give an advantage to another state or to the federal government in negotiations
1195 regarding the use of water in the Colorado River system; [~~and~~]

1196 (83) any part of an application described in Section [63N-16-201](#) that the Governor's
1197 Office of Economic Opportunity determines is nonpublic, confidential information that if
1198 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
1199 not be used to restrict access to a record evidencing a final contract or approval decision[-]; and

1200 (84) any part of an application for a scholarship account as described in Section
1201 [53F-6-402](#) or other information identifying a scholarship student as defined in Section
1202 [53F-6-401](#).

1203 Section 15. **Repealer.**

1204 This bill repeals:

1205 Section [53F-6-101](#), Title.

1206 Section 16. **Appropriation.**

1207 The following sums of money are appropriated for the fiscal year beginning July 1,
1208 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for
1209 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
1210 Act, the Legislature appropriates the following sums of money from the funds or accounts
1211 indicated for the use and support of the government of the state of Utah.

1212 ITEM 1

1213 To State Board of Education -- Contracted Initiatives and Grants

1214 From Education Fund \$36,000,000

1215 From Education Fund, One-time (\$34,000,000)

1216 Schedule of Programs:

1217 Hope Scholarship Program \$2,000,000

1218 The Legislature intends that, in fiscal year 2023, the State Board of Education may
1219 provide up to \$2,000,000 to a scholarship granting organization contracted with the State
1220 Board of Education in accordance with Section [53F-6-404](#) for start-up, marketing, and other
1221 costs with initiating the Hope Scholarship Program created in Section [53F-6-402](#).