

1                   **FUNDING FOR TEACHER SALARIES AND OPTIONAL**  
2                   **EDUCATION OPPORTUNITIES**

3                                   2023 GENERAL SESSION

4                                   STATE OF UTAH

5                   **Chief Sponsor: Candice B. Pierucci**

6                   Senate Sponsor: Kirk A. Cullimore

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8 **LONG TITLE**

9 **General Description:**

10           This bill establishes the Utah Fits All Scholarship Program and provides funding for the  
11 program and a doubling of a teacher salary supplement.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines terms;
- 15           ▶ establishes the Utah Fits All Scholarship Program (program);
- 16           ▶ requires a program manager and the State Board of Education (state board) to  
17 submit reports on the program to the Public Education Interim Committee;
- 18           ▶ includes the program in a list of programs for which the Legislature applies an  
19 inflationary factor in determining the cost of ongoing appropriations annually;
- 20           ▶ amends the Teacher Salary Supplement Program to provide increased salary  
21 supplements for teachers within local education agencies that offer services to  
22 eligible students under the program;
- 23           ▶ requires the state board to contract with, no later than October 1, 2023, a program  
24 manager to administer the program;
- 25           ▶ authorizes the contracted program manager to establish scholarship accounts on  
26 behalf of eligible students to pay for approved education goods and services starting  
27 in the 2024-2025 school year;



- 28           ▶ prohibits a program manager from accepting scholarship funds in certain
- 29 circumstances and requires other fiscal safeguards, auditing, and accountability
- 30 measures;
- 31           ▶ requires eligible schools and service providers to meet certain standards to be
- 32 eligible to receive scholarship funds;
- 33           ▶ authorizes the program manager to administer the program, receive donations to the
- 34 program, and distribute scholarship funds;
- 35           ▶ requires the state board to provide limited oversight of the program manager,
- 36 including an appeal process for the program manager's administrative decisions;
- 37           ▶ prohibits certain regulations of eligible schools and eligible service providers;
- 38           ▶ requires background checks for employees and officers of a program manager;
- 39           ▶ enacts program funding provisions;
- 40           ▶ classifies scholarship student's and scholarship account information as protected
- 41 records; and
- 42           ▶ makes technical and conforming changes.

43 **Money Appropriated in this Bill:**

44           None

45 **Other Special Clauses:**

46           This bill provides a special effective date.

47 **Utah Code Sections Affected:**

48 AMENDS:

49           **53E-1-201**, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291,

50 354, and 461

51           **53F-2-208**, as last amended by Laws of Utah 2022, Chapter 1

52           **53F-2-405**, as last amended by Laws of Utah 2022, Chapter 415

53           **63G-2-305**, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303,

54 335, 388, 391, and 415

55 ENACTS:

56           **53F-6-401**, Utah Code Annotated 1953

57           **53F-6-402**, Utah Code Annotated 1953

58           **53F-6-403**, Utah Code Annotated 1953

- 59 [53F-6-404](#), Utah Code Annotated 1953
- 60 [53F-6-405](#), Utah Code Annotated 1953
- 61 [53F-6-406](#), Utah Code Annotated 1953
- 62 [53F-6-407](#), Utah Code Annotated 1953
- 63 [53F-6-408](#), Utah Code Annotated 1953
- 64 [53F-6-409](#), Utah Code Annotated 1953
- 65 [53F-6-410](#), Utah Code Annotated 1953
- 66 [53F-6-411](#), Utah Code Annotated 1953
- 67 [53F-6-412](#), Utah Code Annotated 1953
- 68 [53F-6-413](#), Utah Code Annotated 1953
- 69 [53F-6-414](#), Utah Code Annotated 1953

70 REPEALS:

- 71 [53F-6-101](#), as enacted by Laws of Utah 2018, Chapter 2

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

74 Section 1. Section [53E-1-201](#) is amended to read:

75 **[53E-1-201. Reports to and action required of the Education Interim Committee.](#)**

76 (1) In accordance with applicable provisions and Section [68-3-14](#), the following  
77 recurring reports are due to the Education Interim Committee:

78 (a) the report described in Section [9-22-109](#) by the STEM Action Center Board,  
79 including the information described in Section [9-22-113](#) on the status of the computer science  
80 initiative and Section [9-22-114](#) on the Computing Partnerships Grants Program;

81 (b) the prioritized list of data research described in Section [53B-33-302](#) and the report  
82 on research and activities described in Section [53B-33-304](#) by the Utah Data Research Center;

83 (c) the report described in Section [35A-15-303](#) by the State Board of Education on  
84 preschool programs;

85 (d) the report described in Section [53B-1-402](#) by the Utah Board of Higher Education  
86 on career and technical education issues and addressing workforce needs;

87 (e) the annual report of the Utah Board of Higher Education described in Section  
88 [53B-1-402](#);

89 (f) the reports described in Section [53B-28-401](#) by the Utah Board of Higher Education

90 regarding activities related to campus safety;

91 (g) the State Superintendent's Annual Report by the state board described in Section  
92 [53E-1-203](#);

93 (h) the annual report described in Section [53E-2-202](#) by the state board on the strategic  
94 plan to improve student outcomes;

95 (i) the report described in Section [53E-8-204](#) by the state board on the Utah Schools for  
96 the Deaf and the Blind;

97 (j) the report described in Section [53E-10-703](#) by the Utah Leading through Effective,  
98 Actionable, and Dynamic Education director on research and other activities;

99 (k) the report described in Section [53F-2-522](#) regarding mental health screening  
100 programs;

101 (l) the report described in Section [53F-4-203](#) by the state board and the independent  
102 evaluator on an evaluation of early interactive reading software;

103 (m) the report described in Section [53F-4-407](#) by the state board on UPSTART;

104 (n) the reports described in Sections [53F-5-214](#) and [53F-5-215](#) by the state board  
105 related to grants for professional learning and grants for an elementary teacher preparation  
106 assessment;

107 (o) upon request, the report described in Section [53F-5-219](#) by the state board on the  
108 Local Innovations Civics Education Pilot Program;

109 (p) the report described in Section [53F-5-405](#) by the State Board of Education  
110 regarding an evaluation of a partnership that receives a grant to improve educational outcomes  
111 for students who are low income;

112 (q) the report described in Section [53B-35-202](#) regarding the Higher Education and  
113 Corrections Council;

114 (r) the report described in Section [53G-7-221](#) by the State Board of Education  
115 regarding innovation plans; ~~and~~

116 (s) the annual report described in Section [63A-2-502](#) by the Educational Interpretation  
117 and Translation Service Procurement Advisory Council[-]; and

118 (t) the reports described in Section [53F-6-412](#) regarding the Utah Fits All Scholarship  
119 Program.

120 (2) In accordance with applicable provisions and Section [68-3-14](#), the following

121 occasional reports are due to the Education Interim Committee:

122 (a) the report described in Section 35A-15-303 by the School Readiness Board by  
123 November 30, 2020, on benchmarks for certain preschool programs;

124 (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education  
125 on or before the Education Interim Committee's November 2021 meeting;

126 (c) if required, the report described in Section 53E-4-309 by the state board explaining  
127 the reasons for changing the grade level specification for the administration of specific  
128 assessments;

129 (d) if required, the report described in Section 53E-5-210 by the state board of an  
130 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

131 (e) in 2022 and in 2023, on or before November 30, the report described in Subsection  
132 53E-10-309(7) related to the PRIME pilot program;

133 (f) the report described in Section 53E-10-702 by Utah Leading through Effective,  
134 Actionable, and Dynamic Education;

135 (g) if required, the report described in Section 53F-2-513 by the state board evaluating  
136 the effects of salary bonuses on the recruitment and retention of effective teachers in high  
137 poverty schools;

138 (h) the report described in Section 53F-5-210 by the state board on the Educational  
139 Improvement Opportunities Outside of the Regular School Day Grant Program;

140 (i) upon request, a report described in Section 53G-7-222 by an LEA regarding  
141 expenditure of a percentage of state restricted funds to support an innovative education  
142 program;

143 (j) the report described in Section 53G-7-503 by the state board regarding fees that  
144 LEAs charge during the 2020-2021 school year;

145 (k) the reports described in Section 53G-11-304 by the state board regarding proposed  
146 rules and results related to educator exit surveys; and

147 (l) the report described in Section 62A-15-117 by the Division of Substance Abuse and  
148 Mental Health, the State Board of Education, and the Department of Health regarding  
149 recommendations related to Medicaid reimbursement for school-based health services.

150 Section 2. Section 53F-2-208 is amended to read:

151 **53F-2-208. Cost of adjustments for growth and inflation.**

152 (1) In accordance with Subsection (2), the Legislature shall annually determine:

153 (a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a  
154 rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations  
155 to the following programs:

156 (i) education for youth in custody[;] described in Section 53E-3-503;

157 (ii) the Basic Program[;] described in Title 53F, Chapter 2, Part 3, Basic Program  
158 (Weighted Pupil Units);

159 (iii) the Adult Education Program[;] described in Section 53F-2-401;

160 (iv) state support of pupil transportation[;] described in Section 53F-2-402;

161 (v) the Enhancement for Accelerated Students Program[;] described in Section  
162 53F-2-408;

163 (vi) the Concurrent Enrollment Program[;] described in Section 53F-2-409; [~~and~~]

164 (vii) the gang prevention and intervention program[;] described in Section 53F-2-410;

165 and

166 (viii) the Utah Fits All Scholarship Program described in Title 53F, Chapter 6, Part 4,  
167 Utah Fits All Scholarship Program; and

168 (b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year,  
169 the current fiscal year's ongoing state tax fund appropriations to the following programs:

170 (i) a program described in [~~Subsection (1)(a)] Subsections (1)(a)(i) through (vii);~~

171 (ii) educator salary adjustments, described in Section 53F-2-405;

172 (iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

173 (iv) the Voted and Board Local Levy Guarantee programs, described in Section  
174 53F-2-601; and

175 (v) charter school local replacement funding, described in Section 53F-2-702.

176 (2) (a) In or before December each year, the Executive Appropriations Committee shall  
177 determine:

178 (i) the cost of the inflation adjustment described in Subsection (1)(a); and

179 (ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

180 (b) The Executive Appropriations Committee shall make the determinations described  
181 in Subsection (2)(a) based on recommendations developed by the Office of the Legislative  
182 Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and

183 Budget.

184 Section 3. Section **53F-2-405** is amended to read:

185 **53F-2-405. Educator salary adjustments.**

186 (1) As used in this section, "educator" means a person employed by a school district,  
187 charter school, or the Utah Schools for the Deaf and the Blind who holds:

188 (a) (i) a license issued by the state board; and

189 (ii) a position as a:

190 (A) classroom teacher;

191 (B) speech pathologist;

192 (C) librarian or media specialist;

193 (D) preschool teacher;

194 (E) mentor teacher;

195 (F) teacher specialist or teacher leader;

196 (G) guidance counselor;

197 (H) audiologist;

198 (I) psychologist; or

199 (J) social worker; or

200 (b) (i) a license issued by the Division of Professional Licensing; and

201 (ii) a position as a social worker.

202 (2) In recognition of the need to attract and retain highly skilled and dedicated  
203 educators, the Legislature shall annually appropriate money for educator salary adjustments,  
204 subject to future budget constraints.

205 [~~3) Money appropriated to the state board~~]

206 (3) (a) The state board shall distribute to each school district, each charter school, and  
207 the Utah Schools for the Deaf and the Blind money that the Legislature appropriates for  
208 educator salary adjustments based on the number of educator positions described in Subsection  
209 (4) in the school district, the charter school, or the Utah Schools for the Deaf and the Blind.

210 (b) Notwithstanding Subsection (3)(a), if appropriations are insufficient to provide the  
211 full amount of educator salary adjustments described in this section, the state board shall  
212 distribute money appropriated for educator salary adjustments [shall be distributed] to school  
213 districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the

214 number of ~~[full-time-equivalent]~~ educator positions described in Subsection (4) in a school  
215 district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the  
216 total number of full-time-equivalent educator positions in school districts, charter schools, and  
217 the Utah Schools for the Deaf and the Blind.

218 (4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind  
219 shall award bonuses to educators as follows:

220 (a) the amount of the salary adjustment ~~[shall be the same]~~ for each  
221 full-time-equivalent educator ~~[position in the school district, charter school, or the Utah~~  
222 ~~Schools for the Deaf and the Blind;]~~ is:

223 (i) if Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program, is funded and in  
224 effect, \$8,400; or

225 (ii) if Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program, is not funded  
226 and in effect, \$4,200.

227 (b) an individual who is not a full-time educator shall receive a partial salary  
228 adjustment based on the number of hours the individual works as an educator; and

229 (c) a salary adjustment may be awarded only to an educator who has received a  
230 satisfactory rating or above on the educator's most recent evaluation.

231 (5) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
232 Act, the state board:

233 (a) shall make rules to ensure that LEAs do not reduce or artificially limit a teacher's  
234 salary to convert the salary supplement in this section into a windfall to the LEA; and

235 (b) may make rules as necessary to administer this section ~~[in accordance with Title~~  
236 ~~63G, Chapter 3, Utah Administrative Rulemaking Act].~~

237 (6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient  
238 money each year to:

239 (i) maintain educator salary adjustments provided in prior years; and

240 (ii) provide educator salary adjustments to new employees.

241 (b) Money appropriated for educator salary adjustments shall include money for the  
242 following employer-paid benefits:

243 (i) retirement;

244 (ii) worker's compensation;



245 (iii) social security; and

246 (iv) Medicare.

247 (7) (a) Subject to future budget constraints, the Legislature shall:

248 (i) maintain the salary adjustments provided to school administrators in the 2007-08  
249 school year; and

250 (ii) provide salary adjustments for new school administrators in the same amount as  
251 provided for existing school administrators.

252 (b) The appropriation provided for educator salary adjustments described in this  
253 section shall include salary adjustments for school administrators as specified in Subsection  
254 (7)(a).

255 (c) In distributing and awarding salary adjustments for school administrators, the state  
256 board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall  
257 comply with the requirements for the distribution and award of educator salary adjustments as  
258 provided in Subsections (3) and (4).

259 Section 4. Section **53F-6-401** is enacted to read:

260 **Part 4. Utah Fits All Scholarship Program**

261 **53F-6-401. Definitions.**

262 As used in this part:

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

264 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through  
265 12;

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

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

269 (i) does not receive a scholarship under:

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

271 (B) the Special Needs Opportunity Scholarship Program established in Section  
272 [53E-7-402](#); and

273 (ii) is not enrolled in an LEA; and

274 (d) whose eligibility is not suspended or disqualified under Section [53F-6-401](#).

275 (2) "Federal poverty level" means the United States poverty level as defined by the

276 most recently revised poverty income guidelines published by the United States Department of  
277 Health and Human Services in the Federal Register.

278 (3) "Officer" means:

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

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

281 (4) (a) "Out-of-program home school student" means a student who:

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

283 (ii) is excused from enrollment in an LEA in accordance with Section [53G-6-204](#) to

284 attend a home school; and

285 (iii) does not receive a benefit of scholarship funds.

286 (b) "Out-of-program home school student" does not mean a scholarship student.

287 (5) "Program donation" means a donation to the program that a program manager

288 accepts as described in Section [53F-6-405](#).

289 (6) "Program manager" means an organization that:

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

291 (b) is not affiliated with any international organization that an international treaty

292 created;

293 (c) does not harvest data for the purpose of reproducing or distributing the data to other

294 entities;

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

296 and

297 (e) an agreement with the state board recognizes as a program manager, in accordance

298 with this part.

299 (7) "Qualifying provider" means one of the following entities that is not a public school

300 and is autonomous and not an agent of the state, in accordance with Section [53F-6-406](#):

301 (a) an eligible school that the program manager approves in accordance with Section

302 [53F-6-408](#); or

303 (b) an eligible service provider that the program manager approves in accordance with

304 Section [53F-6-409](#).

305 (8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,

306 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,

307 sister-in-law, son-in-law, or daughter-in-law.

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

310 (10) (a) "Scholarship employee" means an individual working in a position in which  
311 the individual's salary, wages, pay, or compensation, including as a contractor, is paid from  
312 scholarship funds.

313 (b) "Scholarship employee" does not include an individual who volunteers for the  
314 program manager or for a qualifying provider.

315 (11) "Scholarship expense" means an expense described in Section [53F-6-402](#) that a  
316 parent or scholarship student incurs in the education of the scholarship student for a service or  
317 goods that a qualifying provider provides, including:

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

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

320 (c) tutoring services;

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

322 (e) textbooks, curricula, or other instructional materials, including any supplemental  
323 materials or associated online instruction that a curriculum or a qualifying provider  
324 recommends;

325 (f) educational software and applications;

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

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

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

331 (i) a national norm-referenced or standardized assessment described in Section  
332 [53F-6-410](#), an advanced placement examination, or another similar assessment;

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

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

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

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

341 (l) fees, not to exceed \$750 in a given school year, for transportation for a  
342 fee-for-service transportation provider for the scholarship student to travel to and from a  
343 qualifying provider; or

344 (m) any other expense for a good or service that:

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

346 and

347 (ii) the program manager approves, subject to the restriction on guiding or directing  
348 curriculum described in Subsection (6).

349 (12) "Scholarship funds" means:

350 (a) funds that the Legislature appropriates for the program;

351 (b) program donations that the program manager accepts as described in Section  
352 53F-6-405; and

353 (c) interest that program donations or investments accrue.

354 (13) (a) "Scholarship student" means an eligible student for whom the program  
355 manager establishes and maintains a scholarship account in accordance with this part.

356 (b) "Scholarship student" does not include an out-of-program home school student.

357 (14) "Utah Fits All Scholarship Program" or "program" means the scholarship program  
358 established in Section 53F-6-402.

359 Section 5. Section **53F-6-402** is enacted to read:

360 **53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application**  
361 **-- Scholarship expenses -- Program information.**

362 (1) There is established the Utah Fits All Scholarship Program under which, beginning  
363 July 1, 2024, a parent may apply to a program manager on behalf of the parent's student to  
364 establish and maintain a scholarship account to cover the cost of a scholarship expense.

365 (2) (a) The program manager shall establish and maintain, in accordance with this part,  
366 scholarship accounts for eligible students.

367 (b) The program manager shall:

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

369 (ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a  
370 scholarship account for the scholarship student to pay for the cost of one or more scholarship  
371 expenses that the student or student's parent incurs in the student's education.

372 (c) Each year, subject to this part and legislative appropriations, a scholarship student  
373 is eligible for no more than:

374 (i) for the 2024-2025 school year, \$8,000; and

375 (ii) for each school year following the 2024-2025 school year, the maximum allowed  
376 amount under this Subsection (2)(c) in the previous year plus a percentage increase that is  
377 equal to the percentage of increase in the value of the weighted pupil unit for the given fiscal  
378 year.

379 (3) (a) A program manager shall establish a scholarship account on behalf of an  
380 eligible student who submits a timely application, unless the number of applications exceed  
381 available scholarship funds for the school year.

382 (b) If the number of applications exceeds the available scholarship funds for a school  
383 year, the program manager shall select students on a random basis, except as provided in  
384 Subsection (6).

385 (c) An eligible student or a public education student shall submit an application for an  
386 initial scholarship or renewal for each school year that the student intends to receive  
387 scholarship funds.

388 (4) (a) An application for a scholarship account shall contain an acknowledgment by  
389 the student's parent that the qualifying provider selected by the parent for the student's  
390 enrollment or engagement is capable of providing education services for the student.

391 (b) A scholarship account application form shall contain the following statement:  
392 "I acknowledge that:

393 (1) A private education service provider may not provide the same level of disability  
394 services that are provided in a public school:

395 (2) I will assume full financial responsibility for the education of my scholarship  
396 recipient if I agree to this scholarship account;

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

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

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

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

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

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

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

413 (5) A program manager may not charge a scholarship account application fee.

414 (6) A program manager:

415 (a) shall give an enrollment preference to an eligible student based on family income in  
416 the following order of preference:

417 (i) a family income at or below 200% of the federal poverty level; and

418 (ii) a family income between 200% and 555% of the federal poverty level; and

419 (b) secondarily to the enrollment preference described in Subsection (6)(a), shall give  
420 an enrollment preference to the following students:

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

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

423 (A) receives scholarship funds from a scholarship account at the time the sibling  
424 applies for a scholarship account; or

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

427 (7) (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship  
428 account to pay for a scholarship expense that a parent or scholarship student incurs in the  
429 education of the scholarship student.

430 (b) A scholarship student or the scholarship student's parent may not use a scholarship

431 account for an expense that the student or parent does not incur in the education of the  
432 scholarship student, including:

433 (i) a rehabilitation program that is not primarily designed for an educational purpose;  
434 or

435 (ii) a travel expense other than a transportation expense described in Section  
436 53F-6-401.

437 (c) The program manager may not:

438 (i) approve a scholarship expense for a service that a qualifying provider provides  
439 unless the program manager determines that the scholarship student or the scholarship student's  
440 parent incurred the expense in the education of the scholarship student; or

441 (ii) reimburse a scholarship expense for a service or good that a provider that is not a  
442 qualifying provider provides unless:

443 (A) the parent or scholarship student submits a receipt that shows the cost and type of  
444 service or good and the name of provider; and

445 (B) the program manager determines that the parent or scholarship student incurred the  
446 expense in the education of the scholarship student.

447 (d) The parent of a scholarship student may not receive scholarship funds as payment  
448 for the parent's time spent educating the parent's child.

449 (e) Except for cases in which a scholarship student or the scholarship student's parent is  
450 convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student,  
451 or scholarship student's parent repays an expenditure from a scholarship account for an expense  
452 that is not approved under this Subsection (7), the program manager shall credit the repaid  
453 amount back to the scholarship account balance within 30 days after the day on which the  
454 program manager receives the repayment.

455 (8) Notwithstanding any other provision of law, funds that the program manager  
456 disburses under this part to a scholarship account on behalf of a scholarship student do not  
457 constitute state taxable income to the parent of the scholarship student.

458 (9) The program manager shall prepare and disseminate information on the program to  
459 a parent applying for a scholarship account on behalf of a student, including the information  
460 that the program manager provides in accordance with Section 53F-6-405.

461 (10) On or before September 1, 2023, and as frequently as necessary to maintain the

462 information, the state board shall provide information on the state board's website, including:

463 (a) scholarship account information;

464 (b) information on the program manager, including the program manager's contact  
465 information; and

466 (c) an overview of the program.

467 (11) To administer the program, the program manager may use up to the lesser of 5 or  
468 \$2,500,000 of the funds the Legislature appropriates for the program.

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

470 **53F-6-403. Qualifying providers.**

471 (1) Before the beginning of the school year immediately following a school year in  
472 which a qualifying provider receives scholarship funds equal to or more than \$250,000, the  
473 qualifying provider shall file with the program manager a surety bond payable to the program  
474 manager in an amount equal to the aggregate amount of scholarship funds expected to be  
475 received during the school year.

476 (2) If a program manager determines that a qualifying provider has violated a provision  
477 of this part, the program manager may interrupt disbursement of or withhold scholarship funds  
478 from the qualifying provider.

479 (3) (a) If the program manager determines that a qualifying provider no longer meets  
480 the eligibility requirements described in this part, the program manager may withdraw the  
481 organization's approval of the qualifying provider.

482 (b) A provider or person that does not have the approval of the program manager in  
483 accordance with the following may not accept scholarship funds for services under this part:

484 (i) Section 53F-6-408 regarding eligible schools; or

485 (ii) Section 53F-6-409 regarding eligible service providers.

486 (4) If a qualifying provider requires partial payment of tuition or fees before the  
487 beginning of the academic year to reserve space for a scholarship student who has been  
488 admitted to the qualifying provider, the program manager may:

489 (a) pay the partial payment before the beginning of the school year in which the  
490 scholarship funds are awarded; and

491 (b) deduct the amount of the partial payment from subsequent scholarship fund  
492 deposits in an equitable manner that provides the best availability of scholarship funds to the



493 student throughout the remainder of the school year.

494 (5) If a scholarship student described in Subsection (4)(a) chooses to withdraw from or  
495 otherwise not engage with the qualifying provider before the beginning of the school year:

496 (a) the qualifying provider shall remit the partial payment described in Subsection  
497 (4)(a) to the program manager; and

498 (b) the program manager shall credit the remitted partial payment to the scholarship  
499 student's scholarship account.

500 Section 7. Section **53F-6-404** is enacted to read:

501 **53F-6-404. State board procurement and review of program manager -- Failure to**  
502 **comply.**

503 (1) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state  
504 board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement  
505 with no more than one organization that qualifies as tax exempt under Section 501(c)(3),  
506 Internal Revenue Code, for the state board to recognize as the program manager, on or before  
507 October 1, 2023.

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

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

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

514 (iii) a description of the methodology the organization will use to verify a student's  
515 eligibility under this part;

516 (iv) a description of the organization's proposed scholarship account application  
517 process; and

518 (v) an affidavit or other evidence that the organization:

519 (A) is not affiliated with any international organization that an international treaty  
520 created;

521 (B) does not harvest data for the purpose of reproducing or distributing the data to  
522 another entity; and

523 (C) has no involvement in guiding or directing any curriculum standards.

524 (c) The state board shall ensure that the agreement described in Subsection (1)(a):  
525 (i) ensures the efficiency and success of the program; and  
526 (ii) does not impose any requirements on the program manager that:  
527 (A) are not essential to the basic administration of the program; or  
528 (B) create restrictions, directions, or mandates regarding instructional content or  
529 curriculum.

530 (2) The state board may regulate and take enforcement action as necessary against a  
531 program manager in accordance with the provisions of the state board's agreement with the  
532 program manager.

533 (3) (a) If the state board determines that a program manager has violated a provision of  
534 this part or a provision of the state board's agreement with the program manager, the state  
535 board shall send written notice to the program manager explaining the violation and the  
536 remedial action required to correct the violation.

537 (b) A program manager that receives a notice described in Subsection (3)(a) shall, no  
538 later than 60 days after the day on which the program manager receives the notice, correct the  
539 violation and report the correction to the state board.

540 (c) (i) If a program manager that receives a notice described in Subsection (3)(a) fails  
541 to correct a violation in the time period described in Subsection (3)(b), the state board may bar  
542 the program manager from further participation in the program.

543 (ii) A program manager may appeal a decision of the state board under Subsection  
544 (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

545 (d) A program manager may not accept program donations or state funds while the  
546 program manager:

547 (i) is barred from participating in the program under Subsection (3)(c)(i); or

548 (ii) has an appeal pending under Subsection (3)(c)(ii).

549 (e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may  
550 continue to administer scholarship accounts from previously donated program donations during  
551 the pending appeal.

552 (4) The state board shall establish a process for a program manager to report the  
553 information the program manager is required to report to the state board under Section  
554 [53F-6-405](#).

555 (5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah  
556 Administrative Rulemaking Act, and include provisions in the state board's agreement with the  
557 scholarship organization for:

558 (a) subject to Subsection (6), the administration of scholarship accounts and  
559 disbursement of scholarship funds if a program manager is barred from participating in the  
560 program under Subsection (3)(c)(i); and

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

562 (6) (a) The state board shall include in the rules and provisions described in Subsection  
563 (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and  
564 enrollment in the program are not disrupted if the program manager is barred from participating  
565 in the program.

566 (b) The state board may include in the measures described in Subsection (5)(a) a right  
567 for the treasurer to enter into a new agreement with an alternative program manager in  
568 accordance with this section.

569 (7) (a) On or before January 1, 2024, the state board shall:

570 (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
571 Rulemaking Act, to establish a process for a scholarship student or a scholarship student's  
572 parent to appeal any administrative decision of the program manager for state board resolution  
573 within 30 days after the day of the appeal, including:

574 (A) scholarship expense denials; and

575 (B) determinations regarding enrollment eligibility or suspension or disqualification  
576 under Section [53F-6-405](#); and

577 (ii) make information available regarding the appeals process on the state board's  
578 website and on the scholarship application.

579 (b) If the state board stays or reverses an administrative decision of the program  
580 manager on appeal, the program manager may not withhold scholarship funds or application  
581 approval for the scholarship student on account of the appealed administrative decision unless  
582 as the state board expressly allows.

583 (8) The state board may not include a provision in any rule that creates or implies a  
584 restriction, direction, or mandate regarding instructional content or curriculum.

585 Section 8. Section **53F-6-405** is enacted to read:

586 53F-6-405. Program manager duties -- Program donations -- Audit --

587 **Prohibitions.**

588 (1) The program manager shall administer the program, including:

589 (a) maintaining an application website that includes information on enrollment,

590 relevant application dates, and dates for notification of acceptance;

591 (b) reviewing applications from and determining if a person is:

592 (i) an eligible school under Section 53F-6-408; or

593 (ii) an eligible service provider under Section 53F-6-409;

594 (c) establishing an application process, including application deadlines, in accordance  
595 with Section 53F-6-402;

596 (d) reviewing and granting or denying applications for a scholarship account;

597 (e) providing an online portal for the parent of a scholarship student to access the  
598 scholarship student's account;

599 (f) ensuring that scholarship funds in a scholarship account are readily available to a  
600 scholarship student;

601 (g) requiring a parent to notify the program manager if the parent's scholarship student  
602 is no longer enrolled in or engaging a service:

603 (i) for which the scholarship student receives scholarship funds; and

604 (ii) that is provided to the scholarship student for an entire school year;

605 (h) obtaining reimbursement of scholarship funds from a qualifying provider that  
606 provides the services in which a scholarship student is no longer enrolled or with which the  
607 scholarship student is no longer engaged;

608 (i) accepting program donations;

609 (j) expending all revenue from interest on program donations or investments on  
610 scholarship expenses;

611 (k) each time the program manager makes an administrative decision that is adverse to  
612 a scholarship student or the scholarship student's parent, informing the scholarship student and  
613 the scholarship student's parent of the opportunity and process to appeal an administrative  
614 decision of the program manager to the state board in accordance with the process described in  
615 Section 53F-6-404;

616 (l) maintaining a protected internal waitlist of all eligible students who have applied to

617 the program and are not yet scholarship students, including any student who removed the  
618 student's application from the waitlist; and

619 (m) providing aggregate data regarding the number of scholarship students and the  
620 number of eligible students on the waitlist described in Subsection (1)(l).

621 (2) The program manager shall:

622 (a) contract with one or more private entities to develop and implement a commercially  
623 viable, cost-effective, and parent-friendly system to:

624 (i) establish scholarship accounts;  
625 (ii) maximize payment flexibility by allowing:

626 (A) for payment of services to qualifying providers using scholarship funds by  
627 electronic or online funds transfer; and

628 (B) pre-approval of a reimbursement to a parent for a good that is a scholarship  
629 expense; and

630 (iii) allow scholarship students and scholarship student's parents to publicly rate,  
631 review, and share information about qualifying providers; and

632 (b) ensure that the system complies with industry standards for data privacy and  
633 cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy  
634 Act, 34 C.F.R. Part 99.

635 (3) The program manager shall provide information regarding the program by  
636 publishing online, no later than July 1, 2024, and July 1 of each following year, an applicant  
637 and participant handbook that includes information regarding:

638 (a) the policies and processes of the program;  
639 (b) approved scholarship expenses;  
640 (c) the responsibilities of parents regarding the program and scholarship funds;  
641 (d) the duties of the program manager;  
642 (e) the opportunity and process to appeal an administrative decision of the program  
643 manager to the state board in accordance with the process described in Section 53F-6-404; and  
644 (f) the role of any private financial management firms or other private organizations  
645 with which the program manager may contract to administer any aspect of the program.

646 (4) To ensure the fiscal security and compliance of the program, the program manager  
647 shall:

648 (a) prohibit a program manager scholarship employee or officer from handling,  
649 managing, or processing scholarship funds, if, based on a criminal background check that the  
650 state board conducts in accordance with Section 53F-6-407, the state board identifies the  
651 program manager scholarship employee or officer as posing a risk to the appropriate use of  
652 scholarship funds;

653 (b) establish procedures to ensure a fair process to:

654 (i) suspend scholarship student's eligibility for the program in the event of the  
655 scholarship student's or scholarship student's parent's:

656 (A) intentional or substantial misuse of scholarship funds; or

657 (B) violation of this part or the terms of the program; and

658 (ii) if the program manager obtains evidence of fraudulent use of scholarship funds,  
659 refer the case to the attorney general for collection or criminal investigation;

660 (iii) ensure that a scholarship student whose eligibility is suspended or disqualified  
661 under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent  
662 regains eligibility if the student is placed with a different parent or otherwise no longer resides  
663 with the parent related to the suspension or disqualification;

664 (c) notify the state board, scholarship student, and scholarship student's parent in  
665 writing:

666 (i) of the suspension described in Subsection (4)(b)(i);

667 (ii) that no further transactions, disbursements, or reimbursements are allowed;

668 (iii) that the scholarship student or scholarship student's parent may take corrective  
669 action within 10 business days of the day on which the program manager provides the  
670 notification; and

671 (iv) that without taking the corrective action within the time period described in  
672 Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

673 (5) (a) A program manager may not:

674 (i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to  
675 use scholarship funds if:

676 (A) the program manager determines that the qualifying provider intentionally or  
677 substantially misrepresented information on overpayment;

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

- 679 (C) the qualifying provider routinely fails to provide scholarship students with  
680 promised educational services; or
- 681 (ii) reimburse with scholarship funds an individual for the purchase of a good or  
682 service if the program manager determines that:
- 683 (A) the scholarship student or the scholarship student's parent requesting  
684 reimbursement intentionally or substantially misrepresented the cost or educational purpose of  
685 the good or service; or
- 686 (B) the relevant scholarship student was not the exclusive user of the good or service.
- 687 (b) A program manager shall notify a scholarship student if the program manager:
- 688 (i) stops disbursement of the scholarship student's scholarship funds to a qualifying  
689 provider under Subsection (5)(a)(i); or
- 690 (ii) refuses reimbursement under Subsection (5)(a)(ii).
- 691 (6) (a) At any time, a scholarship student may change the qualifying provider to which  
692 the scholarship student's scholarship account makes distributions.
- 693 (b) If, during the school year, a scholarship student changes the student's enrollment in  
694 or engagement with a qualifying provider to another qualifying provider, the program manager  
695 may prorate scholarship funds between the qualifying providers based on the time the  
696 scholarship student received the goods or services or was enrolled.
- 697 (7) A program manager may not subvert the enrollment preferences required under  
698 Section 53F-6-402 or other provisions of this part to:
- 699 (a) establish a scholarship account on behalf of a relative of the program manager's  
700 officer; or
- 701 (b) disburse scholarship funds to a qualifying provider at which the scholarship student  
702 has a relative who is an officer.
- 703 (8) The program manager shall:
- 704 (a) contract for annual and random audits on scholarship accounts conducted:
- 705 (i) by a certified public accountant who is independent from:
- 706 (A) the program manager;
- 707 (B) the state board; and
- 708 (C) the program manager's accounts and records pertaining to scholarship funds; and
- 709 (ii) in accordance with generally accepted auditing standards;

710 (b) demonstrate the program manager's financial accountability by annually submitting  
711 to the state board the following:

712 (i) a financial information report that a certified public accountant prepares and that  
713 includes:

714 (A) the total number and total dollar amount of program donations that the program  
715 manager received during the previous calendar year; and

716 (B) the total number and total dollar amount of scholarship funds disbursed during the  
717 previous calendar year; and

718 (ii) no later than 180 days after the last day of the program manager's fiscal year, the  
719 results of the audits described in Subsection (8)(a), including the program manager's financial  
720 statements in a format that meets generally accepted accounting principles.

721 (9) (a) The state board:

722 (i) shall review a report described in this section; and

723 (ii) may request that the program manager revise or supplement the report if the report  
724 does not fully comply with this section.

725 (b) The program manager shall provide to the state board a revised report or a  
726 supplement to the report no later than 45 days after the day on which the state board makes a  
727 request described in Subsection (9)(a).

728 Section 9. Section **53F-6-406** is enacted to read:

729 **53F-6-406. Qualifying provider regulatory autonomy -- Home school autonomy --**  
730 **Student records -- Scholarship student status.**

731 (1) Nothing in this part:

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

734 (i) a private school, qualifying provider, or home school;

735 (ii) students receiving education from a private school, qualifying provider, or home  
736 school;

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

740 (c) expands the regulatory authority of the state, a state office holder, or an LEA to



741 impose any additional regulation of a qualifying provider beyond any regulation necessary to  
742 administer this part.

743 (2) A qualifying provider:

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

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

749 (3) Except as provided in Section 53F-6-403 regarding qualifying providers, Section  
750 53F-6-408 regarding eligible schools, or Section 53F-6-409 regarding eligible service  
751 providers, a program manager may not require a qualifying provider to alter the qualifying  
752 provider's creed, practices, admissions policies, or curricula in order to accept scholarship  
753 funds.

754 (4) An LEA or a school in an LEA in which a scholarship student was previously  
755 enrolled shall provide to the scholarship student's parent or a qualifying provider in which the  
756 scholarship student is currently enrolled or with which the scholarship student is currently  
757 engaged a copy of all school records relating to the student that the LEA possesses within 30  
758 days after the day on which the LEA or school receives the parent's or provider's request for the  
759 student's records, subject to:

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

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

762 (5) By virtue of a scholarship student's involvement in the program and unless  
763 otherwise expressly provided in statute, a scholarship student is not:

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

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

767 Section 10. Section 53F-6-407 is enacted to read:

768 **53F-6-407. Background checks for program manager -- Bureau responsibilities --**

769 **Fees.**

770 (1) As used in this section:

771 (a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201

772 within the Department of Public Safety.

773 (b) "Department" means the Department of Public Safety.

774 (c) "Division" means the Criminal Investigations and Technical Services Division  
775 created in Section 53-10-103.

776 (d) "Personal identifying information" means:

777 (i) current name;

778 (ii) former names;

779 (iii) nicknames;

780 (iv) aliases;

781 (v) date of birth;

782 (vi) address;

783 (vii) telephone number;

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

785 (ix) social security number; and

786 (x) fingerprints.

787 (e) "Rap back system" means a system that enables authorized entities to receive  
788 ongoing status notifications of any criminal history reported on individuals whose fingerprints  
789 are registered in the system.

790 (f) "WIN Database" means the Western Identification Network Database that consists  
791 of eight western states sharing one electronic fingerprint database.

792 (2) The program manager shall:

793 (a) require an employee or officer of the program manager to submit to a criminal  
794 background check and ongoing monitoring;

795 (b) collect the following from an employee or officer of the program manager:

796 (i) personal identifying information;

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

798 (iii) consent, on a form specified by the program manager, for:

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

800 (B) retention of personal identifying information for ongoing monitoring through  
801 registration with the systems described in Subsection (3); and

802 (C) disclosure of any criminal history information to the program manager;

803 (c) submit the personal identifying information of an employee or officer of the  
804 program manager to the bureau for:

805 (i) an initial fingerprint-based background check by the bureau; and

806 (ii) ongoing monitoring through registration with the systems described in Subsection  
807 (3) if the results of the initial background check do not contain disqualifying criminal history  
808 information as determined by the program manager;

809 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure  
810 that the program manager only receives notifications for individuals with whom the program  
811 manager maintains an authorizing relationship; and

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

814 (3) The bureau shall:

815 (a) upon request from the program manager, register the fingerprints submitted by the  
816 program manager as part of a background check with the WIN Database rap back system, or  
817 any successor system;

818 (b) notify the program manager when a new entry is made against an individual whose  
819 fingerprints are registered with the WIN Database rap back system regarding:

820 (i) an alleged offense; or

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

822 (c) assist the program manager to identify the appropriate privacy risk mitigation  
823 strategy that is to be used to ensure that the program manager only receives notifications for  
824 individuals with whom the authorized entity maintains an authorizing relationship; and

825 (d) collaborate with the program manager to provide training to appropriate program  
826 manager employees on the notification procedures and privacy risk mitigation strategies  
827 described in this section.

828 (4) (a) The division shall impose fees that the division sets in accordance with Section  
829 63J-1-504 for the fingerprint card of an employee or officer of the program manager, for a  
830 name check, and to register fingerprints under this section.

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

833 Section 11. Section **53F-6-408** is enacted to read:

834 **53F-6-408. Eligible schools.**

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

837 (a) (i) contract with an independent licensed certified public accountant to conduct an  
838 agreed upon procedures engagement as the state board adopts, or obtain an audit and report  
839 that:

840 (A) a licensed independent certified public accountant conducts in accordance with  
841 generally accepted auditing standards;

842 (B) presents the financial statements in accordance with generally accepted accounting  
843 principles; and

844 (C) audits financial statements from within the 12 months immediately preceding the  
845 audit; and

846 (ii) submit the audit report or report of the agreed upon procedure to the program  
847 manager when the private school applies to receive scholarship funds;

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

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

851 (i) the education services that the school will provide to the scholarship student,  
852 including the cost of the provided services;

853 (ii) tuition costs;

854 (iii) additional fees the school will require a parent to pay during the school year; and

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

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

861 (i) an employee who does not hold:

862 (A) a current Utah educator license issued by the state board under Title 53E, Chapter  
863 6, Education Professional Licensure; or

864 (B) if the private school is not physically located in Utah, a current educator license in

865 the state where the private school is physically located; and

866 (ii) a contract employee; and

867 (e) provide to the parent of a scholarship student the relevant credentials of the teachers  
868 who will teach the scholarship student.

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

871 (a) the private school requires a scholarship student to sign a contract waiving the  
872 scholarship student's right to transfer to another qualifying provider during the school year;

873 (b) the audit report described in Subsection (1)(a) contains a going concern explanatory  
874 paragraph; or

875 (c) the report of the agreed upon procedures described in Subsection (1)(a) shows that  
876 the private school does not have adequate working capital to maintain operations for the first  
877 full year.

878 (3) To be eligible to receive scholarship funds on behalf of a scholarship student as an  
879 eligible school, a private school with fewer than 150 enrolled students shall:

880 (a) provide to the program manager:

881 (i) a federal employer identification number;

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

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

885 (iv) any other information as required by the program manager; and

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

887 (4) A private school described in Subsection (3) is not eligible to receive scholarship  
888 funds if the private school requires a scholarship student to sign a contract waiving the  
889 student's rights to transfer to another qualifying provider during the school year.

890 (5) To be eligible to receive scholarship funds on behalf of a scholarship student as an  
891 eligible school, an LEA shall:

892 (a) provide to the program manager:

893 (i) a federal employer identification number;

894 (ii) the LEA's address and contact information;

895 (iii) a description of each program or service the LEA proposes to offer to scholarship

896 students; and

897 (iv) any other information as required by the program manager; and

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

899 (6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:

900 (a) the LEA requires a public education system scholarship student to sign a contract  
901 waiving the student's rights to transfer to another qualifying provider during the school year; or

902 (b) the LEA refuses to offer services that do not require LEA enrollment to scholarship  
903 students.

904 (7) Residential treatment facilities licensed by the state are not eligible to receive  
905 scholarship funds.

906 (8) A private school or LEA intending to receive scholarship funds shall:

907 (a) submit an application to the program manager; and

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

911 (9) The program manager shall:

912 (a) if the private school or LEA meets the eligibility requirements of this section,  
913 recognize the private school or LEA as an eligible school and approve the application; and

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

915 (10) A private school approved under this section that changes ownership shall:

916 (a) cease operation as an eligible school until:

917 (i) the school submits a new application to the program manager; and

918 (ii) the program manager approves the new application; and

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

921 Section 12. Section **53F-6-409** is enacted to read:

922 **53F-6-409. Eligible service providers.**

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

924 (a) provide to the program manager:

925 (i) a federal employer identification number;

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

- 927 (iii) a description of each program or service the provider proposes to offer a  
928 scholarship student; and
- 929 (iv) subject to Subsection (2), any other information as required by the program  
930 manager; and
- 931 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.
- 932 (2) The program manager shall adopt policies that maximize the number of eligible  
933 service providers, including accepting new providers throughout the school year, while  
934 ensuring education programs or services provided through the program meet student needs and  
935 otherwise comply with this part.
- 936 (3) A private program or service intending to receive scholarship funds shall:
- 937 (a) submit an application to the program manager; and
- 938 (b) agree to not refund, rebate, or share scholarship funds with scholarship students or  
939 scholarship students' parents in any manner except remittances or refunds to a scholarship  
940 account in accordance with this part and procedures that the program manager establishes.
- 941 (4) The program manager shall:
- 942 (a) if the private program or service meets the eligibility requirements of this section,  
943 recognize the private program or service as an eligible service provider and approve a private  
944 program or service's application to receive scholarship funds on behalf of a scholarship student;  
945 and
- 946 (b) make available to the public a list of eligible service providers approved under this  
947 section.
- 948 (5) A private program or service approved under this section that changes ownership  
949 shall:
- 950 (a) cease operation as an eligible service provider until:
- 951 (i) the program or service submits a new application to the program manager; and  
952 (ii) the program manager approves the new application; and
- 953 (b) demonstrate that the private program or service continues to meet the eligibility  
954 requirements of this section.
- 955 Section 13. Section **53F-6-410** is enacted to read:
- 956 **53F-6-410. Parental rights -- Optional assessment.**
- 957 (1) In accordance with Section [53G-6-803](#) regarding a parent's right to academic

958 accommodations, nothing in this chapter restricts or affects a parent's interests and role in the  
959 care, custody, and control of the parent's child, including the duty and right to nurture and  
960 direct the child's upbringing and education.

961 (2) (a) A parent may request that the program manager facilitate one of the following  
962 assessments of the parent's scholarship student:

963 (i) a standards assessment described in Section [53E-4-303](#);

964 (ii) a high school assessment described in Section [53E-4-304](#);

965 (iii) a college readiness assessment described in Section [53E-4-305](#);

966 (iv) an assessment of students in grade 3 to measure reading grade level described in  
967 Section [53E-4-307](#); or

968 (v) a nationally norm-referenced assessment.

969 (b) (i) Notwithstanding any other provision of law, the entity administering an  
970 assessment described in Subsection (2)(a) to a scholarship student in accordance with this  
971 section may not report the result of or any other data pertaining to the assessment or  
972 scholarship student to a person other than the program manager, the scholarship student, or the  
973 scholarship student's parent.

974 (ii) The program manager may not report or communicate the result or data described  
975 in Subsection (2)(b)(i) to a person other than the relevant scholarship student and the  
976 scholarship student's parent unless the result or data is included in a de-identified compilation  
977 of data related to all scholarship students.

978 (c) In any communication from the program manager regarding an assessment  
979 described in this Subsection (2), the program manager shall include a disclaimer that no  
980 assessment is required.

981 Section 14. Section **53F-6-411** is enacted to read:

982 **53F-6-411. Program funding.**

983 (1) Subject to budget constraints, beginning in the fiscal year that begins on July 1,  
984 2025, the Legislature shall appropriate to the program:

985 (a) an amount equal to the amount appropriated to the program in the preceding fiscal  
986 year; and

987 (b) an amount equal to the cost of inflation adjustment factor described in Subsection  
988 [53F-2-208](#)(1)(a).



989 (2) If a scholarship student enters or reenters the public education system during a  
990 given school year:

991 (a) no later than five business days after the day on which the student enters or reenters  
992 the public education system, the program manager shall immediately remove the balance in the  
993 scholarship student's scholarship account for other use within the program;

994 (b) the state board may not distribute any remaining state funds to the program  
995 manager for the student; and

996 (c) the program manager may use the balance described in Subsection (2)(a) for  
997 another scholarship student.

998 (3) At the end of a school year, a program manager shall withdraw any remaining  
999 scholarship funds in a scholarship account and retain the scholarship funds for disbursement in  
1000 the following year.

1001 (4) (a) The program manager may use up to 5% of the funds the Legislature  
1002 appropriates for program administration.

1003 (b) Subject to Subsection (4)(c), the funds for program administration described in  
1004 Subsection (4)(a) are nonlapsing.

1005 (c) The program manager may not retain administrative cost balances in excess of 25%  
1006 of total administrative costs in any fiscal year.

1007 Section 15. Section **53F-6-412** is enacted to read:

1008 **53F-6-412. Reports**

1009 Beginning in 2025 and in accordance with Section [68-3-14](#) and the Family Educational  
1010 Rights and Privacy Act, 20 U.S.C. Sec. 1232g:

1011 (1) the program manager shall submit a report on the program to the Education Interim  
1012 Committee no later than September 1 of each year that includes:

1013 (a) the total amount of tuition and fees qualifying providers charged for the current year  
1014 and previous two years;

1015 (b) the total amount of goods paid for with scholarship funds in the previous year and a  
1016 general characterization of the types of goods;

1017 (c) administrative costs of the program;

1018 (d) the number of scholarship students from each school district and the aggregate  
1019 number of eligible students on the waitlist described in Section [53F-6-405](#);

1020 (e) the percentage of first-time scholarship students who were enrolled in a public  
1021 school during the previous school year or who entered kindergarten or a higher grade for the  
1022 first time in Utah;

1023 (f) the process that the program manager uses to determine student's eligibility;

1024 (g) the program manager's strategy and outreach efforts to reach eligible students  
1025 whose family income is at or below 200% of the federal poverty level and related obstacles to  
1026 enrollments;

1027 (h) in the report that the program manager submits in 2025, information on steps the  
1028 program manager has taken and processes the program manager has adopted to implement the  
1029 program; and

1030 (i) any other information regarding the program and the program's implementation that  
1031 the committee requests; and

1032 (2) the state board shall submit a report on the cost-effectiveness of the program to the  
1033 Education Interim Committee no later than September 1 of each year.

1034 Section 16. Section **53F-6-413** is enacted to read:

1035 **53F-6-413. Legal proceedings.**

1036 (1) In any legal proceeding against the state in which a qualifying provider challenges  
1037 the application of this part to the qualifying provider, the state shall bear the burden of  
1038 establishing that the law:

1039 (a) is necessary; and

1040 (b) does not impose an undue burden on the qualifying provider.

1041 (2) The following bear no liability based on the award or use of scholarship funds  
1042 under this part:

1043 (a) the state;

1044 (b) the state board;

1045 (c) the program manager; or

1046 (d) an LEA.

1047 (3) If any provision of this part is the subject of a state or federal constitutional  
1048 challenge in a state court, scholarship students and scholarship students' parents may intervene  
1049 as a matter of right to defend the program's constitutionality, subject to any court order that all  
1050 defending parents and scholarship students intervene jointly.

1051 Section 17. Section **53F-6-414** is enacted to read:

1052 **53F-6-414. Severability.**

1053 (1) If any provision of this part or the application of any provision of this part to any  
1054 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,  
1055 the remaining provisions of this part remain effective without the invalidated provision or  
1056 application.

1057 (2) The provisions of this part are severable.

1058 Section 18. Section **63G-2-305** is amended to read:

1059 **63G-2-305. Protected records.**

1060 The following records are protected if properly classified by a governmental entity:

1061 (1) trade secrets as defined in Section **13-24-2** if the person submitting the trade secret  
1062 has provided the governmental entity with the information specified in Section **63G-2-309**;

1063 (2) commercial information or nonindividual financial information obtained from a  
1064 person if:

1065 (a) disclosure of the information could reasonably be expected to result in unfair  
1066 competitive injury to the person submitting the information or would impair the ability of the  
1067 governmental entity to obtain necessary information in the future;

1068 (b) the person submitting the information has a greater interest in prohibiting access  
1069 than the public in obtaining access; and

1070 (c) the person submitting the information has provided the governmental entity with  
1071 the information specified in Section **63G-2-309**;

1072 (3) commercial or financial information acquired or prepared by a governmental entity  
1073 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
1074 commodities that will interfere with a planned transaction by the governmental entity or cause  
1075 substantial financial injury to the governmental entity or state economy;

1076 (4) records, the disclosure of which could cause commercial injury to, or confer a  
1077 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
1078 defined in Subsection **11-13-103(4)**;

1079 (5) test questions and answers to be used in future license, certification, registration,  
1080 employment, or academic examinations;

1081 (6) records, the disclosure of which would impair governmental procurement

1082 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
1083 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
1084 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
1085 grant has been awarded and signed by all parties:

1086 (a) a bid, proposal, application, or other information submitted to or by a governmental  
1087 entity in response to:

1088 (i) an invitation for bids;

1089 (ii) a request for proposals;

1090 (iii) a request for quotes;

1091 (iv) a grant; or

1092 (v) other similar document; or

1093 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

1094 (7) information submitted to or by a governmental entity in response to a request for  
1095 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
1096 the right of a person to have access to the information, after:

1097 (a) a contract directly relating to the subject of the request for information has been  
1098 awarded and signed by all parties; or

1099 (b) (i) a final determination is made not to enter into a contract that relates to the  
1100 subject of the request for information; and

1101 (ii) at least two years have passed after the day on which the request for information is  
1102 issued;

1103 (8) records that would identify real property or the appraisal or estimated value of real  
1104 or personal property, including intellectual property, under consideration for public acquisition  
1105 before any rights to the property are acquired unless:

1106 (a) public interest in obtaining access to the information is greater than or equal to the  
1107 governmental entity's need to acquire the property on the best terms possible;

1108 (b) the information has already been disclosed to persons not employed by or under a  
1109 duty of confidentiality to the entity;

1110 (c) in the case of records that would identify property, potential sellers of the described  
1111 property have already learned of the governmental entity's plans to acquire the property;

1112 (d) in the case of records that would identify the appraisal or estimated value of

1113 property, the potential sellers have already learned of the governmental entity's estimated value  
1114 of the property; or

1115 (e) the property under consideration for public acquisition is a single family residence  
1116 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
1117 the property as required under Section 78B-6-505;

1118 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
1119 compensated transaction of real or personal property including intellectual property, which, if  
1120 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
1121 of the subject property, unless:

1122 (a) the public interest in access is greater than or equal to the interests in restricting  
1123 access, including the governmental entity's interest in maximizing the financial benefit of the  
1124 transaction; or

1125 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
1126 the value of the subject property have already been disclosed to persons not employed by or  
1127 under a duty of confidentiality to the entity;

1128 (10) records created or maintained for civil, criminal, or administrative enforcement  
1129 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
1130 release of the records:

1131 (a) reasonably could be expected to interfere with investigations undertaken for  
1132 enforcement, discipline, licensing, certification, or registration purposes;

1133 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
1134 proceedings;

1135 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
1136 hearing;

1137 (d) reasonably could be expected to disclose the identity of a source who is not  
1138 generally known outside of government and, in the case of a record compiled in the course of  
1139 an investigation, disclose information furnished by a source not generally known outside of  
1140 government if disclosure would compromise the source; or

1141 (e) reasonably could be expected to disclose investigative or audit techniques,  
1142 procedures, policies, or orders not generally known outside of government if disclosure would  
1143 interfere with enforcement or audit efforts;

- 1144 (11) records the disclosure of which would jeopardize the life or safety of an  
1145 individual;
- 1146 (12) records the disclosure of which would jeopardize the security of governmental  
1147 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
1148 or other appropriation or use contrary to law or public policy;
- 1149 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
1150 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
1151 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
- 1152 (14) records that, if disclosed, would reveal recommendations made to the Board of  
1153 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
1154 Board of Pardons and Parole, or the Department of Health and Human Services that are based  
1155 on the employee's or contractor's supervision, diagnosis, or treatment of any person within the  
1156 board's jurisdiction;
- 1157 (15) records and audit workpapers that identify audit, collection, and operational  
1158 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
1159 audits or collections;
- 1160 (16) records of a governmental audit agency relating to an ongoing or planned audit  
1161 until the final audit is released;
- 1162 (17) records that are subject to the attorney client privilege;
- 1163 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
1164 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
1165 quasi-judicial, or administrative proceeding;
- 1166 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
1167 from a member of the Legislature; and
- 1168 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
1169 legislative action or policy may not be classified as protected under this section; and
- 1170 (b) (i) an internal communication that is part of the deliberative process in connection  
1171 with the preparation of legislation between:
- 1172 (A) members of a legislative body;
- 1173 (B) a member of a legislative body and a member of the legislative body's staff; or
- 1174 (C) members of a legislative body's staff; and

1175 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
1176 legislative action or policy may not be classified as protected under this section;

1177 (20) (a) records in the custody or control of the Office of Legislative Research and  
1178 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
1179 legislation or contemplated course of action before the legislator has elected to support the  
1180 legislation or course of action, or made the legislation or course of action public; and

1181 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
1182 Office of Legislative Research and General Counsel is a public document unless a legislator  
1183 asks that the records requesting the legislation be maintained as protected records until such  
1184 time as the legislator elects to make the legislation or course of action public;

1185 (21) research requests from legislators to the Office of Legislative Research and  
1186 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
1187 in response to these requests;

1188 (22) drafts, unless otherwise classified as public;

1189 (23) records concerning a governmental entity's strategy about:

1190 (a) collective bargaining; or

1191 (b) imminent or pending litigation;

1192 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
1193 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
1194 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1195 (25) records, other than personnel evaluations, that contain a personal recommendation  
1196 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
1197 personal privacy, or disclosure is not in the public interest;

1198 (26) records that reveal the location of historic, prehistoric, paleontological, or  
1199 biological resources that if known would jeopardize the security of those resources or of  
1200 valuable historic, scientific, educational, or cultural information;

1201 (27) records of independent state agencies if the disclosure of the records would  
1202 conflict with the fiduciary obligations of the agency;

1203 (28) records of an institution within the state system of higher education defined in  
1204 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,  
1205 retention decisions, and promotions, which could be properly discussed in a meeting closed in

1206 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
1207 the final decisions about tenure, appointments, retention, promotions, or those students  
1208 admitted, may not be classified as protected under this section;

1209 (29) records of the governor's office, including budget recommendations, legislative  
1210 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
1211 policies or contemplated courses of action before the governor has implemented or rejected  
1212 those policies or courses of action or made them public;

1213 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
1214 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
1215 recommendations in these areas;

1216 (31) records provided by the United States or by a government entity outside the state  
1217 that are given to the governmental entity with a requirement that they be managed as protected  
1218 records if the providing entity certifies that the record would not be subject to public disclosure  
1219 if retained by it;

1220 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
1221 public body except as provided in Section [52-4-206](#);

1222 (33) records that would reveal the contents of settlement negotiations but not including  
1223 final settlements or empirical data to the extent that they are not otherwise exempt from  
1224 disclosure;

1225 (34) memoranda prepared by staff and used in the decision-making process by an  
1226 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
1227 other body charged by law with performing a quasi-judicial function;

1228 (35) records that would reveal negotiations regarding assistance or incentives offered  
1229 by or requested from a governmental entity for the purpose of encouraging a person to expand  
1230 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
1231 person or place the governmental entity at a competitive disadvantage, but this section may not  
1232 be used to restrict access to a record evidencing a final contract;

1233 (36) materials to which access must be limited for purposes of securing or maintaining  
1234 the governmental entity's proprietary protection of intellectual property rights including patents,  
1235 copyrights, and trade secrets;

1236 (37) the name of a donor or a prospective donor to a governmental entity, including an



1237 institution within the state system of higher education defined in Section 53B-1-102, and other  
1238 information concerning the donation that could reasonably be expected to reveal the identity of  
1239 the donor, provided that:

1240 (a) the donor requests anonymity in writing;

1241 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
1242 classified protected by the governmental entity under this Subsection (37); and

1243 (c) except for an institution within the state system of higher education defined in  
1244 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
1245 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
1246 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
1247 by the donor or the donor's immediate family;

1248 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
1249 73-18-13;

1250 (39) a notification of workers' compensation insurance coverage described in Section  
1251 34A-2-205;

1252 (40) (a) the following records of an institution within the state system of higher  
1253 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
1254 or received by or on behalf of faculty, staff, employees, or students of the institution:

1255 (i) unpublished lecture notes;

1256 (ii) unpublished notes, data, and information:

1257 (A) relating to research; and

1258 (B) of:

1259 (I) the institution within the state system of higher education defined in Section  
1260 53B-1-102; or

1261 (II) a sponsor of sponsored research;

1262 (iii) unpublished manuscripts;

1263 (iv) creative works in process;

1264 (v) scholarly correspondence; and

1265 (vi) confidential information contained in research proposals;

1266 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
1267 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

- 1268 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 1269 (41) (a) records in the custody or control of the Office of the Legislative Auditor
- 1270 General that would reveal the name of a particular legislator who requests a legislative audit
- 1271 prior to the date that audit is completed and made public; and
- 1272 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 1273 Office of the Legislative Auditor General is a public document unless the legislator asks that
- 1274 the records in the custody or control of the Office of the Legislative Auditor General that would
- 1275 reveal the name of a particular legislator who requests a legislative audit be maintained as
- 1276 protected records until the audit is completed and made public;
- 1277 (42) records that provide detail as to the location of an explosive, including a map or
- 1278 other document that indicates the location of:
- 1279 (a) a production facility; or
- 1280 (b) a magazine;
- 1281 (43) information contained in the statewide database of the Division of Aging and
- 1282 Adult Services created by Section [62A-3-311.1](#);
- 1283 (44) information contained in the Licensing Information System described in Title 80,
- 1284 Chapter 2, Child Welfare Services;
- 1285 (45) information regarding National Guard operations or activities in support of the
- 1286 National Guard's federal mission;
- 1287 (46) records provided by any pawn or secondhand business to a law enforcement
- 1288 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop,
- 1289 Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- 1290 (47) information regarding food security, risk, and vulnerability assessments performed
- 1291 by the Department of Agriculture and Food;
- 1292 (48) except to the extent that the record is exempt from this chapter pursuant to Section
- 1293 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
- 1294 prepared or maintained by the Division of Emergency Management, and the disclosure of
- 1295 which would jeopardize:
- 1296 (a) the safety of the general public; or
- 1297 (b) the security of:
- 1298 (i) governmental property;

- 1299 (ii) governmental programs; or
- 1300 (iii) the property of a private person who provides the Division of Emergency
- 1301 Management information;
- 1302 (49) records of the Department of Agriculture and Food that provides for the
- 1303 identification, tracing, or control of livestock diseases, including any program established under
- 1304 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
- 1305 of Animal Disease;
- 1306 (50) as provided in Section [26-39-501](#):
- 1307 (a) information or records held by the Department of Health and Human Services
- 1308 related to a complaint regarding a child care program or residential child care which the
- 1309 department is unable to substantiate; and
- 1310 (b) information or records related to a complaint received by the Department of Health
- 1311 and Human Services from an anonymous complainant regarding a child care program or
- 1312 residential child care;
- 1313 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
- 1314 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
- 1315 personal mobile phone number, if:
- 1316 (a) the individual is required to provide the information in order to comply with a law,
- 1317 ordinance, rule, or order of a government entity; and
- 1318 (b) the subject of the record has a reasonable expectation that this information will be
- 1319 kept confidential due to:
- 1320 (i) the nature of the law, ordinance, rule, or order; and
- 1321 (ii) the individual complying with the law, ordinance, rule, or order;
- 1322 (52) the portion of the following documents that contains a candidate's residential or
- 1323 mailing address, if the candidate provides to the filing officer another address or phone number
- 1324 where the candidate may be contacted:
- 1325 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
- 1326 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
- 1327 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);
- 1328 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or
- 1329 (c) a notice of intent to gather signatures for candidacy, described in Section

1330 [20A-9-408](#);

1331 (53) the name, home address, work addresses, and telephone numbers of an individual  
1332 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1333 (a) conducted within the state system of higher education, as defined in Section

1334 [53B-1-102](#); and

1335 (b) conducted using animals;

1336 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance  
1337 Evaluation Commission concerning an individual commissioner's vote, in relation to whether a  
1338 judge meets or exceeds minimum performance standards under Subsection [78A-12-203\(4\)](#), and  
1339 information disclosed under Subsection [78A-12-203\(5\)\(e\)](#);

1340 (55) information collected and a report prepared by the Judicial Performance  
1341 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
1342 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
1343 the information or report;

1344 (56) records provided or received by the Public Lands Policy Coordinating Office in  
1345 furtherance of any contract or other agreement made in accordance with Section [63L-11-202](#);

1346 (57) information requested by and provided to the 911 Division under Section  
1347 [63H-7a-302](#);

1348 (58) in accordance with Section [73-10-33](#):

1349 (a) a management plan for a water conveyance facility in the possession of the Division  
1350 of Water Resources or the Board of Water Resources; or

1351 (b) an outline of an emergency response plan in possession of the state or a county or  
1352 municipality;

1353 (59) the following records in the custody or control of the Office of Inspector General  
1354 of Medicaid Services, created in Section [63A-13-201](#):

1355 (a) records that would disclose information relating to allegations of personal  
1356 misconduct, gross mismanagement, or illegal activity of a person if the information or  
1357 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
1358 through other documents or evidence, and the records relating to the allegation are not relied  
1359 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
1360 report or final audit report;

1361 (b) records and audit workpapers to the extent they would disclose the identity of a  
1362 person who, during the course of an investigation or audit, communicated the existence of any  
1363 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
1364 regulation adopted under the laws of this state, a political subdivision of the state, or any  
1365 recognized entity of the United States, if the information was disclosed on the condition that  
1366 the identity of the person be protected;

1367 (c) before the time that an investigation or audit is completed and the final  
1368 investigation or final audit report is released, records or drafts circulated to a person who is not  
1369 an employee or head of a governmental entity for the person's response or information;

1370 (d) records that would disclose an outline or part of any investigation, audit survey  
1371 plan, or audit program; or

1372 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
1373 investigation or audit;

1374 (60) records that reveal methods used by the Office of Inspector General of Medicaid  
1375 Services, the fraud unit, or the Department of Health and Human Services, to discover  
1376 Medicaid fraud, waste, or abuse;

1377 (61) information provided to the Department of Health and Human Services or the  
1378 Division of Professional Licensing under Subsections [58-67-304\(3\)](#) and (4) and Subsections  
1379 [58-68-304\(3\)](#) and (4);

1380 (62) a record described in Section [63G-12-210](#);

1381 (63) captured plate data that is obtained through an automatic license plate reader  
1382 system used by a governmental entity as authorized in Section [41-6a-2003](#);

1383 (64) any record in the custody of the Utah Office for Victims of Crime relating to a  
1384 victim, including:

1385 (a) a victim's application or request for benefits;

1386 (b) a victim's receipt or denial of benefits; and

1387 (c) any administrative notes or records made or created for the purpose of, or used to,  
1388 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
1389 Reparations Fund;

1390 (65) an audio or video recording created by a body-worn camera, as that term is  
1391 defined in Section [77-7a-103](#), that records sound or images inside a hospital or health care

1392 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
1393 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
1394 that term is defined in Section 62A-2-101, except for recordings that:

1395 (a) depict the commission of an alleged crime;

1396 (b) record any encounter between a law enforcement officer and a person that results in  
1397 death or bodily injury, or includes an instance when an officer fires a weapon;

1398 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
1399 a law enforcement officer or law enforcement agency;

1400 (d) contain an officer involved critical incident as defined in Subsection  
1401 76-2-408(1)(f); or

1402 (e) have been requested for reclassification as a public record by a subject or  
1403 authorized agent of a subject featured in the recording;

1404 (66) a record pertaining to the search process for a president of an institution of higher  
1405 education described in Section 53B-2-102, except for application materials for a publicly  
1406 announced finalist;

1407 (67) an audio recording that is:

1408 (a) produced by an audio recording device that is used in conjunction with a device or  
1409 piece of equipment designed or intended for resuscitating an individual or for treating an  
1410 individual with a life-threatening condition;

1411 (b) produced during an emergency event when an individual employed to provide law  
1412 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1413 (i) is responding to an individual needing resuscitation or with a life-threatening  
1414 condition; and

1415 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
1416 individual or for treating an individual with a life-threatening condition; and

1417 (c) intended and used for purposes of training emergency responders how to improve  
1418 their response to an emergency situation;

1419 (68) records submitted by or prepared in relation to an applicant seeking a  
1420 recommendation by the Research and General Counsel Subcommittee, the Budget  
1421 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an  
1422 employment position with the Legislature;

- 1423 (69) work papers as defined in Section [31A-2-204](#);
- 1424 (70) a record made available to Adult Protective Services or a law enforcement agency  
1425 under Section [61-1-206](#);
- 1426 (71) a record submitted to the Insurance Department in accordance with Section  
1427 [31A-37-201](#);
- 1428 (72) a record described in Section [31A-37-503](#);
- 1429 (73) any record created by the Division of Professional Licensing as a result of  
1430 Subsection [58-37f-304\(5\)](#) or [58-37f-702\(2\)\(a\)\(ii\)](#);
- 1431 (74) a record described in Section [72-16-306](#) that relates to the reporting of an injury  
1432 involving an amusement ride;
- 1433 (75) except as provided in Subsection [63G-2-305.5\(1\)](#), the signature of an individual  
1434 on a political petition, or on a request to withdraw a signature from a political petition,  
1435 including a petition or request described in the following titles:
- 1436 (a) Title 10, Utah Municipal Code;
- 1437 (b) Title 17, Counties;
- 1438 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
- 1439 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 1440 (e) Title 20A, Election Code;
- 1441 (76) except as provided in Subsection [63G-2-305.5\(2\)](#), the signature of an individual in  
1442 a voter registration record;
- 1443 (77) except as provided in Subsection [63G-2-305.5\(3\)](#), any signature, other than a  
1444 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a  
1445 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 1446 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part  
1447 5, Victims Guidelines for Prosecutors Act;
- 1448 (79) a record submitted to the Insurance Department under Section [31A-48-103](#);
- 1449 (80) personal information, as defined in Section [63G-26-102](#), to the extent disclosure is  
1450 prohibited under Section [63G-26-103](#);
- 1451 (81) an image taken of an individual during the process of booking the individual into  
1452 jail, unless:
- 1453 (a) the individual is convicted of a criminal offense based upon the conduct for which

1454 the individual was incarcerated at the time the image was taken;

1455 (b) a law enforcement agency releases or disseminates the image:

1456 (i) after determining that the individual is a fugitive or an imminent threat to an

1457 individual or to public safety and releasing or disseminating the image will assist in

1458 apprehending the individual or reducing or eliminating the threat; or

1459 (ii) to a potential witness or other individual with direct knowledge of events relevant

1460 to a criminal investigation or criminal proceeding for the purpose of identifying or locating an

1461 individual in connection with the criminal investigation or criminal proceeding; or

1462 (c) a judge orders the release or dissemination of the image based on a finding that the

1463 release or dissemination is in furtherance of a legitimate law enforcement interest;

1464 (82) a record:

1465 (a) concerning an interstate claim to the use of waters in the Colorado River system;

1466 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a

1467 representative from another state or the federal government as provided in Section

1468 [63M-14-205](#); and

1469 (c) the disclosure of which would:

1470 (i) reveal a legal strategy relating to the state's claim to the use of the water in the

1471 Colorado River system;

1472 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to

1473 negotiate the best terms and conditions regarding the use of water in the Colorado River

1474 system; or

1475 (iii) give an advantage to another state or to the federal government in negotiations

1476 regarding the use of water in the Colorado River system;

1477 (83) any part of an application described in Section [63N-16-201](#) that the Governor's

1478 Office of Economic Opportunity determines is nonpublic, confidential information that if

1479 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may

1480 not be used to restrict access to a record evidencing a final contract or approval decision;

1481 (84) the following records of a drinking water or wastewater facility:

1482 (a) an engineering or architectural drawing of the drinking water or wastewater facility;

1483 and

1484 (b) except as provided in Section [63G-2-106](#), a record detailing tools or processes the



1485 drinking water or wastewater facility uses to secure, or prohibit access to, the records described  
1486 in Subsection (84)(a); ~~and~~

1487 (85) a statement that an employee of a governmental entity provides to the  
1488 governmental entity as part of the governmental entity's personnel or administrative  
1489 investigation into potential misconduct involving the employee if the governmental entity:

1490 (a) requires the statement under threat of employment disciplinary action, including  
1491 possible termination of employment, for the employee's refusal to provide the statement; and

1492 (b) provides the employee assurance that the statement cannot be used against the  
1493 employee in any criminal proceeding[-]; and

1494 (86) any part of an application for a Utah Fits All Scholarship account described in  
1495 Section 53F-6-402 or other information identifying a scholarship student as defined in Section  
1496 53F-6-401.

1497 Section 19. **Repealer.**

1498 This bill repeals:

1499 Section **53F-6-101, Title.**

1500 Section 20. **Effective date.**

1501 This bill takes effect on July 1, 2023.