

Representative Candice B. Pierucci proposes the following substitute bill:

FUNDING FOR TEACHER SALARIES AND OPTIONAL EDUCATION

OPPORTUNITIES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill establishes the Utah Fits All Scholarship Program and provides funding for the program and a doubling of an educator salary adjustment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions to codify and double the amount of the state-provided educator salary adjustment;
- ▶ establishes the Utah Fits All Scholarship Program (program);
- ▶ requires the state board to contract with, no later than September 1, 2023, a program manager to administer the program;
- ▶ authorizes the program manager to establish scholarship accounts on behalf of eligible students to pay for approved education goods and services starting in the 2024-2025 school year;
- ▶ prohibits a program manager from accepting scholarship funds in certain circumstances and requires other fiscal safeguards, auditing, and accountability measures;



- 26 ▶ requires eligible schools and service providers to meet certain standards to be
- 27 eligible to receive scholarship funds;
- 28 ▶ provides state funding through the program rather than the weighted pupil unit for a
- 29 scholarship student who participates in a service that a local education agency
- 30 offers;
- 31 ▶ authorizes the program manager to administer the program and distribute
- 32 scholarship funds;
- 33 ▶ requires the state board to provide limited oversight of the program manager,
- 34 including an appeal process for the program manager's administrative decisions;
- 35 ▶ prohibits certain regulations of eligible schools and eligible service providers;
- 36 ▶ requires background checks for employees and officers of a program manager;
- 37 ▶ enacts program funding provisions;
- 38 ▶ requires a program manager and the State Board of Education (state board) to
- 39 submit reports on the program to the Public Education Interim Committee;
- 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 This bill appropriates in fiscal year 2024:

- 45 ▶ to State Board of Education -- Contracted Initiatives and Grants -- Utah Fits All
- 46 Scholarship Program, as an appropriation:
- 47 • from Income Tax Fund, ongoing \$42,500,000; and
- 48 • from Income Tax Fund, one-time (\$41,500,000), leaving \$1,000,000 for Fiscal
- 49 Year 2024.

50 **Other Special Clauses:**

51 None

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **53E-1-201**, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291,

55 354, and 461

56 **53F-2-302**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 9

57 **53F-2-405**, as last amended by Laws of Utah 2022, Chapter 415

58 **63G-2-305**, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303,
59 335, 388, 391, and 415

60 ENACTS:

61 **53F-6-401**, Utah Code Annotated 1953

62 **53F-6-402**, Utah Code Annotated 1953

63 **53F-6-403**, Utah Code Annotated 1953

64 **53F-6-404**, Utah Code Annotated 1953

65 **53F-6-405**, Utah Code Annotated 1953

66 **53F-6-406**, Utah Code Annotated 1953

67 **53F-6-407**, Utah Code Annotated 1953

68 **53F-6-408**, Utah Code Annotated 1953

69 **53F-6-409**, Utah Code Annotated 1953

70 **53F-6-410**, Utah Code Annotated 1953

71 **53F-6-411**, Utah Code Annotated 1953

72 **53F-6-412**, Utah Code Annotated 1953

73 **53F-6-413**, Utah Code Annotated 1953

74 **53F-6-414**, Utah Code Annotated 1953

75 REPEALS:

76 **53F-6-101**, as enacted by Laws of Utah 2018, Chapter 2



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

79 Section 1. Section **53E-1-201** is amended to read:

80 **53E-1-201. Reports to and action required of the Education Interim Committee.**

81 (1) In accordance with applicable provisions and Section **68-3-14**, the following
82 recurring reports are due to the Education Interim Committee:

83 (a) the report described in Section **9-22-109** by the STEM Action Center Board,
84 including the information described in Section **9-22-113** on the status of the computer science
85 initiative and Section **9-22-114** on the Computing Partnerships Grants Program;

86 (b) the prioritized list of data research described in Section **53B-33-302** and the report
87 on research and activities described in Section **53B-33-304** by the Utah Data Research Center;

- 88 (c) the report described in Section [35A-15-303](#) by the State Board of Education on
89 preschool programs;
- 90 (d) the report described in Section [53B-1-402](#) by the Utah Board of Higher Education
91 on career and technical education issues and addressing workforce needs;
- 92 (e) the annual report of the Utah Board of Higher Education described in Section
93 [53B-1-402](#);
- 94 (f) the reports described in Section [53B-28-401](#) by the Utah Board of Higher Education
95 regarding activities related to campus safety;
- 96 (g) the State Superintendent's Annual Report by the state board described in Section
97 [53E-1-203](#);
- 98 (h) the annual report described in Section [53E-2-202](#) by the state board on the strategic
99 plan to improve student outcomes;
- 100 (i) the report described in Section [53E-8-204](#) by the state board on the Utah Schools for
101 the Deaf and the Blind;
- 102 (j) the report described in Section [53E-10-703](#) by the Utah Leading through Effective,
103 Actionable, and Dynamic Education director on research and other activities;
- 104 (k) the report described in Section [53F-2-522](#) regarding mental health screening
105 programs;
- 106 (l) the report described in Section [53F-4-203](#) by the state board and the independent
107 evaluator on an evaluation of early interactive reading software;
- 108 (m) the report described in Section [53F-4-407](#) by the state board on UPSTART;
- 109 (n) the reports described in Sections [53F-5-214](#) and [53F-5-215](#) by the state board
110 related to grants for professional learning and grants for an elementary teacher preparation
111 assessment;
- 112 (o) upon request, the report described in Section [53F-5-219](#) by the state board on the
113 Local Innovations Civics Education Pilot Program;
- 114 (p) the report described in Section [53F-5-405](#) by the State Board of Education
115 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
116 for students who are low income;
- 117 (q) the report described in Section [53B-35-202](#) regarding the Higher Education and
118 Corrections Council;

- 119 (r) the report described in Section 53G-7-221 by the State Board of Education
120 regarding innovation plans; [~~and~~]
- 121 (s) the annual report described in Section 63A-2-502 by the Educational Interpretation
122 and Translation Service Procurement Advisory Council[~~;~~]; and
- 123 (t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship
124 Program.
- 125 (2) In accordance with applicable provisions and Section 68-3-14, the following
126 occasional reports are due to the Education Interim Committee:
- 127 (a) the report described in Section 35A-15-303 by the School Readiness Board by
128 November 30, 2020, on benchmarks for certain preschool programs;
- 129 (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education
130 on or before the Education Interim Committee's November 2021 meeting;
- 131 (c) if required, the report described in Section 53E-4-309 by the state board explaining
132 the reasons for changing the grade level specification for the administration of specific
133 assessments;
- 134 (d) if required, the report described in Section 53E-5-210 by the state board of an
135 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;
- 136 (e) in 2022 and in 2023, on or before November 30, the report described in Subsection
137 53E-10-309(7) related to the PRIME pilot program;
- 138 (f) the report described in Section 53E-10-702 by Utah Leading through Effective,
139 Actionable, and Dynamic Education;
- 140 (g) if required, the report described in Section 53F-2-513 by the state board evaluating
141 the effects of salary bonuses on the recruitment and retention of effective teachers in high
142 poverty schools;
- 143 (h) the report described in Section 53F-5-210 by the state board on the Educational
144 Improvement Opportunities Outside of the Regular School Day Grant Program;
- 145 (i) upon request, a report described in Section 53G-7-222 by an LEA regarding
146 expenditure of a percentage of state restricted funds to support an innovative education
147 program;
- 148 (j) the report described in Section 53G-7-503 by the state board regarding fees that
149 LEAs charge during the 2020-2021 school year;

150 (k) the reports described in Section [53G-11-304](#) by the state board regarding proposed
151 rules and results related to educator exit surveys; and

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

155 Section 2. Section **53F-2-302** is amended to read:

156 **53F-2-302. Determination of weighted pupil units.**

157 (1) The number of weighted pupil units in the Minimum School Program for each year
158 is the total of the units for each school district and, subject to Subsection (4), charter school,
159 determined ~~[as follows:]~~ in accordance with this Section.

160 ~~[(+)]~~ (2) (a) The number of units is computed by adding the average daily membership
161 of all pupils of the school district or charter school attending schools, other than kindergarten
162 and self-contained classes for children with a disability.

163 ~~[(2)]~~ (b) The number of units is computed by adding the average daily membership of
164 all pupils of the school district or charter school enrolled in kindergarten and multiplying the
165 total by .55.

166 ~~[(a)]~~ (i) In those school districts or charter schools that do not hold kindergarten for a
167 full nine-month term, the local school board or charter school governing board may approve a
168 shorter term of nine weeks' duration.

169 ~~[(b)]~~ (ii) Upon LEA governing board approval, the number of pupils in average daily
170 membership at the short-term kindergarten shall be counted for the purpose of determining the
171 number of units allowed in the same ratio as the number of days the short-term kindergarten is
172 held, not exceeding nine weeks, compared to the total number of days schools are held in that
173 school district or charter school in the regular school year.

174 (c) A scholarship student, as that term is defined in Section [53F-6-401](#), who
175 participates in a given program or service that an LEA offers to scholarship students through
176 funding under the Utah Fits All Scholarship Program described in Section [53F-6-402](#) is not
177 enrolled in the LEA or computed into the average daily membership described in this
178 Subsection (2).

179 (3) (a) The state board shall use prior year plus growth to determine average daily
180 membership in distributing money under the Minimum School Program where the distribution

181 is based on kindergarten through grade 12 ADMs or weighted pupil units.

182 (b) Under prior year plus growth, kindergarten through grade 12 average daily
183 membership for the current year is based on the actual kindergarten through grade 12 average
184 daily membership for the previous year plus an estimated percentage growth factor.

185 (c) The growth factor is the percentage increase in total average daily membership on
186 the first school day of October in the current year as compared to the total average daily
187 membership on the first school day of October of the previous year.

188 (4) In distributing funds to charter schools under this section, charter school pupils
189 shall be weighted, where applicable, as follows:

- 190 (a) .55 for kindergarten pupils;
- 191 (b) .9 for pupils in grades 1 through 6;
- 192 (c) .99 for pupils in grades 7 through 8; and
- 193 (d) 1.2 for pupils in grades 9 through 12.
- 194 (5) Notwithstanding Subsection (3)(c):

195 (a) for the 2020-2021 school year the state board may use a count of average daily
196 membership on any day or days of the current school year in 2020 to calculate a growth factor
197 for the 2020-2021 school year; and

198 (b) when calculating the growth factor as described in Subsection (5)(a), the state board
199 shall comply with all applicable federal requirements.

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

201 **53F-2-405. Educator salary adjustments.**

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

- 204 (a) (i) a license issued by the state board; and
- 205 (ii) a position as a:
 - 206 (A) classroom teacher;
 - 207 (B) speech pathologist;
 - 208 (C) librarian or media specialist;
 - 209 (D) preschool teacher;
 - 210 (E) mentor teacher;
 - 211 (F) teacher specialist or teacher leader;

212 (G) guidance counselor;

213 (H) audiologist;

214 (I) psychologist; or

215 (J) social worker; or

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

217 (ii) a position as a social worker.

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

221 [~~(3) Money appropriated to the state board~~]

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

226 (b) Notwithstanding Subsection (3)(a), if appropriations are insufficient to provide the
227 full amount of educator salary adjustments described in this section, the state board shall
228 distribute money appropriated for educator salary adjustments [shall be distributed] to school
229 districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the
230 number of full-time-equivalent educator positions in a school district, a charter school, or the
231 Utah Schools for the Deaf and the Blind as compared to the total number of
232 full-time-equivalent educator positions in school districts, charter schools, and the Utah
233 Schools for the Deaf and the Blind.

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

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

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

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

243 (b) an individual who is not a full-time educator shall receive a partial salary
244 adjustment based on the number of hours the individual works as an educator; and
245 (c) a salary adjustment may be awarded only to an educator who has received a
246 satisfactory rating or above on the educator's most recent evaluation.

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

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

251 (b) may make rules as necessary to administer this section [~~in accordance with Title~~
252 ~~63G, Chapter 3, Utah Administrative Rulemaking Act~~].

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

255 (i) maintain educator salary adjustments provided in prior years; and
256 (ii) provide educator salary adjustments to new employees.

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

259 (i) retirement;
260 (ii) worker's compensation;
261 (iii) social security; and
262 (iv) Medicare.

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

264 (i) maintain the salary adjustments provided to school administrators in the 2007-08
265 school year; and
266 (ii) provide salary adjustments for new school administrators in the same amount as
267 provided for existing school administrators.

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

271 (c) In distributing and awarding salary adjustments for school administrators, the state
272 board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall
273 comply with the requirements for the distribution and award of educator salary adjustments as

274 provided in Subsections (3) and (4).

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

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

277 **53F-6-401. Definitions.**

278 As used in this part:

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

280 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through
281 12;

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

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

285 (i) does not receive a scholarship under:

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

287 (B) the Special Needs Opportunity Scholarship Program established in Section
288 [53E-7-402](#); and

289 (ii) is not enrolled in an LEA upon receiving the scholarship; and

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

291 (2) "Federal poverty level" means the United States poverty level as defined by the
292 most recently revised poverty income guidelines published by the United States Department of
293 Health and Human Services in the Federal Register.

294 (3) (a) "Out-of-program home school student" means a student who:

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

296 (ii) is excused from enrollment in an LEA in accordance with Section [53G-6-204](#) to
297 attend a home school; and

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

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

300 (4) "Program manager" means an organization that:

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

302 (b) is not affiliated with any international organization;

303 (c) does not harvest data for the purpose of reproducing or distributing the data to other
304 entities;

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

306 (e) does not manage or otherwise administer a scholarship under:

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

308 (ii) the Special Needs Opportunity Scholarship Program established in Section

309 [53E-7-402](#); and

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

311 with this part.

312 (5) (a) "Program manager employee" means an individual working for the program

313 manager in a position in which the individual's salary, wages, pay, or compensation, including

314 as a contractor, is paid from scholarship funds.

315 (b) "Program manager employee" does not include:

316 (i) an individual who volunteers for the program manager or for a qualifying provider;

317 (ii) an individual who works for a qualifying provider; or

318 (iii) a qualifying provider.

319 (6) "Program manager officer" means:

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

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

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

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

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

325 [53F-6-408](#); or

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

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

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

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

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

331 (9) "Scholarship account" means the account to which a program manager allocates

332 funds for the payment of approved scholarship expenses in accordance with this part.

333 (10) "Scholarship expense" means an expense described in Section [53F-6-402](#) that a

334 parent or scholarship student incurs in the education of the scholarship student for a service or

335 goods that a qualifying provider provides, including:

- 336 (a) tuition and fees of a qualifying provider;
- 337 (b) fees and instructional materials at a technical college;
- 338 (c) tutoring services;
- 339 (d) fees for after-school or summer education programs;
- 340 (e) textbooks, curricula, or other instructional materials, including any supplemental
- 341 materials or associated online instruction that a curriculum or a qualifying provider
- 342 recommends;
- 343 (f) educational software and applications;
- 344 (g) supplies or other equipment related to a scholarship student's educational needs;
- 345 (h) computer hardware or other technological devices that are intended primarily for a
- 346 scholarship student's educational needs;
- 347 (i) fees for the following examinations, or for a preparation course for the following
- 348 examinations, that the program manager approves:
- 349 (i) a national norm-referenced or standardized assessment described in Section
- 350 [53F-6-410](#), an advanced placement examination, or another similar assessment;
- 351 (ii) a state-recognized industry certification examination; and
- 352 (iii) an examination related to college or university admission;
- 353 (j) educational services for students with disabilities from a licensed or accredited
- 354 practitioner or provider, including occupational, behavioral, physical, audiology, or
- 355 speech-language therapies;
- 356 (k) contracted services that the program manager approves and that an LEA provides,
- 357 including individual classes, after-school tutoring services, transportation, or fees or costs
- 358 associated with participation in extracurricular activities;
- 359 (l) ride fees or fares for a fee-for-service transportation provider to transport the
- 360 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school
- 361 year;
- 362 (m) expenses related to extra-curricular activities, field trips, educational supplements,
- 363 and other educational experiences; or
- 364 (n) any other expense for a good or service that:
- 365 (i) a parent or scholarship student incurs in the education of the scholarship student;
- 366 and

367 (ii) the program manager approves, in accordance with Subsection (4)(d).
368 (11) "Scholarship funds" means:
369 (a) funds that the Legislature appropriates for the program; and
370 (b) interest that scholarship funds accrue.
371 (12) (a) "Scholarship student" means an eligible student for whom the program
372 manager establishes and maintains a scholarship account in accordance with this part.
373 (b) "Scholarship student" does not include an out-of-program home school student.
374 (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program
375 established in Section [53F-6-402](#).
376 Section 5. Section **53F-6-402** is enacted to read:
377 **53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application**
378 **-- Scholarship expenses -- Program information.**
379 (1) There is established the Utah Fits All Scholarship Program under which, beginning
380 March 1, 2024, a parent may apply to a program manager on behalf of the parent's student to
381 establish and maintain a scholarship account to cover the cost of a scholarship expense.
382 (2) (a) The program manager shall establish and maintain, in accordance with this part,
383 scholarship accounts for eligible students.
384 (b) The program manager shall:
385 (i) determine that a student meets the requirements to be an eligible student; and
386 (ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a
387 scholarship account for the scholarship student to pay for the cost of one or more scholarship
388 expenses that the student or student's parent incurs in the student's education.
389 (c) Each year, subject to this part and legislative appropriations, a scholarship student
390 is eligible for no more than:
391 (i) for the 2024-2025 school year, \$8,000; and
392 (ii) for each school year following the 2024-2025 school year, the maximum allowed
393 amount under this Subsection (2)(c) in the previous year plus a percentage increase that is
394 equal to the five-year rolling average inflationary factor described in Section [53F-2-405](#).
395 (3) (a) A program manager shall establish a scholarship account on behalf of an
396 eligible student who submits a timely application, unless the number of applications exceed
397 available scholarship funds for the school year.

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

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

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

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

409 (1) A qualifying provider may not provide the same level of disability services that are
410 provided in a public school:

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

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

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

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

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

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

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

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

- 429 (5) A program manager may not charge a scholarship account application fee.
- 430 (6) A program manager shall give an enrollment preference based on the following
- 431 order of preference:
- 432 (a) to an eligible student who used a scholarship account in the previous school year;
- 433 (b) to an eligible student:
- 434 (i) who did not use a scholarship account in the previous school year; and
- 435 (ii) with a family income at or below 200% of the federal poverty level;
- 436 (c) to an eligible student who is a sibling of an eligible student who:
- 437 (i) uses a scholarship account at the time the sibling applies for a scholarship account;
- 438 or
- 439 (ii) used a scholarship account in the school year immediately preceding the school
- 440 year for which the sibling is applying for a scholarship account; and
- 441 (d) to an eligible student:
- 442 (i) who did not use a scholarship account in the previous school year; and
- 443 (ii) with a family income between 200% and 555% of the federal poverty level.
- 444 (7) (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship
- 445 account to pay for a scholarship expense that a parent or scholarship student incurs in the
- 446 education of the scholarship student.
- 447 (b) A scholarship student or the scholarship student's parent may not use a scholarship
- 448 account for an expense that the student or parent does not incur in the education of the
- 449 scholarship student, including:
- 450 (i) a rehabilitation program that is not primarily designed for an educational purpose;
- 451 or
- 452 (ii) a travel expense other than a transportation expense described in Section
- 453 [53F-6-401](#).
- 454 (c) The program manager may not:
- 455 (i) approve a scholarship expense for a service that a qualifying provider provides
- 456 unless the program manager determines that the scholarship student or the scholarship student's
- 457 parent incurred the expense in the education of the scholarship student; or
- 458 (ii) reimburse a scholarship expense for a service or good that a provider that is not a
- 459 qualifying provider provides unless:

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

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

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

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

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

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

478 (10) On or before September 1, 2023, and as frequently as necessary to maintain the
479 information, the state board shall provide information on the state board's website, including:

480 (a) scholarship account information;

481 (b) information on the program manager, including the program manager's contact
482 information; and

483 (c) an overview of the program.

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

485 **53F-6-403. Qualifying providers.**

486 (1) Before the beginning of the school year immediately following a school year in
487 which a qualifying provider receives scholarship funds equal to or more than \$500,000, the
488 qualifying provider shall file with the program manager a surety bond payable to the program
489 manager in an amount equal to the aggregate amount of scholarship funds expected to be
490 received during the school year.

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

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

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

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

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

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

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

506 (b) deduct the amount of the partial payment from subsequent scholarship fund
507 deposits in an equitable manner that provides the best availability of scholarship funds to the
508 student throughout the remainder of the school year.

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

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

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

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

516 **53F-6-404. State board procurement and review of program manager -- Failure to**
517 **comply.**

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

522 September 1, 2023.

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

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

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

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

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

528 Code;

529 (iii) a description of the methodology the organization will use to verify a student's

530 eligibility under this part;

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

532 process; and

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

534 (A) is not affiliated with any international organization;

535 (B) does not harvest data for the purpose of reproducing or distributing the data to

536 another entity; and

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

538 (c) The state board shall ensure that the agreement described in Subsection (1)(a):

539 (i) ensures the efficiency and success of the program; and

540 (ii) does not impose any requirements on the program manager that:

541 (A) are not essential to the basic administration of the program; or

542 (B) create restrictions, directions, or mandates regarding instructional content or

543 curriculum.

544 (2) The state board may regulate and take enforcement action as necessary against a

545 program manager in accordance with the provisions of the state board's agreement with the

546 program manager.

547 (3) (a) If the state board determines that a program manager has violated a provision of

548 this part or a provision of the state board's agreement with the program manager, the state

549 board shall send written notice to the program manager explaining the violation and the

550 remedial action required to correct the violation.

551 (b) A program manager that receives a notice described in Subsection (3)(a) shall, no

552 later than 60 days after the day on which the program manager receives the notice, correct the

553 violation and report the correction to the state board.

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

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

559 (d) A program manager may not accept state funds while the program manager:

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

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

562 (e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may
563 continue to administer scholarship accounts during the pending appeal.

564 (4) The state board shall establish a process for a program manager to report the
565 information the program manager is required to report to the state board under Section
566 [53F-6-405](#).

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

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

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

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

578 (b) The state board may, if the program manager is barred from participating in the
579 program, issue a new request for proposals and enter into a new agreement with an alternative
580 program manager in accordance with this section.

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

582 (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
583 Rulemaking Act, to establish a process for a scholarship student or a scholarship student's

584 parent to appeal any administrative decision of the program manager for state board resolution
585 within 30 days after the day of the appeal, including:

586 (A) scholarship expense denials; and

587 (B) determinations regarding enrollment eligibility or suspension or disqualification

588 under Section 53F-6-405; and

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

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

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

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

598 **53F-6-405. Program manager duties -- Audit -- Prohibitions.**

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

600 (a) maintaining an application website that includes information on enrollment,
601 relevant application dates, and dates for notification of acceptance;

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

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

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

605 (c) establishing an application process, including application dates opening before
606 March 1, 2024, in accordance with Section 53F-6-402;

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

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

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

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

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

- 615 (ii) that is provided to the scholarship student for an entire school year;
616 (h) obtaining reimbursement of scholarship funds from a qualifying provider that
617 provides the services in which a scholarship student is no longer enrolled or with which the
618 scholarship student is no longer engaged;
619 (i) expending all revenue from interest on scholarship funds or investments on
620 scholarship expenses;
621 (j) each time the program manager makes an administrative decision that is adverse to
622 a scholarship student or the scholarship student's parent, informing the scholarship student and
623 the scholarship student's parent of the opportunity and process to appeal an administrative
624 decision of the program manager to the state board in accordance with the process described in
625 Section [53F-6-404](#);
626 (k) maintaining a protected internal waitlist of all eligible students who have applied to
627 the program and are not yet scholarship students, including any student who removed the
628 student's application from the waitlist; and
629 (l) providing aggregate data regarding the number of scholarship students and the
630 number of eligible students on the waitlist described in Subsection (1)(l).
631 (2) The program manager shall:
632 (a) contract with one or more private entities to develop and implement a commercially
633 viable, cost-effective, and parent-friendly system to:
634 (i) establish scholarship accounts;
635 (ii) maximize payment flexibility by allowing:
636 (A) for payment of services to qualifying providers using scholarship funds by
637 electronic or online funds transfer; and
638 (B) pre-approval of a reimbursement to a parent for a good that is a scholarship
639 expense; and
640 (iii) allow scholarship students and scholarship student's parents to publicly rate,
641 review, and share information about qualifying providers; and
642 (b) ensure that the system complies with industry standards for data privacy and
643 cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy
644 Act, 34 C.F.R. Part 99.
645 (3) In advance of the program manager accepting applications in accordance with

646 Section 53F-6-402 and as regularly as information develops, the program manager shall
647 provide information regarding the program by publishing a program handbook online for
648 scholarship applicants, scholarship students, parents, service providers seeking to become
649 qualifying providers and qualifying providers, that includes information regarding:

- 650 (a) the policies and processes of the program;
- 651 (b) approved scholarship expenses and qualifying providers;
- 652 (c) the responsibilities of parents regarding the program and scholarship funds;
- 653 (d) the duties of the program manager;
- 654 (e) the opportunity and process to appeal an administrative decision of the program
655 manager to the state board in accordance with the process described in Section 53F-6-404; and
- 656 (f) the role of any private financial management firms or other private organizations
657 with which the program manager may contract to administer any aspect of the program.

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

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

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

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

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

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

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

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

676 (c) notify the state board, scholarship student, and scholarship student's parent in

677 writing:

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

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

680 (iii) that the scholarship student or scholarship student's parent may take corrective

681 action within 10 business days of the day on which the program manager provides the

682 notification; and

683 (iv) that without taking the corrective action within the time period described in

684 Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

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

686 (i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to

687 use scholarship funds if:

688 (A) the program manager determines that the qualifying provider intentionally or

689 substantially misrepresented information on overpayment;

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

691 (C) the qualifying provider routinely fails to provide scholarship students with

692 promised educational services; or

693 (ii) reimburse with scholarship funds an individual for the purchase of a good or

694 service if the program manager determines that:

695 (A) the scholarship student or the scholarship student's parent requesting

696 reimbursement intentionally or substantially misrepresented the cost or educational purpose of

697 the good or service; or

698 (B) the relevant scholarship student was not the exclusive user of the good or service.

699 (b) A program manager shall notify a scholarship student if the program manager:

700 (i) stops disbursement of the scholarship student's scholarship funds to a qualifying

701 provider under Subsection (5)(a)(i); or

702 (ii) refuses reimbursement under Subsection (5)(a)(ii).

703 (6) (a) At any time, a scholarship student may change the qualifying provider to which

704 the scholarship student's scholarship account makes distributions.

705 (b) If, during the school year, a scholarship student changes the student's enrollment in

706 or engagement with a qualifying provider to another qualifying provider, the program manager

707 may prorate scholarship funds between the qualifying providers based on the time the

708 scholarship student received the goods or services or was enrolled.

709 (7) A program manager may not subvert the enrollment preferences required under
710 Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf
711 of a relative of a program manager officer.

712 (8) The program manager shall:

713 (a) contract for annual and random audits on scholarship accounts conducted:

714 (i) by a certified public accountant who is independent from:

715 (A) the program manager;

716 (B) the state board; and

717 (C) the program manager's accounts and records pertaining to scholarship funds; and

718 (ii) in accordance with generally accepted auditing standards;

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

721 (i) a financial information report that a certified public accountant prepares and that
722 includes the total number and total dollar amount of scholarship funds disbursed during the
723 previous calendar year; and

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

727 (9) (a) The state board:

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

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

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

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

735 **53F-6-406. Qualifying provider regulatory autonomy -- Home school autonomy --**
736 **Student records -- Scholarship student status.**

737 (1) Nothing in this part:

738 (a) except as expressly described in this part, grants additional authority to any state

739 agency or LEA to regulate or control:

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

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

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

746 (c) expands the regulatory authority of the state, a state office holder, or an LEA to
747 impose any additional regulation of a qualifying provider beyond any regulation necessary to
748 administer this part.

749 (2) A qualifying provider:

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

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

755 (3) Except as provided in Section [53F-6-403](#) regarding qualifying providers, Section
756 [53F-6-408](#) regarding eligible schools, or Section [53F-6-409](#) regarding eligible service
757 providers, a program manager may not require a qualifying provider to alter the qualifying
758 provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept
759 scholarship funds.

760 (4) An LEA or a school in an LEA in which a scholarship student was previously
761 enrolled shall provide to the scholarship student's parent a copy of all school records relating to
762 the student that the LEA possesses within 30 days after the day on which the LEA or school
763 receives the parent's request for the student's records, subject to:

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

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

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

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

769 (b) otherwise subject to statute, administrative rules, or other state regulations as if the

770 student was enrolled in the public education system.

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

772 **53F-6-407. Background checks for program manager -- Bureau responsibilities --**
773 **Fees.**

774 (1) As used in this section:

775 (a) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
776 within the Department of Public Safety.

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

778 (c) "Division" means the Criminal Investigations and Technical Services Division
779 created in Section [53-10-103](#).

780 (d) "Personal identifying information" means:

781 (i) current name;

782 (ii) former names;

783 (iii) nicknames;

784 (iv) aliases;

785 (v) date of birth;

786 (vi) address;

787 (vii) telephone number;

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

789 (ix) social security number; and

790 (x) fingerprints.

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

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

796 (2) The program manager shall:

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

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

800 (i) personal identifying information;

801 (ii) a fee described in Subsection (4); and
802 (iii) consent, on a form specified by the program manager, for:
803 (A) an initial fingerprint-based background check by the bureau;
804 (B) retention of personal identifying information for ongoing monitoring through
805 registration with the systems described in Subsection (3); and
806 (C) disclosure of any criminal history information to the program manager;
807 (c) submit the personal identifying information of an employee or officer of the
808 program manager to the bureau for:
809 (i) an initial fingerprint-based background check by the bureau; and
810 (ii) ongoing monitoring through registration with the systems described in Subsection
811 (3) if the results of the initial background check do not contain disqualifying criminal history
812 information as determined by the program manager;
813 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
814 that the program manager only receives notifications for individuals with whom the program
815 manager maintains an authorizing relationship; and
816 (e) submit the information to the bureau for ongoing monitoring through registration
817 with the systems described in Subsection (3).
818 (3) The bureau shall:
819 (a) upon request from the program manager, register the fingerprints submitted by the
820 program manager as part of a background check with the WIN Database rap back system, or
821 any successor system;
822 (b) notify the program manager when a new entry is made against an individual whose
823 fingerprints are registered with the WIN Database rap back system regarding:
824 (i) an alleged offense; or
825 (ii) a conviction, including a plea in abeyance;
826 (c) assist the program manager to identify the appropriate privacy risk mitigation
827 strategy that is to be used to ensure that the program manager only receives notifications for
828 individuals with whom the authorized entity maintains an authorizing relationship; and
829 (d) collaborate with the program manager to provide training to appropriate program
830 manager employees on the notification procedures and privacy risk mitigation strategies
831 described in this section.

832 (4) (a) The division shall impose fees that the division sets in accordance with Section
833 63J-1-504 for the fingerprint card of an employee or officer of the program manager, for a
834 name check, and to register fingerprints under this section.

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

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

838 **53F-6-408. Eligible schools.**

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

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

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

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

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

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

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

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

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

857 (ii) tuition costs;

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

859 (iv) the skill or grade level of the curriculum in which the prospective scholarship
860 student will participate; and

861 (d) require the following individuals to submit to a nationwide, fingerprint-based
862 criminal background check and ongoing monitoring, in accordance with Section 53G-11-402,

863 as a condition for employment or appointment, as authorized by the Adam Walsh Child
864 Protection and Safety Act of 2006, Pub. L. No. 109-248:

865 (i) an employee who does not hold:
866 (A) a current Utah educator license issued by the state board under Title 53E, Chapter
867 6, Education Professional Licensure; or
868 (B) if the private school is not physically located in Utah, a current educator license in
869 the state where the private school is physically located; and

870 (ii) a contract employee.

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

873 (a) the private school requires a scholarship student to sign a contract waiving the
874 scholarship student's right to transfer to another qualifying provider during the school year;
875 (b) the audit report described in Subsection (1)(a) contains a going concern explanatory
876 paragraph; or

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

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

882 (a) provide to the program manager:

883 (i) a federal employer identification number;
884 (ii) the provider's address and contact information;
885 (iii) a description of each program or service the provider proposes to offer a
886 scholarship student; and

887 (iv) any other information as required by the program manager; and
888 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.

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

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

- 894 (a) provide to the program manager:
895 (i) a federal employer identification number;
896 (ii) the LEA's address and contact information;
897 (iii) a description of each program or service the LEA proposes to offer to scholarship
898 students; and
899 (iv) any other information as required by the program manager;
900 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.; and
901 (c) enter into an agreement with the program manager regarding the provision of
902 services to a scholarship student through which:
903 (i) the scholarship student does not enroll in the LEA;
904 (ii) in accordance with Subsection [53F-2-302\(2\)](#), the LEA does not receive WPU
905 funding related to the student's participation with the LEA; and
906 (iii) the LEA and program manager ensure that a scholarship student does not
907 participate in a course or program at the LEA except in accordance with the agreement
908 described in this Subsection (5)(c) under the program.
909 (6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:
910 (a) the LEA requires a public education system scholarship student to sign a contract
911 waiving the student's rights to transfer to another qualifying provider during the school year; or
912 (b) the LEA refuses to offer services that do not require LEA enrollment to scholarship
913 students under the program.
914 (7) Residential treatment facilities licensed by the state are not eligible to receive
915 scholarship funds.
916 (8) A private school or LEA intending to receive scholarship funds shall:
917 (a) submit an application to the program manager; and
918 (b) agree to not refund, rebate, or share scholarship funds with scholarship students or
919 scholarship student's parents in any manner except remittances or refunds to a scholarship
920 account in accordance with this part and procedures that the program manager establishes.
921 (9) The program manager shall:
922 (a) if the private school or LEA meets the eligibility requirements of this section,
923 recognize the private school or LEA as an eligible school and approve the application; and
924 (b) make available to the public a list of eligible schools approved under this section.

925 (10) A private school approved under this section that changes ownership shall:
926 (a) cease operation as an eligible school until:
927 (i) the school submits a new application to the program manager; and
928 (ii) the program manager approves the new application; and
929 (b) demonstrate that the private school continues to meet the eligibility requirements of
930 this section.

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

932 **53F-6-409. Eligible service providers.**

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

934 (a) shall provide to the program manager:

935 (i) a federal employer identification number;

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

937 (iii) a description of each program or service the provider proposes to offer directly to a
938 scholarship student; and

939 (iv) subject to Subsection (2), any other information as required by the program
940 manager;

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

942 (c) may not act as a consultant, clearing house, or intermediary that connects a
943 scholarship student with or otherwise facilitates the student's engagement with a program or
944 service that another entity provides.

945 (2) The program manager shall adopt policies that maximize the number of eligible
946 service providers, including accepting new providers throughout the school year, while
947 ensuring education programs or services provided through the program meet student needs and
948 otherwise comply with this part.

949 (3) A private program or service intending to receive scholarship funds shall:

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

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

954 (4) The program manager shall:

955 (a) if the private program or service meets the eligibility requirements of this section,

956 recognize the private program or service as an eligible service provider and approve a private
957 program or service's application to receive scholarship funds on behalf of a scholarship student;
958 and

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

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

963 (a) cease operation as an eligible service provider until:

964 (i) the program or service submits a new application to the program manager; and

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

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

968 Section 13. Section **53F-6-410** is enacted to read:

969 **53F-6-410. Parental rights -- Optional assessment.**

970 (1) In accordance with Section [53G-6-803](#) regarding a parent's right to academic
971 accommodations, nothing in this chapter restricts or affects a parent's interests and role in the
972 care, custody, and control of the parent's child, including the duty and right to nurture and
973 direct the child's upbringing and education.

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

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

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

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

979 (iv) an assessment of students in grade 3 to measure reading grade level described in

980 Section [53E-4-307](#); or

981 (v) a nationally norm-referenced assessment.

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

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

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

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

995 **53F-6-411. Program funding.**

996 (1) Subject to budget constraints, beginning in the fiscal year that begins on July 1,
997 2025, the Legislature shall appropriate to the program:

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

1000 (b) a percentage increase that is equal to the percentage of increase in the value of the
1001 weighted pupil unit for the given fiscal year.

1002 (2) If a scholarship student enters or reenters the public education system during a
1003 given school year:

1004 (a) no later than five business days after the day on which the student enters or reenters
1005 the public education system, the program manager shall immediately remove the balance in the
1006 scholarship student's scholarship account for other use within the program;

1007 (b) the state board may not distribute any remaining state funds to the program
1008 manager for the student; and

1009 (c) the program manager may use the balance described in Subsection (2)(a) for
1010 another scholarship student.

1011 (3) At the end of a school year, a program manager shall withdraw any remaining
1012 scholarship funds in a scholarship account and retain the scholarship funds for disbursement in
1013 the following year.

1014 (4) (a) To administer the program, the program manager may use up to the lesser of 5%
1015 or \$2,500,000 of the funds the Legislature appropriates for the program.

1016 (b) Subject to Subsection (4)(c), the funds for program administration described in
1017 Subsection (4)(a) are nonlapsing.

1018 (c) The program manager may not retain administrative cost balances in excess of 25%
1019 of total administrative costs in any fiscal year.

1020 Section 15. Section **53F-6-412** is enacted to read:

1021 **53F-6-412. Reports**

1022 (1) Beginning in 2025 and in accordance with Section [68-3-14](#) and the Family
1023 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g:

1024 (a) the program manager shall submit a report on the program to the Education Interim
1025 Committee no later than September 1 of each year that includes:

1026 (i) the total amount of tuition and fees qualifying providers charged for the current year
1027 and previous two years;

1028 (ii) the total amount of goods paid for with scholarship funds in the previous year and a
1029 general characterization of the types of goods;

1030 (iii) administrative costs of the program;

1031 (iv) the number of scholarship students from each county and the aggregate number of
1032 eligible students on the waitlist described in Section [53F-6-405](#);

1033 (v) the percentage of first-time scholarship students who were enrolled in a public
1034 school during the previous school year or who entered kindergarten or a higher grade for the
1035 first time in Utah;

1036 (vi) the program manager's strategy and outreach efforts to reach eligible students
1037 whose family income is at or below 200% of the federal poverty level and related obstacles to
1038 enrollments;

1039 (vii) in the report that the program manager submits in 2025, information on steps the
1040 program manager has taken and processes the program manager has adopted to implement the
1041 program; and

1042 (viii) any other information regarding the program and the program's implementation
1043 that the committee requests; and

1044 (b) the state board shall submit a report on the cost-effectiveness of the program to the
1045 Education Interim Committee no later than September 1 of each year.

1046 (2) The program manager, in collaboration with the state board, shall study and report
1047 to the Education Interim Committee at or before the committee's November meeting in 2024
1048 regarding:

1049 (a) existing agreements for funding through the program to LEAs for scholarship
1050 expenses for scholarship students in accordance with Section 53F-6-408; and

1051 (b) recommendations to institutionalize best practices to ensure that the state does not
1052 duplicate funding through the WPU and the program for scholarship students receiving a given
1053 service from an LEA offering services as a qualifying provider under the program.

1054 Section 16. Section **53F-6-413** is enacted to read:

1055 **53F-6-413. Legal proceedings.**

1056 (1) In any legal proceeding against the state in which a qualifying provider challenges
1057 the application of this part to the qualifying provider, the state shall bear the burden of
1058 establishing that the law:

1059 (a) is necessary; and

1060 (b) does not impose an undue burden on the qualifying provider.

1061 (2) The following bear no liability based on the award or use of scholarship funds
1062 under this part:

1063 (a) the state;

1064 (b) the state board;

1065 (c) the program manager; or

1066 (d) an LEA.

1067 (3) If any provision of this part is the subject of a state or federal constitutional
1068 challenge in a state court, scholarship students and scholarship students' parents may intervene
1069 as a matter of right to defend the program's constitutionality, subject to any court order that all
1070 defending parents and scholarship students intervene jointly.

1071 Section 17. Section **53F-6-414** is enacted to read:

1072 **53F-6-414. Severability.**

1073 (1) If any provision of this part or the application of any provision of this part to any
1074 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
1075 the remaining provisions of this part remain effective without the invalidated provision or
1076 application.

1077 (2) The provisions of this part are severable.

1078 Section 18. Section **63G-2-305** is amended to read:

1079 **63G-2-305. Protected records.**

1080 The following records are protected if properly classified by a governmental entity:

1081 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
1082 has provided the governmental entity with the information specified in Section 63G-2-309;

1083 (2) commercial information or nonindividual financial information obtained from a
1084 person if:

1085 (a) disclosure of the information could reasonably be expected to result in unfair
1086 competitive injury to the person submitting the information or would impair the ability of the
1087 governmental entity to obtain necessary information in the future;

1088 (b) the person submitting the information has a greater interest in prohibiting access
1089 than the public in obtaining access; and

1090 (c) the person submitting the information has provided the governmental entity with
1091 the information specified in Section 63G-2-309;

1092 (3) commercial or financial information acquired or prepared by a governmental entity
1093 to the extent that disclosure would lead to financial speculations in currencies, securities, or
1094 commodities that will interfere with a planned transaction by the governmental entity or cause
1095 substantial financial injury to the governmental entity or state economy;

1096 (4) records, the disclosure of which could cause commercial injury to, or confer a
1097 competitive advantage upon a potential or actual competitor of, a commercial project entity as
1098 defined in Subsection 11-13-103(4);

1099 (5) test questions and answers to be used in future license, certification, registration,
1100 employment, or academic examinations;

1101 (6) records, the disclosure of which would impair governmental procurement
1102 proceedings or give an unfair advantage to any person proposing to enter into a contract or
1103 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
1104 Subsection (6) does not restrict the right of a person to have access to, after the contract or
1105 grant has been awarded and signed by all parties:

1106 (a) a bid, proposal, application, or other information submitted to or by a governmental
1107 entity in response to:

1108 (i) an invitation for bids;

1109 (ii) a request for proposals;

1110 (iii) a request for quotes;

- 1111 (iv) a grant; or
- 1112 (v) other similar document; or
- 1113 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 1114 (7) information submitted to or by a governmental entity in response to a request for
- 1115 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 1116 the right of a person to have access to the information, after:
 - 1117 (a) a contract directly relating to the subject of the request for information has been
 - 1118 awarded and signed by all parties; or
 - 1119 (b) (i) a final determination is made not to enter into a contract that relates to the
 - 1120 subject of the request for information; and
 - 1121 (ii) at least two years have passed after the day on which the request for information is
 - 1122 issued;
 - 1123 (8) records that would identify real property or the appraisal or estimated value of real
 - 1124 or personal property, including intellectual property, under consideration for public acquisition
 - 1125 before any rights to the property are acquired unless:
 - 1126 (a) public interest in obtaining access to the information is greater than or equal to the
 - 1127 governmental entity's need to acquire the property on the best terms possible;
 - 1128 (b) the information has already been disclosed to persons not employed by or under a
 - 1129 duty of confidentiality to the entity;
 - 1130 (c) in the case of records that would identify property, potential sellers of the described
 - 1131 property have already learned of the governmental entity's plans to acquire the property;
 - 1132 (d) in the case of records that would identify the appraisal or estimated value of
 - 1133 property, the potential sellers have already learned of the governmental entity's estimated value
 - 1134 of the property; or
 - 1135 (e) the property under consideration for public acquisition is a single family residence
 - 1136 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
 - 1137 the property as required under Section [78B-6-505](#);
 - 1138 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
 - 1139 compensated transaction of real or personal property including intellectual property, which, if
 - 1140 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
 - 1141 of the subject property, unless:

1142 (a) the public interest in access is greater than or equal to the interests in restricting
1143 access, including the governmental entity's interest in maximizing the financial benefit of the
1144 transaction; or

1145 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1146 the value of the subject property have already been disclosed to persons not employed by or
1147 under a duty of confidentiality to the entity;

1148 (10) records created or maintained for civil, criminal, or administrative enforcement
1149 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1150 release of the records:

1151 (a) reasonably could be expected to interfere with investigations undertaken for
1152 enforcement, discipline, licensing, certification, or registration purposes;

1153 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1154 proceedings;

1155 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1156 hearing;

1157 (d) reasonably could be expected to disclose the identity of a source who is not
1158 generally known outside of government and, in the case of a record compiled in the course of
1159 an investigation, disclose information furnished by a source not generally known outside of
1160 government if disclosure would compromise the source; or

1161 (e) reasonably could be expected to disclose investigative or audit techniques,
1162 procedures, policies, or orders not generally known outside of government if disclosure would
1163 interfere with enforcement or audit efforts;

1164 (11) records the disclosure of which would jeopardize the life or safety of an
1165 individual;

1166 (12) records the disclosure of which would jeopardize the security of governmental
1167 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1168 or other appropriation or use contrary to law or public policy;

1169 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
1170 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1171 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1172 (14) records that, if disclosed, would reveal recommendations made to the Board of

1173 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1174 Board of Pardons and Parole, or the Department of Health and Human Services that are based
1175 on the employee's or contractor's supervision, diagnosis, or treatment of any person within the
1176 board's jurisdiction;

1177 (15) records and audit workpapers that identify audit, collection, and operational
1178 procedures and methods used by the State Tax Commission, if disclosure would interfere with
1179 audits or collections;

1180 (16) records of a governmental audit agency relating to an ongoing or planned audit
1181 until the final audit is released;

1182 (17) records that are subject to the attorney client privilege;

1183 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
1184 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
1185 quasi-judicial, or administrative proceeding;

1186 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
1187 from a member of the Legislature; and

1188 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
1189 legislative action or policy may not be classified as protected under this section; and

1190 (b) (i) an internal communication that is part of the deliberative process in connection
1191 with the preparation of legislation between:

1192 (A) members of a legislative body;

1193 (B) a member of a legislative body and a member of the legislative body's staff; or

1194 (C) members of a legislative body's staff; and

1195 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
1196 legislative action or policy may not be classified as protected under this section;

1197 (20) (a) records in the custody or control of the Office of Legislative Research and
1198 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
1199 legislation or contemplated course of action before the legislator has elected to support the
1200 legislation or course of action, or made the legislation or course of action public; and

1201 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
1202 Office of Legislative Research and General Counsel is a public document unless a legislator
1203 asks that the records requesting the legislation be maintained as protected records until such

1204 time as the legislator elects to make the legislation or course of action public;

1205 (21) research requests from legislators to the Office of Legislative Research and

1206 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared

1207 in response to these requests;

1208 (22) drafts, unless otherwise classified as public;

1209 (23) records concerning a governmental entity's strategy about:

1210 (a) collective bargaining; or

1211 (b) imminent or pending litigation;

1212 (24) records of investigations of loss occurrences and analyses of loss occurrences that

1213 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the

1214 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1215 (25) records, other than personnel evaluations, that contain a personal recommendation

1216 concerning an individual if disclosure would constitute a clearly unwarranted invasion of

1217 personal privacy, or disclosure is not in the public interest;

1218 (26) records that reveal the location of historic, prehistoric, paleontological, or

1219 biological resources that if known would jeopardize the security of those resources or of

1220 valuable historic, scientific, educational, or cultural information;

1221 (27) records of independent state agencies if the disclosure of the records would

1222 conflict with the fiduciary obligations of the agency;

1223 (28) records of an institution within the state system of higher education defined in

1224 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,

1225 retention decisions, and promotions, which could be properly discussed in a meeting closed in

1226 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of

1227 the final decisions about tenure, appointments, retention, promotions, or those students

1228 admitted, may not be classified as protected under this section;

1229 (29) records of the governor's office, including budget recommendations, legislative

1230 proposals, and policy statements, that if disclosed would reveal the governor's contemplated

1231 policies or contemplated courses of action before the governor has implemented or rejected

1232 those policies or courses of action or made them public;

1233 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,

1234 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

1235 recommendations in these areas;

1236 (31) records provided by the United States or by a government entity outside the state
1237 that are given to the governmental entity with a requirement that they be managed as protected
1238 records if the providing entity certifies that the record would not be subject to public disclosure
1239 if retained by it;

1240 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
1241 public body except as provided in Section 52-4-206;

1242 (33) records that would reveal the contents of settlement negotiations but not including
1243 final settlements or empirical data to the extent that they are not otherwise exempt from
1244 disclosure;

1245 (34) memoranda prepared by staff and used in the decision-making process by an
1246 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1247 other body charged by law with performing a quasi-judicial function;

1248 (35) records that would reveal negotiations regarding assistance or incentives offered
1249 by or requested from a governmental entity for the purpose of encouraging a person to expand
1250 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1251 person or place the governmental entity at a competitive disadvantage, but this section may not
1252 be used to restrict access to a record evidencing a final contract;

1253 (36) materials to which access must be limited for purposes of securing or maintaining
1254 the governmental entity's proprietary protection of intellectual property rights including patents,
1255 copyrights, and trade secrets;

1256 (37) the name of a donor or a prospective donor to a governmental entity, including an
1257 institution within the state system of higher education defined in Section 53B-1-102, and other
1258 information concerning the donation that could reasonably be expected to reveal the identity of
1259 the donor, provided that:

1260 (a) the donor requests anonymity in writing;

1261 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1262 classified protected by the governmental entity under this Subsection (37); and

1263 (c) except for an institution within the state system of higher education defined in
1264 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1265 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority

1266 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1267 by the donor or the donor's immediate family;

1268 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and
1269 [73-18-13](#);

1270 (39) a notification of workers' compensation insurance coverage described in Section
1271 [34A-2-205](#);

1272 (40) (a) the following records of an institution within the state system of higher
1273 education defined in Section [53B-1-102](#), which have been developed, discovered, disclosed to,
1274 or received by or on behalf of faculty, staff, employees, or students of the institution:

1275 (i) unpublished lecture notes;

1276 (ii) unpublished notes, data, and information:

1277 (A) relating to research; and

1278 (B) of:

1279 (I) the institution within the state system of higher education defined in Section
1280 [53B-1-102](#); or

1281 (II) a sponsor of sponsored research;

1282 (iii) unpublished manuscripts;

1283 (iv) creative works in process;

1284 (v) scholarly correspondence; and

1285 (vi) confidential information contained in research proposals;

1286 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
1287 information required pursuant to Subsection [53B-16-302](#)(2)(a) or (b); and

1288 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

1289 (41) (a) records in the custody or control of the Office of the Legislative Auditor
1290 General that would reveal the name of a particular legislator who requests a legislative audit
1291 prior to the date that audit is completed and made public; and

1292 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1293 Office of the Legislative Auditor General is a public document unless the legislator asks that
1294 the records in the custody or control of the Office of the Legislative Auditor General that would
1295 reveal the name of a particular legislator who requests a legislative audit be maintained as
1296 protected records until the audit is completed and made public;

- 1297 (42) records that provide detail as to the location of an explosive, including a map or
1298 other document that indicates the location of:
- 1299 (a) a production facility; or
 - 1300 (b) a magazine;
- 1301 (43) information contained in the statewide database of the Division of Aging and
1302 Adult Services created by Section [62A-3-311.1](#);
- 1303 (44) information contained in the Licensing Information System described in Title 80,
1304 Chapter 2, Child Welfare Services;
- 1305 (45) information regarding National Guard operations or activities in support of the
1306 National Guard's federal mission;
- 1307 (46) records provided by any pawn or secondhand business to a law enforcement
1308 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop,
1309 Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- 1310 (47) information regarding food security, risk, and vulnerability assessments performed
1311 by the Department of Agriculture and Food;
- 1312 (48) except to the extent that the record is exempt from this chapter pursuant to Section
1313 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
1314 prepared or maintained by the Division of Emergency Management, and the disclosure of
1315 which would jeopardize:
- 1316 (a) the safety of the general public; or
 - 1317 (b) the security of:
 - 1318 (i) governmental property;
 - 1319 (ii) governmental programs; or
 - 1320 (iii) the property of a private person who provides the Division of Emergency
1321 Management information;
- 1322 (49) records of the Department of Agriculture and Food that provides for the
1323 identification, tracing, or control of livestock diseases, including any program established under
1324 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
1325 of Animal Disease;
- 1326 (50) as provided in Section [26-39-501](#):
- 1327 (a) information or records held by the Department of Health and Human Services

1328 related to a complaint regarding a child care program or residential child care which the
1329 department is unable to substantiate; and

1330 (b) information or records related to a complaint received by the Department of Health
1331 and Human Services from an anonymous complainant regarding a child care program or
1332 residential child care;

1333 (51) unless otherwise classified as public under Section 63G-2-301 and except as
1334 provided under Section 41-1a-116, an individual's home address, home telephone number, or
1335 personal mobile phone number, if:

1336 (a) the individual is required to provide the information in order to comply with a law,
1337 ordinance, rule, or order of a government entity; and

1338 (b) the subject of the record has a reasonable expectation that this information will be
1339 kept confidential due to:

1340 (i) the nature of the law, ordinance, rule, or order; and

1341 (ii) the individual complying with the law, ordinance, rule, or order;

1342 (52) the portion of the following documents that contains a candidate's residential or
1343 mailing address, if the candidate provides to the filing officer another address or phone number
1344 where the candidate may be contacted:

1345 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
1346 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
1347 20A-9-408.5, 20A-9-502, or 20A-9-601;

1348 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

1349 (c) a notice of intent to gather signatures for candidacy, described in Section
1350 20A-9-408;

1351 (53) the name, home address, work addresses, and telephone numbers of an individual
1352 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1353 (a) conducted within the state system of higher education, as defined in Section
1354 53B-1-102; and

1355 (b) conducted using animals;

1356 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
1357 Evaluation Commission concerning an individual commissioner's vote, in relation to whether a
1358 judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and

1359 information disclosed under Subsection 78A-12-203(5)(e);
1360 (55) information collected and a report prepared by the Judicial Performance
1361 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
1362 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1363 the information or report;
1364 (56) records provided or received by the Public Lands Policy Coordinating Office in
1365 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;
1366 (57) information requested by and provided to the 911 Division under Section
1367 63H-7a-302;
1368 (58) in accordance with Section 73-10-33:
1369 (a) a management plan for a water conveyance facility in the possession of the Division
1370 of Water Resources or the Board of Water Resources; or
1371 (b) an outline of an emergency response plan in possession of the state or a county or
1372 municipality;
1373 (59) the following records in the custody or control of the Office of Inspector General
1374 of Medicaid Services, created in Section 63A-13-201:
1375 (a) records that would disclose information relating to allegations of personal
1376 misconduct, gross mismanagement, or illegal activity of a person if the information or
1377 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1378 through other documents or evidence, and the records relating to the allegation are not relied
1379 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1380 report or final audit report;
1381 (b) records and audit workpapers to the extent they would disclose the identity of a
1382 person who, during the course of an investigation or audit, communicated the existence of any
1383 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1384 regulation adopted under the laws of this state, a political subdivision of the state, or any
1385 recognized entity of the United States, if the information was disclosed on the condition that
1386 the identity of the person be protected;
1387 (c) before the time that an investigation or audit is completed and the final
1388 investigation or final audit report is released, records or drafts circulated to a person who is not
1389 an employee or head of a governmental entity for the person's response or information;

1390 (d) records that would disclose an outline or part of any investigation, audit survey
1391 plan, or audit program; or

1392 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1393 investigation or audit;

1394 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1395 Services, the fraud unit, or the Department of Health and Human Services, to discover
1396 Medicaid fraud, waste, or abuse;

1397 (61) information provided to the Department of Health and Human Services or the
1398 Division of Professional Licensing under Subsections [58-67-304](#)(3) and (4) and Subsections
1399 [58-68-304](#)(3) and (4);

1400 (62) a record described in Section [63G-12-210](#);

1401 (63) captured plate data that is obtained through an automatic license plate reader
1402 system used by a governmental entity as authorized in Section [41-6a-2003](#);

1403 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
1404 victim, including:

1405 (a) a victim's application or request for benefits;

1406 (b) a victim's receipt or denial of benefits; and

1407 (c) any administrative notes or records made or created for the purpose of, or used to,
1408 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
1409 Reparations Fund;

1410 (65) an audio or video recording created by a body-worn camera, as that term is
1411 defined in Section [77-7a-103](#), that records sound or images inside a hospital or health care
1412 facility as those terms are defined in Section [78B-3-403](#), inside a clinic of a health care
1413 provider, as that term is defined in Section [78B-3-403](#), or inside a human service program as
1414 that term is defined in Section [62A-2-101](#), except for recordings that:

1415 (a) depict the commission of an alleged crime;

1416 (b) record any encounter between a law enforcement officer and a person that results in
1417 death or bodily injury, or includes an instance when an officer fires a weapon;

1418 (c) record any encounter that is the subject of a complaint or a legal proceeding against
1419 a law enforcement officer or law enforcement agency;

1420 (d) contain an officer involved critical incident as defined in Subsection

- 1421 76-2-408(1)(f); or
- 1422 (e) have been requested for reclassification as a public record by a subject or
- 1423 authorized agent of a subject featured in the recording;
- 1424 (66) a record pertaining to the search process for a president of an institution of higher
- 1425 education described in Section 53B-2-102, except for application materials for a publicly
- 1426 announced finalist;
- 1427 (67) an audio recording that is:
- 1428 (a) produced by an audio recording device that is used in conjunction with a device or
- 1429 piece of equipment designed or intended for resuscitating an individual or for treating an
- 1430 individual with a life-threatening condition;
- 1431 (b) produced during an emergency event when an individual employed to provide law
- 1432 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
- 1433 (i) is responding to an individual needing resuscitation or with a life-threatening
- 1434 condition; and
- 1435 (ii) uses a device or piece of equipment designed or intended for resuscitating an
- 1436 individual or for treating an individual with a life-threatening condition; and
- 1437 (c) intended and used for purposes of training emergency responders how to improve
- 1438 their response to an emergency situation;
- 1439 (68) records submitted by or prepared in relation to an applicant seeking a
- 1440 recommendation by the Research and General Counsel Subcommittee, the Budget
- 1441 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
- 1442 employment position with the Legislature;
- 1443 (69) work papers as defined in Section 31A-2-204;
- 1444 (70) a record made available to Adult Protective Services or a law enforcement agency
- 1445 under Section 61-1-206;
- 1446 (71) a record submitted to the Insurance Department in accordance with Section
- 1447 31A-37-201;
- 1448 (72) a record described in Section 31A-37-503;
- 1449 (73) any record created by the Division of Professional Licensing as a result of
- 1450 Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 1451 (74) a record described in Section 72-16-306 that relates to the reporting of an injury

1452 involving an amusement ride;

1453 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
1454 on a political petition, or on a request to withdraw a signature from a political petition,
1455 including a petition or request described in the following titles:

1456 (a) Title 10, Utah Municipal Code;

1457 (b) Title 17, Counties;

1458 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1459 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1460 (e) Title 20A, Election Code;

1461 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
1462 a voter registration record;

1463 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
1464 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
1465 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

1466 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
1467 5, Victims Guidelines for Prosecutors Act;

1468 (79) a record submitted to the Insurance Department under Section 31A-48-103;

1469 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
1470 prohibited under Section 63G-26-103;

1471 (81) an image taken of an individual during the process of booking the individual into
1472 jail, unless:

1473 (a) the individual is convicted of a criminal offense based upon the conduct for which
1474 the individual was incarcerated at the time the image was taken;

1475 (b) a law enforcement agency releases or disseminates the image:

1476 (i) after determining that the individual is a fugitive or an imminent threat to an
1477 individual or to public safety and releasing or disseminating the image will assist in
1478 apprehending the individual or reducing or eliminating the threat; or

1479 (ii) to a potential witness or other individual with direct knowledge of events relevant
1480 to a criminal investigation or criminal proceeding for the purpose of identifying or locating an
1481 individual in connection with the criminal investigation or criminal proceeding; or

1482 (c) a judge orders the release or dissemination of the image based on a finding that the

1483 release or dissemination is in furtherance of a legitimate law enforcement interest;
1484 (82) a record:
1485 (a) concerning an interstate claim to the use of waters in the Colorado River system;
1486 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1487 representative from another state or the federal government as provided in Section
1488 [63M-14-205](#); and
1489 (c) the disclosure of which would:
1490 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1491 Colorado River system;
1492 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
1493 negotiate the best terms and conditions regarding the use of water in the Colorado River
1494 system; or
1495 (iii) give an advantage to another state or to the federal government in negotiations
1496 regarding the use of water in the Colorado River system;
1497 (83) any part of an application described in Section [63N-16-201](#) that the Governor's
1498 Office of Economic Opportunity determines is nonpublic, confidential information that if
1499 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
1500 not be used to restrict access to a record evidencing a final contract or approval decision;
1501 (84) the following records of a drinking water or wastewater facility:
1502 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
1503 and
1504 (b) except as provided in Section [63G-2-106](#), a record detailing tools or processes the
1505 drinking water or wastewater facility uses to secure, or prohibit access to, the records described
1506 in Subsection (84)(a); ~~and~~
1507 (85) a statement that an employee of a governmental entity provides to the
1508 governmental entity as part of the governmental entity's personnel or administrative
1509 investigation into potential misconduct involving the employee if the governmental entity:
1510 (a) requires the statement under threat of employment disciplinary action, including
1511 possible termination of employment, for the employee's refusal to provide the statement; and
1512 (b) provides the employee assurance that the statement cannot be used against the
1513 employee in any criminal proceeding[-]; and

1514 (86) any part of an application for a Utah Fits All Scholarship account described in
1515 Section 53F-6-402 or other information identifying a scholarship student as defined in Section
1516 53F-6-401.

1517 Section 19. **Repealer.**

1518 This bill repeals:

1519 Section **53F-6-101, Title.**

1520 Section 20. **Appropriation.**

1521 The following sums of money are appropriated for the fiscal year beginning July 1,
1522 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
1523 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
1524 Act, the Legislature appropriates the following sums of money from the funds or accounts
1525 indicated for the use and support of the government of the state of Utah.

1526 ITEM 1

1527 To State Board of Education -- Contracted Initiatives and Grants

1528 From Income Tax Fund 42,500,000

1529 From Income Tax Fund, One-time (41,500,000)

1530 Schedule of Programs:

1531 Utah Fits All Scholarship Program 1,000,000

1532 The Legislature intends that in fiscal year 2024, the State Board of Education may
1533 provide up to \$1,000,000 to a program manager with which the State Board of Education
1534 contracts in accordance with Section 53F-6-404 for start-up, marketing, and other costs
1535 associated with initiating the Utah Fits All Scholarship Program created in Section 53F-6-402.