

Representative Jennifer Dailey-Provost 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 and expand the adjustment to all employees of a local education agency;
- ▶ 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



- 26 measures;
- 27 ▶ requires eligible schools and service providers to meet certain standards to be
- 28 eligible to receive scholarship funds;
- 29 ▶ establishes an annual and private portfolio submission to the program manager as an
- 30 eligibility qualification;
- 31 ▶ allows for a scholarship student to receive a prorated scholarship award if the
- 32 student participates part-time in a local education agency;
- 33 ▶ authorizes the program manager to administer the program and distribute
- 34 scholarship funds;
- 35 ▶ requires the state board to provide limited oversight of the program manager,
- 36 including an appeal process for the program manager's administrative decisions;
- 37 ▶ prohibits certain regulations of eligible schools and eligible service providers;
- 38 ▶ requires background checks for employees and officers of a program manager;
- 39 ▶ enacts program funding provisions;
- 40 ▶ requires a program manager and the State Board of Education (state board) to
- 41 submit reports on the program to the Public Education Interim Committee;
- 42 ▶ classifies scholarship student's and scholarship account information as protected
- 43 records; and
- 44 ▶ makes technical and conforming changes.

45 Money Appropriated in this Bill:

46 None

47 Other Special Clauses:

48 None

49 Utah Code Sections Affected:

50 AMENDS:

51 **53E-1-201**, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291,

52 354, and 461

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

54 **63G-2-305**, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303,

55 335, 388, 391, and 415

56 ENACTS:

- 57 [53F-6-401](#), Utah Code Annotated 1953
- 58 [53F-6-402](#), Utah Code Annotated 1953
- 59 [53F-6-403](#), Utah Code Annotated 1953
- 60 [53F-6-404](#), Utah Code Annotated 1953
- 61 [53F-6-405](#), Utah Code Annotated 1953
- 62 [53F-6-406](#), Utah Code Annotated 1953
- 63 [53F-6-407](#), Utah Code Annotated 1953
- 64 [53F-6-408](#), Utah Code Annotated 1953
- 65 [53F-6-409](#), Utah Code Annotated 1953
- 66 [53F-6-410](#), Utah Code Annotated 1953
- 67 [53F-6-411](#), Utah Code Annotated 1953
- 68 [53F-6-412](#), Utah Code Annotated 1953
- 69 [53F-6-413](#), Utah Code Annotated 1953
- 70 [53F-6-414](#), Utah Code Annotated 1953

71 REPEALS:

72 [53F-6-101](#), as enacted by Laws of Utah 2018, Chapter 2



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

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

76 **53E-1-201. Reports to and action required of the Education Interim Committee.**

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

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

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

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

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

- 88 (e) the annual report of the Utah Board of Higher Education described in Section
89 [53B-1-402](#);
- 90 (f) the reports described in Section [53B-28-401](#) by the Utah Board of Higher Education
91 regarding activities related to campus safety;
- 92 (g) the State Superintendent's Annual Report by the state board described in Section
93 [53E-1-203](#);
- 94 (h) the annual report described in Section [53E-2-202](#) by the state board on the strategic
95 plan to improve student outcomes;
- 96 (i) the report described in Section [53E-8-204](#) by the state board on the Utah Schools for
97 the Deaf and the Blind;
- 98 (j) the report described in Section [53E-10-703](#) by the Utah Leading through Effective,
99 Actionable, and Dynamic Education director on research and other activities;
- 100 (k) the report described in Section [53F-2-522](#) regarding mental health screening
101 programs;
- 102 (l) the report described in Section [53F-4-203](#) by the state board and the independent
103 evaluator on an evaluation of early interactive reading software;
- 104 (m) the report described in Section [53F-4-407](#) by the state board on UPSTART;
- 105 (n) the reports described in Sections [53F-5-214](#) and [53F-5-215](#) by the state board
106 related to grants for professional learning and grants for an elementary teacher preparation
107 assessment;
- 108 (o) upon request, the report described in Section [53F-5-219](#) by the state board on the
109 Local Innovations Civics Education Pilot Program;
- 110 (p) the report described in Section [53F-5-405](#) by the State Board of Education
111 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
112 for students who are low income;
- 113 (q) the report described in Section [53B-35-202](#) regarding the Higher Education and
114 Corrections Council;
- 115 (r) the report described in Section [53G-7-221](#) by the State Board of Education
116 regarding innovation plans; ~~and~~
- 117 (s) the annual report described in Section [63A-2-502](#) by the Educational Interpretation
118 and Translation Service Procurement Advisory Council[-]; and

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

121 (2) In accordance with applicable provisions and Section 68-3-14, the following
122 occasional reports are due to the Education Interim Committee:

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

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

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

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

132 (e) in 2022 and in 2023, on or before November 30, the report described in Subsection
133 53E-10-309(7) related to the PRIME pilot program;

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

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

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

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

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

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

148 (l) the report described in Section 62A-15-117 by the Division of Substance Abuse and
149 Mental Health, the State Board of Education, and the Department of Health regarding

150 recommendations related to Medicaid reimbursement for school-based health services.

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

152 **53F-2-405. Educator salary adjustments.**

153 (1) As used in this section, "educator" means a person employed by a school district,
154 charter school, or the Utah Schools for the Deaf and the Blind [~~who holds~~].

155 (a) (i) [~~a license issued by the state board; and~~]

156 [~~(ii) a position as a:~~]

157 [~~(A) classroom teacher;~~]

158 [~~(B) speech pathologist;~~]

159 [~~(C) librarian or media specialist;~~]

160 [~~(D) preschool teacher;~~]

161 [~~(E) mentor teacher;~~]

162 [~~(F) teacher specialist or teacher leader;~~]

163 [~~(G) guidance counselor;~~]

164 [~~(H) audiologist;~~]

165 [~~(I) psychologist; or~~]

166 [~~(J) social worker; or~~]

167 [~~(b) (i) a license issued by the Division of Professional Licensing; and~~]

168 [~~(ii) a position as a social worker.~~]

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

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

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

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

181 number of full-time-equivalent educator positions in a school district, a charter school, or the
182 Utah Schools for the Deaf and the Blind as compared to the total number of
183 full-time-equivalent educator positions in school districts, charter schools, and the Utah
184 Schools for the Deaf and the Blind.

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

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

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

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

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

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

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

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

202 (b) may make rules as necessary to administer this section [~~in accordance with Title~~
203 ~~63G, Chapter 3, Utah Administrative Rulemaking Act~~].

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

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

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

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

210 (i) retirement;

211 (ii) worker's compensation;

212 (iii) social security; and

213 (iv) Medicare.

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

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

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

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

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

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

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

228 **53F-6-401. Definitions.**

229 As used in this part:

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

231 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through
232 12;

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

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

236 (i) does not receive a scholarship under:

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

238 (B) the Special Needs Opportunity Scholarship Program established in Section
239 [53E-7-402](#); and

240 (ii) except for a student who is enrolled part-time in accordance with Section
241 [53G-6-702](#), is not enrolled in an LEA upon receiving the scholarship;

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

243 (e) who completes, to maintain eligibility, the portfolio requirement described in
244 Subsection 53F-6-402(3)(d).

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

248 (3) (a) "Home-based scholarship student" means a student who:

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

250 (ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to
251 attend a home school; and

252 (iii) receives a benefit of scholarship funds.

253 (b) "Home-based scholarship student" does not mean a home school student who does
254 not receive a scholarship under the program.

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

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

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

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

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

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

262 (i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

263 (ii) the Special Needs Opportunity Scholarship Program established in Section
264 53E-7-402; and

265 (f) an agreement with the state board recognizes as a program manager, in accordance
266 with this part.

267 (5) (a) "Program manager employee" means an individual working for the program
268 manager in a position in which the individual's salary, wages, pay, or compensation, including
269 as a contractor, is paid from scholarship funds.

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

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

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

273 (iii) a qualifying provider.

- 274 (6) "Program manager officer" means:
275 (a) a member of the board of a program manager; or
276 (b) the chief administrative officer of a program manager.
277 (7) "Qualifying provider" means one of the following entities that is not a public school
278 and is autonomous and not an agent of the state, in accordance with Section [53F-6-406](#):
279 (a) an eligible school that the program manager approves in accordance with Section
280 [53F-6-408](#); or
281 (b) an eligible service provider that the program manager approves in accordance with
282 Section [53F-6-409](#).
283 (8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
284 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
285 sister-in-law, son-in-law, or daughter-in-law.
286 (9) "Scholarship account" means the account to which a program manager allocates
287 funds for the payment of approved scholarship expenses in accordance with this part.
288 (10) "Scholarship expense" means an expense described in Section [53F-6-402](#) that a
289 parent or scholarship student incurs in the education of the scholarship student for a service or
290 goods that a qualifying provider provides, including:
291 (a) tuition and fees of a qualifying provider;
292 (b) fees and instructional materials at a technical college;
293 (c) tutoring services;
294 (d) fees for after-school or summer education programs;
295 (e) textbooks, curricula, or other instructional materials, including any supplemental
296 materials or associated online instruction that a curriculum or a qualifying provider
297 recommends;
298 (f) educational software and applications;
299 (g) supplies or other equipment related to a scholarship student's educational needs;
300 (h) computer hardware or other technological devices that are intended primarily for a
301 scholarship student's educational needs;
302 (i) fees for the following examinations, or for a preparation course for the following
303 examinations, that the program manager approves:
304 (i) a national norm-referenced or standardized assessment described in Section

305 53F-6-410, an advanced placement examination, or another similar assessment;

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

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

308 (j) educational services for students with disabilities from a licensed or accredited

309 practitioner or provider, including occupational, behavioral, physical, audiology, or

310 speech-language therapies;

311 (k) contracted services that the program manager approves and that an LEA provides,

312 including individual classes, after-school tutoring services, transportation, or fees or costs

313 associated with participation in extracurricular activities;

314 (l) ride fees or fares for a fee-for-service transportation provider to transport the

315 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school

316 year;

317 (m) expenses related to extra-curricular activities, field trips, educational supplements,

318 and other educational experiences; or

319 (n) any other expense for a good or service that:

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

321 and

322 (ii) the program manager approves, in accordance with Subsection (4)(d).

323 (11) "Scholarship funds" means:

324 (a) funds that the Legislature appropriates for the program; and

325 (b) interest that scholarship funds accrue.

326 (12) (a) "Scholarship student" means an eligible student, including a home-based

327 scholarship student, for whom the program manager establishes and maintains a scholarship

328 account in accordance with this part.

329 (b) "Scholarship student" does not include a home school student who does not receive

330 a scholarship award under the program.

331 (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program

332 established in Section [53F-6-402](#).

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

334 **53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application**

335 **-- Scholarship expenses -- Program information.**

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

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

341 (b) The program manager shall:

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

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

346 (c) Except as provided in Subsection (2)(d), each year, subject to this part and
347 legislative appropriations, a scholarship student is eligible for no more than:

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

349 (ii) for each school year following the 2024-2025 school year, the maximum allowed
350 amount under this Subsection (2)(c) in the previous year plus a percentage increase that is
351 equal to the five-year rolling average inflationary factor described in Section [53F-2-405](#).

352 (d) If a scholarship student enrolls in an LEA part-time in accordance with Section
353 [53G-6-702](#), the program manager shall prorate the amount of the award described in
354 Subsection (2)(c) in proportion to the extent of the scholarship student's partial enrollment in
355 the LEA.

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

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

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

365 (d) (i) To maintain eligibility, a scholarship student or the scholarship student's parent
366 shall annually complete and deliver to the program manager a portfolio describing the

367 scholarship student's educational opportunities and achievements under the program for the
368 given year.

369 (ii) The program manager may not disclose the content of a given scholarship student's
370 portfolio except to the scholarship student's parent.

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

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

375 "I acknowledge that:

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

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

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

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

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

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

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

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

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

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

397 (6) A program manager shall give an enrollment preference based on the following

398 order of preference:

399 (a) to an eligible student who used a scholarship account in the previous school year;

400 (b) to an eligible student:

401 (i) who did not use a scholarship account in the previous school year; and

402 (ii) with a family income at or below 200% of the federal poverty level;

403 (c) to an eligible student who is a sibling of an eligible student who:

404 (i) uses a scholarship account at the time the sibling applies for a scholarship account;

405 or

406 (ii) used a scholarship account in the school year immediately preceding the school
407 year for which the sibling is applying for a scholarship account; and

408 (d) to an eligible student:

409 (i) who did not use a scholarship account in the previous school year; and

410 (ii) with a family income between 200% and 555% of the federal poverty level.

411 (7) (a) Subject to Subsections (7)(b) through (f), a parent may use a scholarship
412 account to pay for a scholarship expense that a parent or scholarship student incurs in the
413 education of the scholarship student.

414 (b) A scholarship student or the scholarship student's parent may not use a scholarship
415 account for an expense that the student or parent does not incur in the education of the
416 scholarship student, including:

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

418 or

419 (ii) a travel expense other than a transportation expense described in Section
420 [53F-6-401](#).

421 (c) The program manager may not:

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

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

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

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

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

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

439 (f) The program manager may not expend scholarship funds in violation of the
440 prohibition on the use of an appropriation for the direct support of any school or educational
441 institution controlled by any religious organization, in accordance with Utah Constitution
442 Article X, Section 9.

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

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

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

451 (a) scholarship account information;

452 (b) information on the program manager, including the program manager's contact
453 information; and

454 (c) an overview of the program.

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

456 **53F-6-403. Qualifying providers.**

457 (1) Before the beginning of the school year immediately following a school year in
458 which a qualifying provider receives scholarship funds equal to or more than \$500,000, the
459 qualifying provider shall file with the program manager a surety bond payable to the program

460 manager in an amount equal to the aggregate amount of scholarship funds expected to be
461 received during the school year.

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

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

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

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

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

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

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

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

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

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

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

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

487 **53F-6-404. State board procurement and review of program manager -- Failure to**
488 **comply.**

489 (1) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
490 board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement

491 with no more than one organization that qualifies as tax exempt under Section 501(c)(3),
492 Internal Revenue Code, for the state board to recognize as the program manager, on or before
493 September 1, 2023.

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

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

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

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

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

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

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

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

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

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

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

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

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

513 (B) create restrictions, directions, or mandates regarding instructional content or
514 curriculum.

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

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

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

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

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

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

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

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

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

535 (4) The state board shall establish a process for a program manager to report the
536 information the program manager is required to report to the state board under Section
537 [53F-6-405](#).

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

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

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

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

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

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

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

557 (A) scholarship expense denials; and

558 (B) determinations regarding enrollment eligibility or suspension or disqualification
559 under Section 53F-6-405; and

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

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

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

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

569 **53F-6-405. Program manager duties -- Audit -- Prohibitions.**

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

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

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

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

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

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

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

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

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

583 (g) requiring a parent to notify the program manager if the parent's scholarship student

584 is no longer enrolled in or engaging a service:

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

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

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

590 (i) expending all revenue from interest on scholarship funds or investments on
591 scholarship expenses;

592 (j) each time the program manager makes an administrative decision that is adverse to
593 a scholarship student or the scholarship student's parent, informing the scholarship student and
594 the scholarship student's parent of the opportunity and process to appeal an administrative
595 decision of the program manager to the state board in accordance with the process described in
596 Section 53F-6-404;

597 (k) maintaining a protected internal waitlist of all eligible students who have applied to
598 the program and are not yet scholarship students, including any student who removed the
599 student's application from the waitlist; and

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

602 (2) The program manager shall:

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

605 (i) establish scholarship accounts;

606 (ii) maximize payment flexibility by allowing:

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

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

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

613 (b) ensure that the system complies with industry standards for data privacy and
614 cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy

615 Act, 34 C.F.R. Part 99.

616 (3) In advance of the program manager accepting applications in accordance with
617 Section 53F-6-402 and as regularly as information develops, the program manager shall
618 provide information regarding the program by publishing a program handbook online for
619 scholarship applicants, scholarship students, parents, service providers seeking to become
620 qualifying providers and qualifying providers, that includes information regarding:

621 (a) the policies and processes of the program;

622 (b) approved scholarship expenses and qualifying providers;

623 (c) the responsibilities of parents regarding the program and scholarship funds;

624 (d) the duties of the program manager;

625 (e) the opportunity and process to appeal an administrative decision of the program

626 manager to the state board in accordance with the process described in Section 53F-6-404; and

627 (f) the role of any private financial management firms or other private organizations
628 with which the program manager may contract to administer any aspect of the program.

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

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

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

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

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

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

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

643 (iii) ensure that a scholarship student whose eligibility is suspended or disqualified
644 under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent
645 regains eligibility if the student is placed with a different parent or otherwise no longer resides

646 with the parent related to the suspension or disqualification;
647 (c) notify the state board, scholarship student, and scholarship student's parent in
648 writing:
649 (i) of the suspension described in Subsection (4)(b)(i);
650 (ii) that no further transactions, disbursements, or reimbursements are allowed;
651 (iii) that the scholarship student or scholarship student's parent may take corrective
652 action within 10 business days of the day on which the program manager provides the
653 notification; and
654 (iv) that without taking the corrective action within the time period described in
655 Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.
656 (5) (a) A program manager may not:
657 (i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to
658 use scholarship funds if:
659 (A) the program manager determines that the qualifying provider intentionally or
660 substantially misrepresented information on overpayment;
661 (B) the qualifying provider fails to refund an overpayment in a timely manner; or
662 (C) the qualifying provider routinely fails to provide scholarship students with
663 promised educational services; or
664 (ii) reimburse with scholarship funds an individual for the purchase of a good or
665 service if the program manager determines that:
666 (A) the scholarship student or the scholarship student's parent requesting
667 reimbursement intentionally or substantially misrepresented the cost or educational purpose of
668 the good or service; or
669 (B) the relevant scholarship student was not the exclusive user of the good or service.
670 (b) A program manager shall notify a scholarship student if the program manager:
671 (i) stops disbursement of the scholarship student's scholarship funds to a qualifying
672 provider under Subsection (5)(a)(i); or
673 (ii) refuses reimbursement under Subsection (5)(a)(ii).
674 (6) (a) At any time, a scholarship student may change the qualifying provider to which
675 the scholarship student's scholarship account makes distributions.
676 (b) If, during the school year, a scholarship student changes the student's enrollment in

677 or engagement with a qualifying provider to another qualifying provider, the program manager
678 may prorate scholarship funds between the qualifying providers based on the time the
679 scholarship student received the goods or services or was enrolled.

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

683 (8) The program manager shall:

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

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

686 (A) the program manager;

687 (B) the state board; and

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

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

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

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

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

698 (9) (a) The state board:

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

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

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

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

706 **53F-6-406. Qualifying provider regulatory autonomy -- Home school autonomy --**
707 **Student records -- Scholarship student status.**

708 (1) Nothing in this part:
709 (a) except as expressly described in this part, grants additional authority to any state
710 agency or LEA to regulate or control:
711 (i) a private school, qualifying provider, or home school;
712 (ii) students receiving education from a private school, qualifying provider, or home
713 school;
714 (b) applies to or otherwise affects the freedom of choice of a home school student,
715 including the curriculum, resources, developmental planning, or any other aspect of the home
716 school student's education; or
717 (c) expands the regulatory authority of the state, a state office holder, or an LEA to
718 impose any additional regulation of a qualifying provider beyond any regulation necessary to
719 administer this part.
720 (2) A qualifying provider:
721 (a) has a right to maximum freedom from unlawful governmental control in providing
722 for the educational needs of a scholarship student who attends or engages with the qualifying
723 provider; and
724 (b) is not an agent of the state by virtue of the provider's acceptance of payment from a
725 scholarship account in accordance with this part.
726 (3) Except as provided in Section 53F-6-403 regarding qualifying providers, Section
727 53F-6-408 regarding eligible schools, or Section 53F-6-409 regarding eligible service
728 providers, a program manager may not require a qualifying provider to alter the qualifying
729 provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept
730 scholarship funds.
731 (4) An LEA or a school in an LEA in which a scholarship student was previously
732 enrolled shall provide to the scholarship student's parent a copy of all school records relating to
733 the student that the LEA possesses within 30 days after the day on which the LEA or school
734 receives the parent's request for the student's records, subject to:
735 (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and
736 (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
737 (5) By virtue of a scholarship student's involvement in the program and unless
738 otherwise expressly provided in statute, a scholarship student is not:

- 739 (a) enrolled in the public education system; or
- 740 (b) otherwise subject to statute, administrative rules, or other state regulations as if the
- 741 student was enrolled in the public education system.

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

743 **53F-6-407. Background checks for program manager -- Bureau responsibilities --**

744 **Fees.**

745 (1) As used in this section:

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

747 within the Department of Public Safety.

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

749 (c) "Division" means the Criminal Investigations and Technical Services Division

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

751 (d) "Personal identifying information" means:

752 (i) current name;

753 (ii) former names;

754 (iii) nicknames;

755 (iv) aliases;

756 (v) date of birth;

757 (vi) address;

758 (vii) telephone number;

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

760 (ix) social security number; and

761 (x) fingerprints.

762 (e) "Rap back system" means a system that enables authorized entities to receive

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

764 are registered in the system.

765 (f) "WIN Database" means the Western Identification Network Database that consists

766 of eight western states sharing one electronic fingerprint database.

767 (2) The program manager shall:

768 (a) require an employee or officer of the program manager to submit to a criminal

769 background check and ongoing monitoring;

- 770 (b) collect the following from an employee or officer of the program manager:
771 (i) personal identifying information;
772 (ii) a fee described in Subsection (4); and
773 (iii) consent, on a form specified by the program manager, for:
774 (A) an initial fingerprint-based background check by the bureau;
775 (B) retention of personal identifying information for ongoing monitoring through
776 registration with the systems described in Subsection (3); and
777 (C) disclosure of any criminal history information to the program manager;
778 (c) submit the personal identifying information of an employee or officer of the
779 program manager to the bureau for:
780 (i) an initial fingerprint-based background check by the bureau; and
781 (ii) ongoing monitoring through registration with the systems described in Subsection
782 (3) if the results of the initial background check do not contain disqualifying criminal history
783 information as determined by the program manager;
784 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
785 that the program manager only receives notifications for individuals with whom the program
786 manager maintains an authorizing relationship; and
787 (e) submit the information to the bureau for ongoing monitoring through registration
788 with the systems described in Subsection (3).
789 (3) The bureau shall:
790 (a) upon request from the program manager, register the fingerprints submitted by the
791 program manager as part of a background check with the WIN Database rap back system, or
792 any successor system;
793 (b) notify the program manager when a new entry is made against an individual whose
794 fingerprints are registered with the WIN Database rap back system regarding:
795 (i) an alleged offense; or
796 (ii) a conviction, including a plea in abeyance;
797 (c) assist the program manager to identify the appropriate privacy risk mitigation
798 strategy that is to be used to ensure that the program manager only receives notifications for
799 individuals with whom the authorized entity maintains an authorizing relationship; and
800 (d) collaborate with the program manager to provide training to appropriate program

801 manager employees on the notification procedures and privacy risk mitigation strategies
802 described in this section.

803 (4) (a) The division shall impose fees that the division sets in accordance with Section
804 63J-1-504 for the fingerprint card of an employee or officer of the program manager, for a
805 name check, and to register fingerprints under this section.

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

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

809 **53F-6-408. Eligible schools.**

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

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

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

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

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

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

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

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

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

828 (ii) tuition costs;

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

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

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

836 (i) an employee who does not hold:

837 (A) a current Utah educator license issued by the state board under Title 53E, Chapter
838 6, Education Professional Licensure; or

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

841 (ii) a contract employee.

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

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

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

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

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

853 (a) provide to the program manager:

854 (i) a federal employer identification number;

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

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

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

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

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

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

865 (a) provide to the program manager:

866 (i) a federal employer identification number;

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

868 (iii) a description of each program or service the LEA proposes to offer to scholarship
869 students; and

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

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

872 (c) enter into an agreement with the program manager regarding the provision of
873 services to a scholarship student through which:

874 (i) the scholarship student does not enroll in the LEA;

875 (ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU
876 funding related to the student's participation with the LEA; and

877 (iii) the LEA and program manager ensure that a scholarship student does not
878 participate in a course or program at the LEA except in accordance with the agreement
879 described in this Subsection (5)(c) under the program.

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

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

883 (b) the LEA refuses to offer services that do not require LEA enrollment to scholarship
884 students under the program.

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

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

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

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

892 (9) The program manager shall:

893 (a) if the private school or LEA meets the eligibility requirements of this section,

894 recognize the private school or LEA as an eligible school and approve the application; and
895 (b) make available to the public a list of eligible schools approved under this section.
896 (10) A private school approved under this section that changes ownership shall:
897 (a) cease operation as an eligible school until:
898 (i) the school submits a new application to the program manager; and
899 (ii) the program manager approves the new application; and
900 (b) demonstrate that the private school continues to meet the eligibility requirements of
901 this section.

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

903 **53F-6-409. Eligible service providers.**

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

905 (a) shall provide to the program manager:

906 (i) a federal employer identification number;

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

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

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

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

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

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

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

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

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

925 (4) The program manager shall:

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

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

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

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

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

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

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

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

940 **53F-6-410. Parental rights -- Optional assessment.**

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

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

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

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

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

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

952 (v) a nationally norm-referenced assessment.

953 (b) (i) Notwithstanding any other provision of law, the entity administering an
954 assessment described in Subsection (2)(a) to a scholarship student in accordance with this
955 section may not report the result of or any other data pertaining to the assessment or

956 scholarship student to a person other than the program manager, the scholarship student, or the
957 scholarship student's parent.

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

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

965 (d) The completion of an optional assessment under this section satisfies the portfolio
966 eligibility qualification described in Subsection [53F-6-402\(3\)\(d\)](#).

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

968 **53F-6-411. Program funding.**

969 (1) If a scholarship student enters or reenters the public education system during a
970 given school year:

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

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

976 (c) the program manager may use the balance described in Subsection (1)(a) for
977 another scholarship student.

978 (2) At the end of a school year, a program manager shall withdraw any remaining
979 scholarship funds in a scholarship account and retain the scholarship funds for disbursement in
980 the following year.

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

983 (b) Subject to Subsection (3)(a), the funds for program administration described in
984 Subsection (3)(a) are nonlapsing.

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

987 Section 14. Section **53F-6-412** is enacted to read:

988 **53F-6-412. Reports**

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

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

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

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

997 (c) administrative costs of the program;

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

1000 (e) the percentage of first-time scholarship students who were enrolled in a public
1001 school during the previous school year or who entered kindergarten or a higher grade for the
1002 first time in Utah;

1003 (f) the program manager's strategy and outreach efforts to reach eligible students whose
1004 family income is at or below 200% of the federal poverty level and related obstacles to
1005 enrollments;

1006 (g) in the report that the program manager submits in 2025, information on steps the
1007 program manager has taken and processes the program manager has adopted to implement the
1008 program; and

1009 (h) any other information regarding the program and the program's implementation that
1010 the committee requests; and

1011 (2) the state board shall submit a report on the cost-effectiveness of the program to the
1012 Education Interim Committee no later than September 1 of each year.

1013 Section 15. Section **53F-6-413** is enacted to read:

1014 **53F-6-413. Legal proceedings.**

1015 (1) In any legal proceeding against the state in which a qualifying provider challenges
1016 the application of this part to the qualifying provider, the state shall bear the burden of
1017 establishing that the law:

- 1018 (a) is necessary; and
- 1019 (b) does not impose an undue burden on the qualifying provider.
- 1020 (2) The following bear no liability based on the award or use of scholarship funds
- 1021 under this part:
- 1022 (a) the state;
- 1023 (b) the state board;
- 1024 (c) the program manager; or
- 1025 (d) an LEA.
- 1026 (3) If any provision of this part is the subject of a state or federal constitutional
- 1027 challenge in a state court, scholarship students and scholarship students' parents may intervene
- 1028 as a matter of right to defend the program's constitutionality, subject to any court order that all
- 1029 defending parents and scholarship students intervene jointly.

1030 Section 16. Section **53F-6-414** is enacted to read:

1031 **53F-6-414. Severability.**

1032 (1) If any provision of this part or the application of any provision of this part to any

1033 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,

1034 the remaining provisions of this part remain effective without the invalidated provision or

1035 application.

1036 (2) The provisions of this part are severable.

1037 Section 17. Section **63G-2-305** is amended to read:

1038 **63G-2-305. Protected records.**

1039 The following records are protected if properly classified by a governmental entity:

1040 (1) trade secrets as defined in Section **13-24-2** if the person submitting the trade secret

1041 has provided the governmental entity with the information specified in Section **63G-2-309**;

1042 (2) commercial information or nonindividual financial information obtained from a

1043 person if:

1044 (a) disclosure of the information could reasonably be expected to result in unfair

1045 competitive injury to the person submitting the information or would impair the ability of the

1046 governmental entity to obtain necessary information in the future;

1047 (b) the person submitting the information has a greater interest in prohibiting access

1048 than the public in obtaining access; and

1049 (c) the person submitting the information has provided the governmental entity with
1050 the information specified in Section [63G-2-309](#);

1051 (3) commercial or financial information acquired or prepared by a governmental entity
1052 to the extent that disclosure would lead to financial speculations in currencies, securities, or
1053 commodities that will interfere with a planned transaction by the governmental entity or cause
1054 substantial financial injury to the governmental entity or state economy;

1055 (4) records, the disclosure of which could cause commercial injury to, or confer a
1056 competitive advantage upon a potential or actual competitor of, a commercial project entity as
1057 defined in Subsection [11-13-103\(4\)](#);

1058 (5) test questions and answers to be used in future license, certification, registration,
1059 employment, or academic examinations;

1060 (6) records, the disclosure of which would impair governmental procurement
1061 proceedings or give an unfair advantage to any person proposing to enter into a contract or
1062 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
1063 Subsection (6) does not restrict the right of a person to have access to, after the contract or
1064 grant has been awarded and signed by all parties:

1065 (a) a bid, proposal, application, or other information submitted to or by a governmental
1066 entity in response to:

1067 (i) an invitation for bids;

1068 (ii) a request for proposals;

1069 (iii) a request for quotes;

1070 (iv) a grant; or

1071 (v) other similar document; or

1072 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

1073 (7) information submitted to or by a governmental entity in response to a request for
1074 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
1075 the right of a person to have access to the information, after:

1076 (a) a contract directly relating to the subject of the request for information has been
1077 awarded and signed by all parties; or

1078 (b) (i) a final determination is made not to enter into a contract that relates to the
1079 subject of the request for information; and

1080 (ii) at least two years have passed after the day on which the request for information is
1081 issued;

1082 (8) records that would identify real property or the appraisal or estimated value of real
1083 or personal property, including intellectual property, under consideration for public acquisition
1084 before any rights to the property are acquired unless:

1085 (a) public interest in obtaining access to the information is greater than or equal to the
1086 governmental entity's need to acquire the property on the best terms possible;

1087 (b) the information has already been disclosed to persons not employed by or under a
1088 duty of confidentiality to the entity;

1089 (c) in the case of records that would identify property, potential sellers of the described
1090 property have already learned of the governmental entity's plans to acquire the property;

1091 (d) in the case of records that would identify the appraisal or estimated value of
1092 property, the potential sellers have already learned of the governmental entity's estimated value
1093 of the property; or

1094 (e) the property under consideration for public acquisition is a single family residence
1095 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
1096 the property as required under Section [78B-6-505](#);

1097 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
1098 compensated transaction of real or personal property including intellectual property, which, if
1099 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
1100 of the subject property, unless:

1101 (a) the public interest in access is greater than or equal to the interests in restricting
1102 access, including the governmental entity's interest in maximizing the financial benefit of the
1103 transaction; or

1104 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1105 the value of the subject property have already been disclosed to persons not employed by or
1106 under a duty of confidentiality to the entity;

1107 (10) records created or maintained for civil, criminal, or administrative enforcement
1108 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1109 release of the records:

1110 (a) reasonably could be expected to interfere with investigations undertaken for

1111 enforcement, discipline, licensing, certification, or registration purposes;

1112 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1113 proceedings;

1114 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1115 hearing;

1116 (d) reasonably could be expected to disclose the identity of a source who is not
1117 generally known outside of government and, in the case of a record compiled in the course of
1118 an investigation, disclose information furnished by a source not generally known outside of
1119 government if disclosure would compromise the source; or

1120 (e) reasonably could be expected to disclose investigative or audit techniques,
1121 procedures, policies, or orders not generally known outside of government if disclosure would
1122 interfere with enforcement or audit efforts;

1123 (11) records the disclosure of which would jeopardize the life or safety of an
1124 individual;

1125 (12) records the disclosure of which would jeopardize the security of governmental
1126 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1127 or other appropriation or use contrary to law or public policy;

1128 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
1129 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1130 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1131 (14) records that, if disclosed, would reveal recommendations made to the Board of
1132 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1133 Board of Pardons and Parole, or the Department of Health and Human Services that are based
1134 on the employee's or contractor's supervision, diagnosis, or treatment of any person within the
1135 board's jurisdiction;

1136 (15) records and audit workpapers that identify audit, collection, and operational
1137 procedures and methods used by the State Tax Commission, if disclosure would interfere with
1138 audits or collections;

1139 (16) records of a governmental audit agency relating to an ongoing or planned audit
1140 until the final audit is released;

1141 (17) records that are subject to the attorney client privilege;

1142 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
1143 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
1144 quasi-judicial, or administrative proceeding;

1145 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
1146 from a member of the Legislature; and

1147 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
1148 legislative action or policy may not be classified as protected under this section; and

1149 (b) (i) an internal communication that is part of the deliberative process in connection
1150 with the preparation of legislation between:

1151 (A) members of a legislative body;

1152 (B) a member of a legislative body and a member of the legislative body's staff; or

1153 (C) members of a legislative body's staff; and

1154 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
1155 legislative action or policy may not be classified as protected under this section;

1156 (20) (a) records in the custody or control of the Office of Legislative Research and
1157 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
1158 legislation or contemplated course of action before the legislator has elected to support the
1159 legislation or course of action, or made the legislation or course of action public; and

1160 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
1161 Office of Legislative Research and General Counsel is a public document unless a legislator
1162 asks that the records requesting the legislation be maintained as protected records until such
1163 time as the legislator elects to make the legislation or course of action public;

1164 (21) research requests from legislators to the Office of Legislative Research and
1165 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
1166 in response to these requests;

1167 (22) drafts, unless otherwise classified as public;

1168 (23) records concerning a governmental entity's strategy about:

1169 (a) collective bargaining; or

1170 (b) imminent or pending litigation;

1171 (24) records of investigations of loss occurrences and analyses of loss occurrences that
1172 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the

- 1173 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 1174 (25) records, other than personnel evaluations, that contain a personal recommendation
1175 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
1176 personal privacy, or disclosure is not in the public interest;
- 1177 (26) records that reveal the location of historic, prehistoric, paleontological, or
1178 biological resources that if known would jeopardize the security of those resources or of
1179 valuable historic, scientific, educational, or cultural information;
- 1180 (27) records of independent state agencies if the disclosure of the records would
1181 conflict with the fiduciary obligations of the agency;
- 1182 (28) records of an institution within the state system of higher education defined in
1183 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
1184 retention decisions, and promotions, which could be properly discussed in a meeting closed in
1185 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
1186 the final decisions about tenure, appointments, retention, promotions, or those students
1187 admitted, may not be classified as protected under this section;
- 1188 (29) records of the governor's office, including budget recommendations, legislative
1189 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
1190 policies or contemplated courses of action before the governor has implemented or rejected
1191 those policies or courses of action or made them public;
- 1192 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
1193 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
1194 recommendations in these areas;
- 1195 (31) records provided by the United States or by a government entity outside the state
1196 that are given to the governmental entity with a requirement that they be managed as protected
1197 records if the providing entity certifies that the record would not be subject to public disclosure
1198 if retained by it;
- 1199 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
1200 public body except as provided in Section [52-4-206](#);
- 1201 (33) records that would reveal the contents of settlement negotiations but not including
1202 final settlements or empirical data to the extent that they are not otherwise exempt from
1203 disclosure;

1204 (34) memoranda prepared by staff and used in the decision-making process by an
1205 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1206 other body charged by law with performing a quasi-judicial function;

1207 (35) records that would reveal negotiations regarding assistance or incentives offered
1208 by or requested from a governmental entity for the purpose of encouraging a person to expand
1209 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1210 person or place the governmental entity at a competitive disadvantage, but this section may not
1211 be used to restrict access to a record evidencing a final contract;

1212 (36) materials to which access must be limited for purposes of securing or maintaining
1213 the governmental entity's proprietary protection of intellectual property rights including patents,
1214 copyrights, and trade secrets;

1215 (37) the name of a donor or a prospective donor to a governmental entity, including an
1216 institution within the state system of higher education defined in Section 53B-1-102, and other
1217 information concerning the donation that could reasonably be expected to reveal the identity of
1218 the donor, provided that:

1219 (a) the donor requests anonymity in writing;

1220 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1221 classified protected by the governmental entity under this Subsection (37); and

1222 (c) except for an institution within the state system of higher education defined in
1223 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1224 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
1225 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1226 by the donor or the donor's immediate family;

1227 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
1228 73-18-13;

1229 (39) a notification of workers' compensation insurance coverage described in Section
1230 34A-2-205;

1231 (40) (a) the following records of an institution within the state system of higher
1232 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
1233 or received by or on behalf of faculty, staff, employees, or students of the institution:

1234 (i) unpublished lecture notes;

- 1235 (ii) unpublished notes, data, and information:
1236 (A) relating to research; and
1237 (B) of:
1238 (I) the institution within the state system of higher education defined in Section
1239 [53B-1-102](#); or
1240 (II) a sponsor of sponsored research;
1241 (iii) unpublished manuscripts;
1242 (iv) creative works in process;
1243 (v) scholarly correspondence; and
1244 (vi) confidential information contained in research proposals;
1245 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
1246 information required pursuant to Subsection [53B-16-302](#)(2)(a) or (b); and
1247 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
1248 (41) (a) records in the custody or control of the Office of the Legislative Auditor
1249 General that would reveal the name of a particular legislator who requests a legislative audit
1250 prior to the date that audit is completed and made public; and
1251 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1252 Office of the Legislative Auditor General is a public document unless the legislator asks that
1253 the records in the custody or control of the Office of the Legislative Auditor General that would
1254 reveal the name of a particular legislator who requests a legislative audit be maintained as
1255 protected records until the audit is completed and made public;
1256 (42) records that provide detail as to the location of an explosive, including a map or
1257 other document that indicates the location of:
1258 (a) a production facility; or
1259 (b) a magazine;
1260 (43) information contained in the statewide database of the Division of Aging and
1261 Adult Services created by Section [62A-3-311.1](#);
1262 (44) information contained in the Licensing Information System described in Title 80,
1263 Chapter 2, Child Welfare Services;
1264 (45) information regarding National Guard operations or activities in support of the
1265 National Guard's federal mission;

1266 (46) records provided by any pawn or secondhand business to a law enforcement
1267 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop,
1268 Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
1269 (47) information regarding food security, risk, and vulnerability assessments performed
1270 by the Department of Agriculture and Food;
1271 (48) except to the extent that the record is exempt from this chapter pursuant to Section
1272 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
1273 prepared or maintained by the Division of Emergency Management, and the disclosure of
1274 which would jeopardize:
1275 (a) the safety of the general public; or
1276 (b) the security of:
1277 (i) governmental property;
1278 (ii) governmental programs; or
1279 (iii) the property of a private person who provides the Division of Emergency
1280 Management information;
1281 (49) records of the Department of Agriculture and Food that provides for the
1282 identification, tracing, or control of livestock diseases, including any program established under
1283 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
1284 of Animal Disease;
1285 (50) as provided in Section [26-39-501](#):
1286 (a) information or records held by the Department of Health and Human Services
1287 related to a complaint regarding a child care program or residential child care which the
1288 department is unable to substantiate; and
1289 (b) information or records related to a complaint received by the Department of Health
1290 and Human Services from an anonymous complainant regarding a child care program or
1291 residential child care;
1292 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
1293 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
1294 personal mobile phone number, if:
1295 (a) the individual is required to provide the information in order to comply with a law,
1296 ordinance, rule, or order of a government entity; and

1297 (b) the subject of the record has a reasonable expectation that this information will be
1298 kept confidential due to:

1299 (i) the nature of the law, ordinance, rule, or order; and

1300 (ii) the individual complying with the law, ordinance, rule, or order;

1301 (52) the portion of the following documents that contains a candidate's residential or
1302 mailing address, if the candidate provides to the filing officer another address or phone number
1303 where the candidate may be contacted:

1304 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
1305 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
1306 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);

1307 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or

1308 (c) a notice of intent to gather signatures for candidacy, described in Section
1309 [20A-9-408](#);

1310 (53) the name, home address, work addresses, and telephone numbers of an individual
1311 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1312 (a) conducted within the state system of higher education, as defined in Section
1313 [53B-1-102](#); and

1314 (b) conducted using animals;

1315 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
1316 Evaluation Commission concerning an individual commissioner's vote, in relation to whether a
1317 judge meets or exceeds minimum performance standards under Subsection [78A-12-203\(4\)](#), and
1318 information disclosed under Subsection [78A-12-203\(5\)\(e\)](#);

1319 (55) information collected and a report prepared by the Judicial Performance
1320 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
1321 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1322 the information or report;

1323 (56) records provided or received by the Public Lands Policy Coordinating Office in
1324 furtherance of any contract or other agreement made in accordance with Section [63L-11-202](#);

1325 (57) information requested by and provided to the 911 Division under Section
1326 [63H-7a-302](#);

1327 (58) in accordance with Section [73-10-33](#):

1328 (a) a management plan for a water conveyance facility in the possession of the Division
1329 of Water Resources or the Board of Water Resources; or

1330 (b) an outline of an emergency response plan in possession of the state or a county or
1331 municipality;

1332 (59) the following records in the custody or control of the Office of Inspector General
1333 of Medicaid Services, created in Section 63A-13-201:

1334 (a) records that would disclose information relating to allegations of personal
1335 misconduct, gross mismanagement, or illegal activity of a person if the information or
1336 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1337 through other documents or evidence, and the records relating to the allegation are not relied
1338 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1339 report or final audit report;

1340 (b) records and audit workpapers to the extent they would disclose the identity of a
1341 person who, during the course of an investigation or audit, communicated the existence of any
1342 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1343 regulation adopted under the laws of this state, a political subdivision of the state, or any
1344 recognized entity of the United States, if the information was disclosed on the condition that
1345 the identity of the person be protected;

1346 (c) before the time that an investigation or audit is completed and the final
1347 investigation or final audit report is released, records or drafts circulated to a person who is not
1348 an employee or head of a governmental entity for the person's response or information;

1349 (d) records that would disclose an outline or part of any investigation, audit survey
1350 plan, or audit program; or

1351 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1352 investigation or audit;

1353 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1354 Services, the fraud unit, or the Department of Health and Human Services, to discover
1355 Medicaid fraud, waste, or abuse;

1356 (61) information provided to the Department of Health and Human Services or the
1357 Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1358 58-68-304(3) and (4);

- 1359 (62) a record described in Section 63G-12-210;
- 1360 (63) captured plate data that is obtained through an automatic license plate reader
1361 system used by a governmental entity as authorized in Section 41-6a-2003;
- 1362 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
1363 victim, including:
- 1364 (a) a victim's application or request for benefits;
- 1365 (b) a victim's receipt or denial of benefits; and
- 1366 (c) any administrative notes or records made or created for the purpose of, or used to,
1367 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
1368 Reparations Fund;
- 1369 (65) an audio or video recording created by a body-worn camera, as that term is
1370 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
1371 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
1372 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
1373 that term is defined in Section 62A-2-101, except for recordings that:
- 1374 (a) depict the commission of an alleged crime;
- 1375 (b) record any encounter between a law enforcement officer and a person that results in
1376 death or bodily injury, or includes an instance when an officer fires a weapon;
- 1377 (c) record any encounter that is the subject of a complaint or a legal proceeding against
1378 a law enforcement officer or law enforcement agency;
- 1379 (d) contain an officer involved critical incident as defined in Subsection
1380 76-2-408(1)(f); or
- 1381 (e) have been requested for reclassification as a public record by a subject or
1382 authorized agent of a subject featured in the recording;
- 1383 (66) a record pertaining to the search process for a president of an institution of higher
1384 education described in Section 53B-2-102, except for application materials for a publicly
1385 announced finalist;
- 1386 (67) an audio recording that is:
- 1387 (a) produced by an audio recording device that is used in conjunction with a device or
1388 piece of equipment designed or intended for resuscitating an individual or for treating an
1389 individual with a life-threatening condition;

1390 (b) produced during an emergency event when an individual employed to provide law
1391 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1392 (i) is responding to an individual needing resuscitation or with a life-threatening
1393 condition; and

1394 (ii) uses a device or piece of equipment designed or intended for resuscitating an
1395 individual or for treating an individual with a life-threatening condition; and

1396 (c) intended and used for purposes of training emergency responders how to improve
1397 their response to an emergency situation;

1398 (68) records submitted by or prepared in relation to an applicant seeking a
1399 recommendation by the Research and General Counsel Subcommittee, the Budget
1400 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
1401 employment position with the Legislature;

1402 (69) work papers as defined in Section 31A-2-204;

1403 (70) a record made available to Adult Protective Services or a law enforcement agency
1404 under Section 61-1-206;

1405 (71) a record submitted to the Insurance Department in accordance with Section
1406 31A-37-201;

1407 (72) a record described in Section 31A-37-503;

1408 (73) any record created by the Division of Professional Licensing as a result of
1409 Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1410 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
1411 involving an amusement ride;

1412 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
1413 on a political petition, or on a request to withdraw a signature from a political petition,
1414 including a petition or request described in the following titles:

1415 (a) Title 10, Utah Municipal Code;

1416 (b) Title 17, Counties;

1417 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1418 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1419 (e) Title 20A, Election Code;

1420 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in

1421 a voter registration record;

1422 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
1423 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
1424 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

1425 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
1426 5, Victims Guidelines for Prosecutors Act;

1427 (79) a record submitted to the Insurance Department under Section 31A-48-103;

1428 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
1429 prohibited under Section 63G-26-103;

1430 (81) an image taken of an individual during the process of booking the individual into
1431 jail, unless:

1432 (a) the individual is convicted of a criminal offense based upon the conduct for which
1433 the individual was incarcerated at the time the image was taken;

1434 (b) a law enforcement agency releases or disseminates the image:

1435 (i) after determining that the individual is a fugitive or an imminent threat to an
1436 individual or to public safety and releasing or disseminating the image will assist in
1437 apprehending the individual or reducing or eliminating the threat; or

1438 (ii) to a potential witness or other individual with direct knowledge of events relevant
1439 to a criminal investigation or criminal proceeding for the purpose of identifying or locating an
1440 individual in connection with the criminal investigation or criminal proceeding; or

1441 (c) a judge orders the release or dissemination of the image based on a finding that the
1442 release or dissemination is in furtherance of a legitimate law enforcement interest;

1443 (82) a record:

1444 (a) concerning an interstate claim to the use of waters in the Colorado River system;

1445 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1446 representative from another state or the federal government as provided in Section

1447 63M-14-205; and

1448 (c) the disclosure of which would:

1449 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1450 Colorado River system;

1451 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to

1452 negotiate the best terms and conditions regarding the use of water in the Colorado River
1453 system; or

1454 (iii) give an advantage to another state or to the federal government in negotiations
1455 regarding the use of water in the Colorado River system;

1456 (83) any part of an application described in Section [63N-16-201](#) that the Governor's
1457 Office of Economic Opportunity determines is nonpublic, confidential information that if
1458 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
1459 not be used to restrict access to a record evidencing a final contract or approval decision;

1460 (84) the following records of a drinking water or wastewater facility:

1461 (a) an engineering or architectural drawing of the drinking water or wastewater facility;

1462 and

1463 (b) except as provided in Section [63G-2-106](#), a record detailing tools or processes the
1464 drinking water or wastewater facility uses to secure, or prohibit access to, the records described
1465 in Subsection (84)(a); ~~and~~

1466 (85) a statement that an employee of a governmental entity provides to the
1467 governmental entity as part of the governmental entity's personnel or administrative
1468 investigation into potential misconduct involving the employee if the governmental entity:

1469 (a) requires the statement under threat of employment disciplinary action, including
1470 possible termination of employment, for the employee's refusal to provide the statement; and

1471 (b) provides the employee assurance that the statement cannot be used against the
1472 employee in any criminal proceeding[-]; and

1473 (86) any part of an application for a Utah Fits All Scholarship account described in
1474 Section [53F-6-402](#) or other information identifying a scholarship student as defined in Section
1475 [53F-6-401](#).

1476 Section 18. **Repealer.**

1477 This bill repeals:

1478 Section [53F-6-101](#), Title.