

HOPE SCHOLARSHIP PROGRAM

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Hope Scholarship Program.

Highlighted Provisions:

This bill:

- ▶ requires a scholarship granting organization to submit reports on the Hope Scholarship Program (program);
- ▶ defines terms;
- ▶ authorizes a scholarship granting organization to establish scholarship accounts on behalf of eligible students to pay for private education goods and services starting in the 2023-24 school year;
- ▶ requires the board to contract with, no later than October 1, 2022, a scholarship granting organization to administer the program;
- ▶ prohibits a scholarship granting organization from accepting scholarship funds in certain circumstances;
- ▶ requires private schools and service providers to meet certain standards to be eligible to receive scholarship funds;
- ▶ authorizes a scholarship granting organization to receive donations to the program;
- ▶ requires the scholarship granting organization to conduct audits;
- ▶ prohibits certain regulations of eligible schools and eligible service providers;
- ▶ requires background checks for employees and officers of a scholarship granting



28 organization;

- 29 ▶ enacts program funding provisions;
- 30 ▶ classifies an application for a scholarship account as a protected record; and
- 31 ▶ repeals a provision codifying a chapter title.

32 **Money Appropriated in this Bill:**

33 This bill appropriates in fiscal year 2023:

- 34 ▶ to State Board of Education -- Contracted Initiatives and Grants -- Hope Scholarship
- 35 Program, as an appropriation:
 - 36 • from Education Fund, ongoing \$36,000,000; and
 - 37 • from Education Fund, one-time (\$34,000,000), leaving \$2,000,000 for Fiscal
- 38 Year 2023.

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
44 and 382

45 ENACTS:

- 46 **53E-1-202.3**, Utah Code Annotated 1953
- 47 **53F-6-401**, Utah Code Annotated 1953
- 48 **53F-6-402**, Utah Code Annotated 1953
- 49 **53F-6-403**, Utah Code Annotated 1953
- 50 **53F-6-404**, Utah Code Annotated 1953
- 51 **53F-6-405**, Utah Code Annotated 1953
- 52 **53F-6-406**, Utah Code Annotated 1953
- 53 **53F-6-407**, Utah Code Annotated 1953
- 54 **53F-6-408**, Utah Code Annotated 1953
- 55 **53F-6-409**, Utah Code Annotated 1953
- 56 **53F-6-410**, Utah Code Annotated 1953
- 57 **53F-6-411**, Utah Code Annotated 1953

58 REPEALS:

59 53F-6-101, as enacted by Laws of Utah 2018, Chapter 2



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

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

63 **53E-1-202.3. Report to the Public Education Appropriations Subcommittee on the**
64 **Hope Scholarship Program.**

65 Beginning in 2024, a scholarship granting organization, as defined in Section
66 53F-6-401, shall, in accordance with Section 68-3-14, annually submit the report described in
67 Section 53F-6-411 to the Public Education Appropriations Subcommittee.

68 Section 2. Section **53F-6-401** is enacted to read:

69 **CHAPTER 6. STATE FUNDING -- PROGRAMS ADMINISTERED BY OTHER**
70 **ENTITIES**

71 **Part 4. Hope Scholarship Program**

72 **53F-6-401. Definitions.**

73 (1) (a) "Eligible school" means a private school that:

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

75 (ii) meets the requirements of and is approved by a scholarship granting organization
76 under Section 53F-6-408.

77 (b) "Eligible school" does not include:

78 (i) an eligible service provider; or

79 (ii) a home school.

80 (2) "Eligible student" means a student who:

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

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

83 (c) during the school year for which the student is applying for a scholarship, account is

84 not:

85 (i) a student who receives a scholarship under the Carson Smith Scholarship Program
86 created in Section 53F-4-302;

87 (ii) a student who receives a scholarship under the Special Needs Opportunity
88 Scholarship Program established in Section 53E-7-402; or

89 (iii) enrolled in an LEA.

90 (3) (a) "Eligible service provider" means a private program or service that:
91 (i) provides educational services; and
92 (ii) meets the requirements of and is approved by a scholarship granting organization
93 under Section 53F-6-409.

94 (b) "Eligible service provider" does not include:
95 (i) an eligible school;
96 (ii) a home school; or
97 (iii) a retailer or other private business that provides goods for a one-time purchase or
98 rental.

99 (4) (a) "Employee" means an individual working in a position in which the individual's
100 salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

101 (b) "Employee" does not include an individual who volunteers at a scholarship granting
102 organization or qualifying service provider.

103 (5) "Hope Scholarship Program" or "program" means the scholarship program created
104 in Section 53F-6-402.

105 (6) "Officer" means:
106 (a) a member of the board of a scholarship granting organization; or
107 (b) the chief administrative officer of a scholarship granting organization.

108 (7) "Program donation" means a donation to the program described in Section
109 53F-6-405.

110 (8) "Qualifying service provider" means:
111 (a) an eligible school approved by the scholarship granting organization in accordance
112 with Section 53F-6-408; or

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

115 (9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
116 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
117 sister-in-law, son-in-law, or daughter-in-law.

118 (10) "Scholarship account" means an account established and maintained by a
119 scholarship granting organization on behalf of a scholarship student for the purpose of paying
120 for a scholarship expense with scholarship funds.

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

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

124 (b) goods.

125 (12) "Scholarship funds" means funds:

126 (a) appropriated by the Legislature for the program; or

127 (b) donated under Section 53F-6-405.

128 (13) "Scholarship granting organization" means an organization that is:

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

130 (b) recognized through an agreement with the state board as a scholarship granting
131 organization, as described in Section 53F-6-404.

132 (14) "Scholarship student" means an eligible student for whom a scholarship account is
133 established and maintained in accordance with this part.

134 Section 3. Section 53F-6-402 is enacted to read:

135 **53F-6-402. Hope Scholarship Program -- Scholarship account application --**
136 **Scholarship expenses -- Program information.**

137 (1) There is established the Hope Scholarship Program under which, beginning in the
138 2023-24 school year, a parent may apply to a scholarship granting organization on behalf of the
139 parent's student to establish and maintain a scholarship account to cover the cost of a
140 scholarship expense.

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

143 (b) The scholarship granting organization shall:

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

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

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

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

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

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

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

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

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

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

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

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

165 (D) at or above 555% of the federal poverty level, an amount equivalent to the value of
166 the weighted pupil unit multiplied by 0.375.

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

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

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

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

179 (d) (i) A scholarship granting organization may not approve an application by or
180 establish a scholarship account on behalf of a student whose family income is at or above
181 1,000% of the federal poverty level.

182 (ii) Notwithstanding Subsection (3)(d)(i), in any school year that the scholarship

183 granting organization disburses 25% of scholarship funds to scholarship accounts maintained
184 for students whose family income is at or below 200% of the federal poverty level, in the
185 following and subsequent school years, the scholarship granting organization may approve an
186 application and establish a scholarship account on behalf of an eligible student whose family
187 income is at or above 1,000% of the federal poverty level.

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

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

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

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

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

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

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

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

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

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

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

212 (5) A scholarship granting organization may not charge a scholarship account
213 application fee.

214 (6) A scholarship granting organization:
215 (a) shall give an enrollment preference to an eligible student whose family income is at
216 or below 200% of the federal poverty level; and
217 (b) may give an enrollment preference to the following eligible students:
218 (i) an eligible student who in the previous school year used a scholarship account
219 established under this part to enroll in a qualifying service provider; or
220 (ii) a sibling of an eligible student who:
221 (A) is receiving scholarship funds from a scholarship account at the time the sibling
222 applies for a scholarship account; or
223 (B) received scholarship funds in the school year immediately preceding the school
224 year for which the sibling is applying for a scholarship account.
225 (7) (a) Subject to Subsections (7)(c) and (d), a scholarship account may be used to pay
226 for an expense:
227 (i) incurred in the education of a scholarship student; and
228 (ii) approved by the scholarship granting organization.
229 (b) An approved scholarship expense includes:
230 (i) tuition, fees, textbooks, or other curricular or extracurricular materials, including
231 supplemental materials or associated online instruction required by a curriculum;
232 (ii) tutoring services;
233 (iii) fees associated with standardized assessments, advanced placement examinations,
234 a state-recognized industry certification examination, or any examination related to college or
235 university admission;
236 (iv) fees for a preparatory course for an exam described in Subsection (7)(b)(iii);
237 (v) fees for after-school or summer education programs;
238 (vi) educational therapy, if the educational therapy is provided by a licensed physician
239 or licensed practitioner, including occupational, behavioral, physical, or speech-language
240 therapies;
241 (vii) fees for transportation paid to a fee-for-service transportation provider for a
242 scholarship student to travel to and from a qualifying service provider; and
243 (viii) any other expense for a good or service incurred in the education of a scholarship
244 student.

- 245 (c) A scholarship account may not be used for an expense that is not incurred in
246 advancing an eligible student's education, including:
- 247 (i) a rehabilitation program that is not primarily for education purposes; or
248 (ii) a travel expense other than the expense described in Subsection (7)(b)(vii).
- 249 (d) If a scholarship expense is:
- 250 (i) for a service, the scholarship granting organization may not approve the scholarship
251 expense unless:
- 252 (A) the service is provided by a qualifying service provider; and
253 (B) the scholarship granting organization determines that the expense is incurred in the
254 education of the scholarship student; or
- 255 (ii) for a good, the scholarship granting organization may not approve the scholarship
256 expense unless:
- 257 (A) the scholarship student submits a receipt showing the cost and type of good and
258 name of retailer; and
- 259 (B) the scholarship granting organization determines that the expense is incurred in the
260 education of the scholarship student.
- 261 (8) Funds disbursed under this part to a scholarship account on behalf of a scholarship
262 student do not constitute taxable income to the parent of the scholarship student.
- 263 (9) The scholarship granting organization shall prepare and disseminate to a parent
264 applying for a scholarship account on behalf of a student:
- 265 (a) information on the program; and
266 (b) information on how a parent may enroll the parent's student in a public school.
- 267 (10) The state board shall provide information on the state board's website, including
268 scholarship account information, the scholarship granting organization's contact information,
269 and an overview of the program.
- 270 Section 4. Section **53F-6-403** is enacted to read:
- 271 **53F-6-403. Qualifying service providers.**
- 272 (1) Before the beginning of the school year immediately following a school year in
273 which a qualifying service provider receives scholarship funds equal to or more than \$250,000,
274 the qualifying service provider shall file with the scholarship granting organization:
- 275 (a) a surety bond payable to the scholarship granting organization in an amount equal

276 to the aggregate amount of scholarship funds expected to be received during the school year; or

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

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

282 (3) (a) If the scholarship granting organization determines that a qualifying service
283 provider no longer meets the eligibility requirements described in this part, the scholarship
284 granting organization may withdraw the organization's approval of the qualifying service
285 provider.

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

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

292 Section 5. Section 53F-6-404 is enacted to read:

293 **53F-6-404. State board procurement and review of scholarship granting**
294 **organization -- Failure to comply.**

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

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

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

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

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

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

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

311 (3) The state board shall:

312 (a) conduct a financial review or audit of a scholarship granting organization, if the
313 state board receives evidence of fraudulent practice by the scholarship granting organization;
314 and

315 (b) conduct a criminal background check on each scholarship granting organization
316 employee and scholarship granting organization officer.

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

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

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

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

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

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

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

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

338 (5) The state board shall provide for a process for a scholarship granting organization
339 to report information as required under Section 53F-6-405.

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

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

345 (b) audit and report requirements as described in Section 53F-7-405.

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

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

352 **53F-6-405. Scholarship granting organization duties -- Program donations --**
353 **Audit -- Prohibitions.**

354 (1) A scholarship granting organization shall:

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

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

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

358 (b) accept program donations;

359 (c) adopt an application process, including application deadlines, in accordance with
360 Section 53F-6-402;

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

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

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

367 (g) ensure that all revenue from program donations' interest or investments is spent on
368 scholarship expenses;

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

373 (i) ensure that scholarship funds in a scholarship account can be transferred during the
374 school year to a different qualifying service provider that accepts or engages with the
375 scholarship student;

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

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

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

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

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

385 (A) receives scholarship funds; and

386 (B) is no longer enrolled in or engaging a qualifying service provider;

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

389 (iii) require the qualifying service provider to reimburse scholarship funds to the
390 scholarship granting organization; and

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

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

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

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

399 (A) the scholarship granting organization; and

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

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

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

406 (i) include the scholarship granting organization's financial statements in a format that
407 meets generally accepted accounting standards; and

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

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

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

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

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

419 (i) disburse scholarship funds to a qualifying service provider if:

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

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

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

426 (ii) reimburse with scholarship funds an individual for the purchase of a good if the
427 scholarship granting organization determines that:

428 (A) the scholarship student, or parent of the scholarship student, requesting
429 reimbursement intentionally or substantially misrepresented the cost or educational purpose of
430 the good; or

431 (B) the good was not used exclusively by the scholarship student seeking
432 reimbursement.

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

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

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

444 (6) A scholarship granting organization may not:

445 (a) establish a scholarship account on behalf of a relative of the scholarship granting
446 organization's officer or employee; or

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

449 Section 7. Section **53F-6-406** is enacted to read:

450 **53F-6-406. Qualifying service provider regulation -- Student records -- Status of**
451 **scholarship student.**

452 (1) Nothing in this part:

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

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

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

461 (3) Except as provided in Section [53F-7-403](#) and, respectively, Section [53F-6-408](#) or

462 53F-6-409, a qualifying service provider may not be required to alter the qualifying service
463 provider's creed, practices, admission policy, or curriculum in order to accept scholarship
464 funds.

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

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

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

471 (5) A scholarship student is not:

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

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

476 Section 8. Section **53F-6-407** is enacted to read:

477 **53F-6-407. Background checks for scholarship granting organization -- State**
478 **board responsibilities -- Bureau responsibilities -- Fees.**

479 (1) As used in this section:

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

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

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

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

486 (e) "FBI" means the Federal Bureau of Investigation.

487 (f) "FBI Rap Back System" means the rap back system maintained by the FBI.

488 (g) "Personal identifying information" means:

489 (i) current name;

490 (ii) former names;

491 (iii) nicknames;

492 (iv) aliases;

- 493 (v) date of birth;
494 (vi) address;
495 (vii) telephone number;
496 (viii) driver license number or other government-issued identification number;
497 (ix) social security number; and
498 (x) fingerprints.
- 499 (h) "Rap back system" means a system that enables authorized entities to receive
500 ongoing status notifications of any criminal history reported on individuals whose fingerprints
501 are registered in the system.
- 502 (i) "WIN Database" means the Western Identification Network Database that consists
503 of eight western states sharing one electronic fingerprint database.
- 504 (2) The state board shall:
- 505 (a) require an applicant to submit to a nationwide criminal background check and
506 ongoing monitoring in accordance with Section [53F-6-404](#);
- 507 (b) collect the following from an applicant:
- 508 (i) personal identifying information;
509 (ii) a fee described in Subsection (4); and
510 (iii) consent, on a form specified by the state board, for:
- 511 (A) an initial fingerprint-based background check by the FBI and bureau;
512 (B) retention of personal identifying information for ongoing monitoring through
513 registration with the systems described in Subsection (3); and
- 514 (C) disclosure of any criminal history information to the state board;
- 515 (c) submit an applicant's personal identifying information to the bureau for:
- 516 (i) an initial fingerprint-based background check by the FBI and bureau; and
517 (ii) ongoing monitoring through registration with the systems described in Subsection
518 (3) if the results of the initial background check do not contain disqualifying criminal history
519 information as determined by the state board in accordance with Section [53F-6-404](#);
- 520 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
521 that the state board only receives notifications for individuals with whom the state board
522 maintains an authorizing relationship; and
- 523 (e) submit the information to the bureau for ongoing monitoring through registration

524 with the systems described in Subsection (3)(a).

525 (3) The bureau shall:

526 (a) upon request from the state board, register the fingerprints submitted by the state
527 board as part of a background check with:

528 (i) the WIN Database rap back system, or any successor system; and

529 (ii) the FBI Rap Back System;

530 (b) notify the state board when a new entry is made against an individual whose
531 fingerprints are registered with the rap back systems described in Subsection (3)(a) regarding:

532 (i) an alleged offense; or

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

534 (c) assist the state board to identify the appropriate privacy risk mitigation strategy that
535 is to be used to ensure that the state board only receives notifications for individuals with
536 whom the authorized entity maintains an authorizing relationship; and

537 (d) collaborate with the state board to provide training to appropriate state board
538 employees on the notification procedures and privacy risk mitigation strategies described in
539 this section.

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

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

544 Section 9. Section **53F-6-408** is enacted to read:

545 **53F-6-408. Eligible schools.**

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

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

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

554 (B) the financial statements shall be presented in accordance with generally accepted

555 accounting principles; and
556 (C) the audited financial statements shall be as of a period within the last 12 months;
557 and
558 (ii) submit the audit report or report of the agreed upon procedure to the scholarship
559 granting organization when the private school applies to receive scholarship funds;
560 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
561 (c) provide a written disclosure to the parent of each prospective scholarship student,
562 before the student is enrolled, of:
563 (i) the education services that will be provided to the scholarship student, including the
564 cost of those services;
565 (ii) tuition costs;
566 (iii) additional fees a parent will be required to pay during the school year; and
567 (iv) the skill or grade level of the curriculum in which the prospective scholarship
568 student will participate;
569 (d) (i) administer an annual assessment of each scholarship student's academic
570 progress; and
571 (ii) report the results of the assessment described in Subsection (1)(d)(i) to the
572 scholarship student's parent;
573 (e) employ or contract with teachers who:
574 (i) hold baccalaureate or higher degrees;
575 (ii) have at least three years of teaching experience in public or private schools; or
576 (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to
577 provide instruction in the subject or subjects taught;
578 (f) require the following individuals to submit to a nationwide, fingerprint-based
579 criminal background check and ongoing monitoring, in accordance with Section [53G-11-402](#),
580 as a condition for employment or appointment, as authorized by the Adam Walsh Child
581 Protection and Safety Act of 2006, Pub. L. No. 109-248:
582 (i) an employee who does not hold:
583 (A) a current Utah educator license issued by the state board under Title 53E, Chapter
584 6, Education Professional Licensure; or
585 (B) if the private school is not physically located in Utah, a current educator license in

586 the state where the private school is physically located;

587 (ii) a contract employee; and

588 (iii) a volunteer who is given significant unsupervised access to a student in connection
589 with the volunteer's assignment; and

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

592 (2) A private school described in Subsection (1) is not eligible to enroll a scholarship
593 student if:

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

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

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

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

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

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

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

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

609 (6) The scholarship granting organization shall:

610 (a) if the private school meets the eligibility requirements of this section, recognize the
611 private school as an eligible school and approve the private school's application to disburse
612 scholarship funds on behalf of a scholarship student; and

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

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

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

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

617 this section.

618 Section 10. Section **53F-6-409** is enacted to read:

619 **53F-6-409. Eligible service providers.**

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

621 (a) provide to the scholarship granting organization:

622 (i) a federal employer identification number;

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

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

625 scholarship student and per student costs for each program or service; and

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

627 granting organization; and

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

629 (2) The scholarship granting organization shall adopt policies that maximize the

630 number of eligible service providers while ensuring education programs or services provided

631 through the program meet student needs and otherwise comply with this part.

632 (3) A private program or service intending to receive scholarship funds shall submit an

633 application to the scholarship granting organization.

634 (4) The scholarship granting organization shall:

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

636 recognize the private program or service as an eligible service provider and approve a private

637 program or service's application to receive scholarship funds on behalf of a scholarship student;

638 and

639 (b) make available to the public a list of eligible service providers approved under this

640 section.

641 (5) A private program or service approved under this section that changes ownership

642 shall:

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

644 (b) demonstrate that the private program or service continues to meet the eligibility

645 requirements of this section.

646 Section 11. Section **53F-6-410** is enacted to read:

647 **53F-6-410. Program funding.**

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

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

652 (b) a sum equal to:

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

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

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

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

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

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

660 (3) At the end of a school year, a scholarship granting organization shall withdraw any
661 remaining scholarship funds in a scholarship account and retain the scholarship funds for
662 disbursement in the following year.

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

665 (b) Subject to Subsection (4)(c), funds the scholarship granting organization receives
666 for administration of the program are nonlapsing.

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

669 Section 12. Section **53F-6-411** is enacted to read:

670 **53F-6-411. Report.**

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

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

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

- 679 (c) administrative costs of the program;
680 (d) the number of scholarship students from each school district;
681 (e) the percentage of first-time scholarship students who were enrolled in a public
682 school during the previous school year or who entered kindergarten or a higher grade for the
683 first time in Utah;
684 (f) methods used by the scholarship granting organization to determine whether a
685 student is an eligible student;
686 (g) savings to the state and LEAs as a result of the program;
687 (h) the scholarship granting organization strategy and outreach efforts to reach eligible
688 students whose family income is at or below 200% of the federal poverty level and obstacles to
689 enrolling those eligible students; and
690 (i) any other information requested by the subcommittee.
691 (2) The scholarship granting organization shall include in the report submitted in 2024
692 information on steps the scholarship granting organization has taken and processes adopted to
693 implement the program.

694 Section 13. Section **63G-2-305** is amended to read:

695 **63G-2-305. Protected records.**

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

- 697 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret
698 has provided the governmental entity with the information specified in Section [63G-2-309](#);
699 (2) commercial information or nonindividual financial information obtained from a
700 person if:
701 (a) disclosure of the information could reasonably be expected to result in unfair
702 competitive injury to the person submitting the information or would impair the ability of the
703 governmental entity to obtain necessary information in the future;
704 (b) the person submitting the information has a greater interest in prohibiting access
705 than the public in obtaining access; and
706 (c) the person submitting the information has provided the governmental entity with
707 the information specified in Section [63G-2-309](#);
708 (3) commercial or financial information acquired or prepared by a governmental entity
709 to the extent that disclosure would lead to financial speculations in currencies, securities, or

710 commodities that will interfere with a planned transaction by the governmental entity or cause
711 substantial financial injury to the governmental entity or state economy;

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

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

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

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

724 (i) an invitation for bids;

725 (ii) a request for proposals;

726 (iii) a request for quotes;

727 (iv) a grant; or

728 (v) other similar document; or

729 (b) an unsolicited proposal, as defined in Section 63G-6a-712;

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

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

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

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

739 (8) records that would identify real property or the appraisal or estimated value of real
740 or personal property, including intellectual property, under consideration for public acquisition

741 before any rights to the property are acquired unless:

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

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

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

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

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

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

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

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

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

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

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

771 (c) would create a danger of depriving a person of a right to a fair trial or impartial

772 hearing;

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

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

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

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

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

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

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

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

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

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

802 (19) (a) (i) personal files of a state legislator, including personal correspondence to or

803 from a member of the Legislature; and

804 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of

805 legislative action or policy may not be classified as protected under this section; and

806 (b) (i) an internal communication that is part of the deliberative process in connection

807 with the preparation of legislation between:

808 (A) members of a legislative body;

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

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

811 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of

812 legislative action or policy may not be classified as protected under this section;

813 (20) (a) records in the custody or control of the Office of Legislative Research and

814 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated

815 legislation or contemplated course of action before the legislator has elected to support the

816 legislation or course of action, or made the legislation or course of action public; and

817 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the

818 Office of Legislative Research and General Counsel is a public document unless a legislator

819 asks that the records requesting the legislation be maintained as protected records until such

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

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

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

823 in response to these requests;

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

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

826 (a) collective bargaining; or

827 (b) imminent or pending litigation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

864 (35) records that would reveal negotiations regarding assistance or incentives offered

865 by or requested from a governmental entity for the purpose of encouraging a person to expand
866 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
867 person or place the governmental entity at a competitive disadvantage, but this section may not
868 be used to restrict access to a record evidencing a final contract;

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

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

876 (a) the donor requests anonymity in writing;

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

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

884 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
885 73-18-13;

886 (39) a notification of workers' compensation insurance coverage described in Section
887 34A-2-205;

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

891 (i) unpublished lecture notes;

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

893 (A) relating to research; and

894 (B) of:

895 (I) the institution within the state system of higher education defined in Section

896 53B-1-102; or
897 (II) a sponsor of sponsored research;
898 (iii) unpublished manuscripts;
899 (iv) creative works in process;
900 (v) scholarly correspondence; and
901 (vi) confidential information contained in research proposals;
902 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
903 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
904 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
905 (41) (a) records in the custody or control of the Office of the Legislative Auditor
906 General that would reveal the name of a particular legislator who requests a legislative audit
907 prior to the date that audit is completed and made public; and
908 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
909 Office of the Legislative Auditor General is a public document unless the legislator asks that
910 the records in the custody or control of the Office of the Legislative Auditor General that would
911 reveal the name of a particular legislator who requests a legislative audit be maintained as
912 protected records until the audit is completed and made public;
913 (42) records that provide detail as to the location of an explosive, including a map or
914 other document that indicates the location of:
915 (a) a production facility; or
916 (b) a magazine;
917 (43) information:
918 (a) contained in the statewide database of the Division of Aging and Adult Services
919 created by Section 62A-3-311.1; or
920 (b) received or maintained in relation to the Identity Theft Reporting Information
921 System (IRIS) established under Section 67-5-22;
922 (44) information contained in the Licensing Information System described in Title
923 62A, Chapter 4a, Child and Family Services;
924 (45) information regarding National Guard operations or activities in support of the
925 National Guard's federal mission;
926 (46) records provided by any pawn or secondhand business to a law enforcement

927 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
928 Secondhand Merchandise Transaction Information Act;

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

931 (48) except to the extent that the record is exempt from this chapter pursuant to Section
932 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
933 prepared or maintained by the Division of Emergency Management, and the disclosure of
934 which would jeopardize:

935 (a) the safety of the general public; or
936 (b) the security of:

937 (i) governmental property;
938 (ii) governmental programs; or
939 (iii) the property of a private person who provides the Division of Emergency
940 Management information;

941 (49) records of the Department of Agriculture and Food that provides for the
942 identification, tracing, or control of livestock diseases, including any program established under
943 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
944 of Animal Disease;

945 (50) as provided in Section [26-39-501](#):

946 (a) information or records held by the Department of Health related to a complaint
947 regarding a child care program or residential child care which the department is unable to
948 substantiate; and
949 (b) information or records related to a complaint received by the Department of Health
950 from an anonymous complainant regarding a child care program or residential child care;

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

954 (a) the individual is required to provide the information in order to comply with a law,
955 ordinance, rule, or order of a government entity; and
956 (b) the subject of the record has a reasonable expectation that this information will be
957 kept confidential due to:

- 958 (i) the nature of the law, ordinance, rule, or order; and
959 (ii) the individual complying with the law, ordinance, rule, or order;
- 960 (52) the portion of the following documents that contains a candidate's residential or
961 mailing address, if the candidate provides to the filing officer another address or phone number
962 where the candidate may be contacted:
- 963 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
964 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
965 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);
- 966 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or
967 (c) a notice of intent to gather signatures for candidacy, described in Section
968 [20A-9-408](#);
- 969 (53) the name, home address, work addresses, and telephone numbers of an individual
970 that is engaged in, or that provides goods or services for, medical or scientific research that is:
971 (a) conducted within the state system of higher education, as defined in Section
972 [53B-1-102](#); and
973 (b) conducted using animals;
- 974 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
975 Evaluation Commission concerning an individual commissioner's vote on whether or not to
976 recommend that the voters retain a judge including information disclosed under Subsection
977 [78A-12-203\(5\)\(e\)](#);
- 978 (55) information collected and a report prepared by the Judicial Performance
979 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
980 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
981 the information or report;
- 982 (56) records provided or received by the Public Lands Policy Coordinating Office in
983 furtherance of any contract or other agreement made in accordance with Section [63L-11-202](#);
- 984 (57) information requested by and provided to the 911 Division under Section
985 [63H-7a-302](#);
- 986 (58) in accordance with Section [73-10-33](#):
- 987 (a) a management plan for a water conveyance facility in the possession of the Division
988 of Water Resources or the Board of Water Resources; or

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

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

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

999 (b) records and audit workpapers to the extent they would disclose the identity of a
1000 person who, during the course of an investigation or audit, communicated the existence of any
1001 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1002 regulation adopted under the laws of this state, a political subdivision of the state, or any
1003 recognized entity of the United States, if the information was disclosed on the condition that
1004 the identity of the person be protected;

1005 (c) before the time that an investigation or audit is completed and the final
1006 investigation or final audit report is released, records or drafts circulated to a person who is not
1007 an employee or head of a governmental entity for the person's response or information;

1008 (d) records that would disclose an outline or part of any investigation, audit survey
1009 plan, or audit program; or

1010 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1011 investigation or audit;

1012 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1013 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
1014 abuse;

1015 (61) information provided to the Department of Health or the Division of Occupational
1016 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1017 58-68-304(3) and (4);

1018 (62) a record described in Section 63G-12-210;

1019 (63) captured plate data that is obtained through an automatic license plate reader

1020 system used by a governmental entity as authorized in Section [41-6a-2003](#);

1021 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
1022 victim, including:

1023 (a) a victim's application or request for benefits;

1024 (b) a victim's receipt or denial of benefits; and

1025 (c) any administrative notes or records made or created for the purpose of, or used to,
1026 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
1027 Reparations Fund;

1028 (65) an audio or video recording created by a body-worn camera, as that term is
1029 defined in Section [77-7a-103](#), that records sound or images inside a hospital or health care
1030 facility as those terms are defined in Section [78B-3-403](#), inside a clinic of a health care
1031 provider, as that term is defined in Section [78B-3-403](#), or inside a human service program as
1032 that term is defined in Section [62A-2-101](#), except for recordings that:

1033 (a) depict the commission of an alleged crime;

1034 (b) record any encounter between a law enforcement officer and a person that results in
1035 death or bodily injury, or includes an instance when an officer fires a weapon;

1036 (c) record any encounter that is the subject of a complaint or a legal proceeding against
1037 a law enforcement officer or law enforcement agency;

1038 (d) contain an officer involved critical incident as defined in Subsection
1039 [76-2-408\(1\)\(f\)](#); or

1040 (e) have been requested for reclassification as a public record by a subject or
1041 authorized agent of a subject featured in the recording;

1042 (66) a record pertaining to the search process for a president of an institution of higher
1043 education described in Section [53B-2-102](#), except for application materials for a publicly
1044 announced finalist;

1045 (67) an audio recording that is:

1046 (a) produced by an audio recording device that is used in conjunction with a device or
1047 piece of equipment designed or intended for resuscitating an individual or for treating an
1048 individual with a life-threatening condition;

1049 (b) produced during an emergency event when an individual employed to provide law
1050 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1051 (i) is responding to an individual needing resuscitation or with a life-threatening
1052 condition; and

1053 (ii) uses a device or piece of equipment designed or intended for resuscitating an
1054 individual or for treating an individual with a life-threatening condition; and

1055 (c) intended and used for purposes of training emergency responders how to improve
1056 their response to an emergency situation;

1057 (68) records submitted by or prepared in relation to an applicant seeking a
1058 recommendation by the Research and General Counsel Subcommittee, the Budget
1059 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
1060 employment position with the Legislature;

1061 (69) work papers as defined in Section 31A-2-204;

1062 (70) a record made available to Adult Protective Services or a law enforcement agency
1063 under Section 61-1-206;

1064 (71) a record submitted to the Insurance Department in accordance with Section
1065 31A-37-201;

1066 (72) a record described in Section 31A-37-503;

1067 (73) any record created by the Division of Occupational and Professional Licensing as
1068 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1069 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
1070 involving an amusement ride;

1071 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
1072 on a political petition, or on a request to withdraw a signature from a political petition,
1073 including a petition or request described in the following titles:

1074 (a) Title 10, Utah Municipal Code;

1075 (b) Title 17, Counties;

1076 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1077 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1078 (e) Title 20A, Election Code;

1079 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
1080 a voter registration record;

1081 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a

1082 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
1083 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
1084 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
1085 5, Victims Guidelines for Prosecutors Act;
1086 (79) a record submitted to the Insurance Department under Subsection
1087 [31A-48-103\(1\)\(b\)](#);
1088 (80) personal information, as defined in Section [63G-26-102](#), to the extent disclosure is
1089 prohibited under Section [63G-26-103](#);
1090 (81) (a) an image taken of an individual during the process of booking the individual
1091 into jail, unless:
1092 (i) the individual is convicted of a criminal offense based upon the conduct for which
1093 the individual was incarcerated at the time the image was taken;
1094 (ii) a law enforcement agency releases or disseminates the image after determining
1095 that:
1096 (A) the individual is a fugitive or an imminent threat to an individual or to public
1097 safety; and
1098 (B) releasing or disseminating the image will assist in apprehending the individual or
1099 reducing or eliminating the threat; or
1100 (iii) a judge orders the release or dissemination of the image based on a finding that the
1101 release or dissemination is in furtherance of a legitimate law enforcement interest[-];
1102 (82) a record:
1103 (a) concerning an interstate claim to the use of waters in the Colorado River system;
1104 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1105 representative from another state or the federal government as provided in Section
1106 [63M-14-205](#); and
1107 (c) the disclosure of which would:
1108 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1109 Colorado River system;
1110 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
1111 negotiate the best terms and conditions regarding the use of water in the Colorado River
1112 system; or

1113 (iii) give an advantage to another state or to the federal government in negotiations
1114 regarding the use of water in the Colorado River system; [~~and~~]

1115 (83) any part of an application described in Section 63N-16-201 that the Governor's
1116 Office of Economic Opportunity determines is nonpublic, confidential information that if
1117 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
1118 not be used to restrict access to a record evidencing a final contract or approval decision[~~;~~]; and

1119 (84) any part of an application for a scholarship account as described in Section
1120 53F-6-402.

1121 Section 14. **Repealer.**

1122 This bill repeals:

1123 Section 53F-6-101, Title.

1124 Section 15. **Appropriation.**

1125 The following sums of money are appropriated for the fiscal year beginning July 1,
1126 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for
1127 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
1128 Act, the Legislature appropriates the following sums of money from the funds or accounts
1129 indicated for the use and support of the government of the state of Utah.

1130 ITEM 1

1131 To State Board of Education -- Contracted Initiatives and Grants

1132 From Education Fund \$36,000,000

1133 From Education Fund, One-time (\$34,000,000)

1134 Schedule of Programs:

1135 Hope Scholarship Program \$2,000,000

1136 The Legislature intends that, in fiscal year 2023, the State Board of Education may
1137 provide up to \$2,000,000 to a scholarship granting organization contracted with the State
1138 Board of Education in accordance with Section 53F-6-404 for start-up, marketing, and other
1139 costs with initiating the Hope Scholarship Program created in Section 53F-6-402.