

HB0261S02 compared with HB0261S01

~~text~~ shows text that was in HB0261S01 but was deleted in HB0261S02.

text shows text that was not in HB0261S01 but was inserted into HB0261S02.

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Representative ~~Karianne Lisonbee~~Brett Garner proposes the following substitute bill:

EQUAL OPPORTUNITY INITIATIVES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill prohibits an institution of higher education~~, the public education system, and a governmental employer~~ from taking certain actions and engaging in discriminatory practices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an institution of higher education~~, the public education system, and a governmental employer~~ from:
 - requiring an individual, before, during, or after admission or employment, to provide certain submissions or attend certain training that promotes differential treatment;

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- using an individual's certain characteristics in decisions regarding aspects of employment or education; and
- engaging in certain practices;
- ▶ requires the Utah Board of Higher Education (board) ~~{, the State Board of Education (state board), and the governor}~~ to ensure compliance with certain requirements;
- ▶ prohibits an institution of higher education ~~{, the state board, and a governmental employer}~~ from establishing or maintaining an office that engages in certain practices;
- ▶ requires an institution of higher education to:
 - contract with a third party to conduct campus climate surveys;
 - provide certain training; and
 - collect and send the surveys to the Office of Legislative Research and General Counsel (OLRGC);
- ▶ requires OLRGC to provide campus climate survey summaries to the Education Interim Committee at certain times;
- ▶ provides for certain measures of legislative oversight;
- ▶ appropriates funding for a certain institution of higher education program;
- ▶ provides that an individual may submit a complaint for noncompliance to ~~{~~
 - ~~for an institution,}~~ the ~~{board; or~~
 - ~~for public education, the state }~~ board;~~}~~
- ▶ provides limited exceptions to the prohibitions in this bill; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2023, Chapter 374

53E-1-201, as last amended by Laws of Utah 2023, Chapters 1, 328 and 380

ENACTS:

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53B-1-116, Utah Code Annotated 1953

53B-1-117, Utah Code Annotated 1953

53B-1-118, Utah Code Annotated 1953

~~{ 53E-3-1101, Utah Code Annotated 1953~~

~~53G-2-103, Utah Code Annotated 1953~~

~~53G-2-104, Utah Code Annotated 1953~~

~~53G-2-105, Utah Code Annotated 1953~~

~~67-1-18, Utah Code Annotated 1953~~

~~67-27-105, Utah Code Annotated 1953~~

~~67-27-106, Utah Code Annotated 1953~~

~~67-27-107, Utah Code Annotated 1953~~

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

Section 1. Section **53B-1-116** is enacted to read:

53B-1-116. Prohibition on the use of certain submissions in higher education --

Exceptions.

(1) As used in this section ~~{,}~~:

(a) "~~{prohibited}~~ Prohibited submission" means ~~{the same}~~ a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics, as that term is defined in Section ~~{67-27-105}~~ 53B-1-118.

(b) "Prohibited submission" includes a submission, statement, or document that relates to a policy, program, or initiative regarding:

(i) anti-racism;

(ii) bias;

(iii) critical race theory;

(iv) implicit bias;

(v) intersectionality;

(vi) prohibited discriminatory practice, as that term is defined in Section 53B-1-118; or

(vii) racial privilege.

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(c) "Prohibited submission" does not include a submission, statement, or document for an employment position if the submission, statement, or document relates to a bona fide occupational qualification for the position.

(2) Except as provided in Subsections (4) and (6), an institution may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment;

(b) admission to, advancement in, or graduation from an institution or an academic program;

(c) participation in an institution-sponsored program; or

(d) qualification for or receipt of state financial aid or other state financial assistance.

(3) An institution may not grant any form of preferential consideration to an individual who, with or without solicitation from the institution, provides a prohibited submission for consideration for any action described in Subsection (2).

(4) If federal law requires an institution to accept or require a prohibited submission, the institution:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

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(5) For a required prohibited submission under Subsection (4), an institution shall:

(a) prepare a report to the institution's governing board detailing the circumstances under which a prohibited submission is required; and

(b) publish the report described in Subsection (5)(a) on the institution's governing board website in a conspicuous location.

(6) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

(c) require an applicant for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(7) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(8) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection

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(7)(b).

(9) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (7)(b).

(10) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 2. Section **53B-1-117** is enacted to read:

53B-1-117. Prohibition on the use of certain training in higher education --

Exceptions.

(1) As used in this section ~~f,t~~:

(a) "~~prohibited~~ Prohibited training" means ~~the same~~ a mandatory instructional program and related materials that a governmental employer requires the governmental employer's current or prospective employees to attend that promote prohibited discriminatory practices as that term is defined in Section ~~67-27-106~~ 53B-1-118.

(b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(c) "Prohibited training" does not include human resource training for employees that is necessary to comply with state law or federal law.

(2) An institution may not require prohibited training.

(3) An institution shall annually train the institution's faculty and staff on academic freedom and freedom of speech in accordance with state or federal laws.

(4) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

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(5) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (4)(b).

(6) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (4)(b).

(7) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 3. Section **53B-1-118** is enacted to read:

53B-1-118. Prohibited discriminatory practices -- Restrictions -- Campus climate survey -- Exceptions.

(1) As used in this section:

(a) "Personal identity characteristics" means an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.

(b) (i) "Prohibited discriminatory practice" means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that, based on an individual's personal identity characteristics:

(A) promotes the differential treatment of an individual;

(B) influences the employment decisions of an individual other than through the use of neutral hiring processes with regard to personal identity characteristics and in accordance with federal law;

(C) influences an individual's admission to, advancement in, or graduation from an institution, the public education system, or an academic program; or

(D) influences an individual's participation in an institution-sponsored or public education system-sponsored program.

(ii) "Prohibited discriminatory practice" also means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that:

(A) asserts directly or indirectly that one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;

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(B) asserts directly or indirectly that an individual, by virtue of the individual's personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously;

(C) asserts directly or indirectly that an individual should be discriminated against in violation of Title VII and Title IX, receive adverse treatment, be advanced, or receive beneficial treatment because of the individual's personal identity characteristics;

(D) asserts directly or indirectly that an individual's moral character is determined by the individual's personal identity characteristics;

(E) asserts directly or indirectly that an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

(F) asserts directly or indirectly that an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;

(G) asserts directly or indirectly that meritocracy is inherently racist or sexist;

(H) asserts directly or indirectly that socio-political structures are inherently a series of power relationships and struggles among racial groups;

(I) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;

(J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

(K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance; or

(L) is referred to or named diversity, equity, and inclusion.

(iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws related to prohibited discrimination or harassment.

(c) "Student success and support" means an office, division, employment position, or other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a

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certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.

(d) "Title VII" means Title VII of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(e) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) An institution may not:

(a) take, express, or assert a position or opinion on subjects described in Subsection ~~{67-27-105}~~ 53B-1-116(1)(b) ~~(ii)~~;

(b) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(c) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An institution shall:

(a) ensure that all students have access to programs providing student success and support;

(b) publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database readily searchable by the public;

(c) annually train employees on the separation of personal political advocacy from an institution's business and employment activities;

(d) develop strategies to promote viewpoint diversity; and

(e) establish policies and procedures to include opportunities for education and research on free speech and civic education.

(4) Beginning on or before July 1, 2025, the board shall report to the Higher Education Appropriations Subcommittee on the status and allocation of appropriated funds for student success and support.

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(5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to support an institution's student success and support program in accordance with this section.

(6) (a) On or before January 1, 2025, the board shall contract with a third-party contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a campus expression climate survey of each institution:

(i) to assess student, faculty, and staff perceptions of and experiences with an institution's campus environment that measures the student's, faculty member's, and staff member's perception of and experience with an institution's campus environment; and

(ii) that measures the student's, faculty member's, and staff member's perception of and experience with campus policy and practice regarding freedom of speech and academic freedom at the institution.

(b) The board shall collect the results of each campus expression climate survey under Subsection (6) and submit the results to the Office of Legislative Research and General Counsel beginning on or before July 1.

(7) (a) The Office of Legislative Research and General Counsel shall provide a summary report on the data collected from the campus expression climate surveys to the Education Interim Committee on or before:

(i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

(ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

(iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

(b) On or before November 1, 2035, the Office of Legislative Research and General Counsel shall provide a comprehensive report of the campus expression climate surveys to the Education Interim Committee.

(8) Nothing in this section requires an individual to respond to a campus expression climate survey.

(9) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

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(c) require for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(10) This section does not apply to:

(a) requirements necessary for athletic and accreditation compliance;

(b) academic research;

(c) academic course teaching in the classroom;

(d) a grant that would otherwise require:

(i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or

(ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board; or

(e) requirements necessary for an institution to establish or maintain eligibility for any federal program.

(11) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(12) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection

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(11)(b).

(13) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:

(a) report the findings under Subsections (4) and (12) to the Legislature; and

(b) make appropriation recommendations about an institution's compliance with this section.

(14) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (11)(b).

(15) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 4. Section **53B-1-301** is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

~~[(b)]~~ (c) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

~~[(c)]~~ (d) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

~~[(d)]~~ (e) the reports described in Section 53B-7-705 by the board on performance;

~~[(e)]~~ (f) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

~~[(f)]~~ (g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

~~[(g)]~~ (h) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

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~~[(h)]~~ (i) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

~~[(+)]~~ (j) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;

~~[(+)]~~ (k) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and

~~[(*)]~~ (l) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) an appropriation recommendation described in Section 53B-1-118 regarding compliance with Subsections 53B-1-118(5) and (13);

(b) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

~~[(b)]~~ (c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

~~[(e)]~~ (d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 5. Section **53E-1-201** is amended to read:

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

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

(a) the report described in Section 9-22-109 by the STEM Action Center Board,

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including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

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

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

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

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

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

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

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

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

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

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

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

(m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

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

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

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

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

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans;

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

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

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

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

(b) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

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

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

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

~~(e)~~ (f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(5) related to the PRIME pilot program;

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

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

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

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

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

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

~~(l)~~ (m) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human Service regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 6. ~~Section 53E-3-1101 is enacted to read:~~

~~53E-3-1101. Prohibited discriminatory practices -- Restrictions - Reporting.~~

~~(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.~~

~~(2) The state board may not:~~

~~(a) establish or maintain an office, division, or employment position established to implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives; regarding prohibited discriminatory practices; or~~

~~(b) employ or assign an employee or a third-party whose duties for the state board include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.~~

~~(3) Nothing in this section limits or prohibits the state board's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.~~

~~(4) The state board shall provide an update to the Education Interim Committee and Public Education Appropriations Subcommittee on the state board's compliance with this section at or before:~~

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~~— (a) the Education Interim Committee's November interim committee meeting; and~~

~~— (b) the Public Education Appropriations Subcommittee December interim subcommittee meeting;~~

~~— Section 7. Section 53G-2-103 is enacted to read:~~

~~— **53G-2-103. Prohibition on the use of certain submissions in public education**—~~

Exceptions:

~~— (1) As used in this section, "prohibited submission" means the same as that term is defined in Section 67-27-105:~~

~~— (2) Except as provided in Subsections (4) and (6), an LEA or district school may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:~~

~~— (a) employment, including decisions regarding:~~

~~— (i) hiring;~~

~~— (ii) terms of employment;~~

~~— (iii) benefits;~~

~~— (iv) compensation;~~

~~— (v) seniority status;~~

~~— (vi) tenure or continuing status;~~

~~— (vii) promotion;~~

~~— (viii) performance reviews;~~

~~— (ix) transfer;~~

~~— (x) termination; or~~

~~— (xi) appointment;~~

~~— (b) enrollment or graduation from the LEA or district school;~~

~~— (c) participation in LEA- or district school-sponsored programs; or~~

~~— (d) qualification for or receipt of state financial aid or other state financial assistance.~~

~~— (3) An LEA or district school may not grant any form of preferential consideration to an individual who, with or without solicitation from the LEA or district school, provides a prohibited submission for consideration for any action described in Subsection (2):~~

~~— (4) If federal law requires an LEA or district school to accept or require a prohibited submission, the LEA or district school:~~

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~~_____ (a) may accept the prohibited submission only to the extent required under federal law; and~~

~~_____ (b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law;~~

~~_____ (5) For a required prohibited submission under Subsection (4), an LEA shall notify the local school board detailing the circumstances under which a prohibited submission under Subsection (4) is required;~~

~~_____ (6) Nothing in this section limits or prohibits an LEA's or district school's authority to establish policies that:~~

~~_____ (a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment; or~~

~~_____ (b) require an applicant for employment, tenure, continuing status, or promotion to disclose or discuss the applicant's:~~

~~_____ (i) teaching record;~~

~~_____ (ii) artistic creations; or~~

~~_____ (iii) pedagogical approaches or experiences with students of all learning abilities;~~

~~_____ (7) (a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's or district school's compliance with this section;~~

~~_____ (b) If the state board identifies a violation of this section, the state board shall:~~

~~_____ (i) on or before 30 days after the day on which the state board identifies the violation, work with the LEA or district school to create a remediation plan; and~~

~~_____ (ii) provide the LEA or district school 180 days after the day of the creation of the remediation plan to cure the violation;~~

~~_____ (8) The state board shall provide an update to the Education Interim Committee on an LEA's and district school's compliance with this section at or before the Education Interim Committee's November interim committee meeting;~~

~~_____ (9) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401;~~

~~_____ Section 8. Section 53G-2-104 is enacted to read:~~

~~_____ **53G-2-104. Prohibition on the use of certain training in public education --**~~

~~**Exceptions:**~~

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~~(1) As used in this section, "prohibited training" means the same as that term is defined in Section 67-25-106.~~

~~(2) An LEA or district school may not require prohibited training.~~

~~(3) (a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's or district school's compliance with this section.~~

~~(b) If the state board identifies a violation of this section, the state board shall:~~

~~(i) on or before 30 days after the day on which the state board identifies the violation, work with the LEA or district school to create a remediation plan; and~~

~~(ii) provide the LEA or district school 180 days after the day of the creation of the remediation plan to cure the violation.~~

~~(4) The state board shall provide an update to the Education Interim Committee on an LEA's and district school's compliance with this section at or before the Education Interim Committee's November interim committee meeting.~~

~~(5) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.~~

~~Section 9. Section 53G-2-105 is enacted to read:~~

~~**53G-2-105. Prohibited discriminatory practices -- Restrictions - Reporting.**~~

~~(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.~~

~~(2) An LEA or district school may not engage in prohibited discriminatory practices.~~

~~(3) Nothing in this section limits or prohibits an LEA or district school from establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.~~

~~(4) (a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's or district school's compliance with this section.~~

~~(b) If the state board identifies a violation of this section, the state board shall:~~

~~(i) on or before 30 days after the day on which the state board identifies the violation, work with the LEA or district school to create a remediation plan; and~~

~~(ii) provide the LEA or district school 180 days after the day of the creation of the remediation plan to cure the violation.~~

~~(5) The state board shall provide an update to the Education Interim Committee and the~~

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Public Education Appropriations Subcommittee on an LEA's and district school's compliance with this section at or before the Education Interim Committee's November interim committee meeting:

~~—— (6) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.~~

~~—— Section 10. Section 67-1-18 is enacted to read:~~

~~—— **67-1-18. Oversight of governmental employer compliance:**~~

~~—— (1) As used in this section, "governmental employer" means the same as that term is defined in Section 67-27-105.~~

~~—— (2) The governor shall ensure that a governmental employer complies with the provisions of Sections 67-27-105, 67-27-106, and 67-27-107.~~

~~—— Section 11. Section 67-27-105 is enacted to read:~~

~~—— **67-27-105. Prohibition on the use of certain submissions by governmental employers -- Exceptions:**~~

~~—— (1) As used in this section:~~

~~—— (a) (i) "Governmental employer" means any department, division, agency, commission, board, council, committee, authority, municipalities, counties, political subdivisions, or any other institution of the state:~~

~~—— (ii) "Government employer" does not mean a local education agency, district school, or institution of higher education.~~

~~—— (b) (i) "Prohibited submission" means a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics, as that term is defined in Section 53B-1-118.~~

~~—— (ii) "Prohibited submission" includes a submission, statement, or document that relates to a policy, program, or initiative regarding:~~

~~—— (A) anti-racism;~~

~~—— (B) bias;~~

~~—— (C) critical race theory;~~

~~—— (D) implicit bias;~~

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- ~~— (E) intersectionality;~~
- ~~— (F) prohibited discriminatory practice, as that term is defined in Section 53B-1-118; or~~
- ~~— (G) racial privilege;~~
- ~~— (iii) "Prohibited submission" does not include a submission, statement, or document for an employment position if the submission, statement, or document relates to a bona fide occupational qualification for the position;~~
- ~~— (2) Except as provided in Subsection (4), a governmental employer may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:~~
 - ~~— (a) employment, including decisions regarding:~~
 - ~~— (i) hiring;~~
 - ~~— (ii) terms of employment;~~
 - ~~— (iii) benefits;~~
 - ~~— (iv) compensation;~~
 - ~~— (v) seniority status;~~
 - ~~— (vi) tenure or continuing status;~~
 - ~~— (vii) promotion;~~
 - ~~— (viii) performance reviews;~~
 - ~~— (ix) transfer;~~
 - ~~— (x) termination; or~~
 - ~~— (xi) appointment; or~~
 - ~~— (b) admissions and aid, including:~~
 - ~~— (i) admission to any state program or course;~~
 - ~~— (ii) financial or other forms of state-administered aid or assistance; and~~
 - ~~— (iii) other benefits from the governmental employer for which an individual is eligible.~~
- ~~— (3) A governmental employer may not grant any form of preferential consideration to an individual who, with or without solicitation from the governmental employer, provides a prohibited submission for any action described in Subsection (2);~~
- ~~— (4) If federal law requires a governmental employer to accept or require a prohibited submission, the governmental employer:~~
 - ~~— (a) may accept the prohibited submission only to the extent required under federal law;~~

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and

~~_____ (b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.~~

~~_____ (5) Nothing in this section prohibits a governmental employer from:~~

~~_____ (a) requiring compliance with state or federal law, including laws relating to prohibited discrimination or harassment; or~~

~~_____ (b) enforcing state law, including state or federal laws relating to prohibited discrimination or harassment.~~

~~_____ Section 12. Section ~~67-27-106~~ is enacted to read:~~

~~_____ **67-27-106. Prohibition on the use of certain training by governmental employers**
-- Exceptions:~~

~~_____ (1) As used in this section:~~

~~_____ (a) "Prohibited training" means a mandatory instructional program and related materials that a governmental employer requires the governmental employer's current or prospective employees to attend that promote prohibited discriminatory practices as that term is defined in Section 53B-1-118.~~

~~_____ (b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.~~

~~_____ (c) "Prohibited training" does not include human resource training for employees that is necessary to comply with state law or federal law.~~

~~_____ (2) A governmental employer may not require prohibited training.~~

~~_____ Section 13. Section ~~67-27-107~~ is enacted to read:~~

~~_____ **67-27-107. Prohibited discriminatory practices -- Restrictions -- Reporting.**~~

~~_____ (1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.~~

~~_____ (2) A governmental employer may not:~~

~~_____ (a) establish or maintain an office, division, or employment position to implement, develop, plan, or promote prohibited discriminatory practices; or~~

~~_____ (b) employ or assign an employee or a third-party whose duties include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting prohibited discriminatory practices.~~

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~~(3) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.~~

~~Section 14.~~ **Effective date.**

This bill takes effect on July 1, 2024.