

Representative Melissa G. Ballard proposes the following substitute bill:

INMATE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill concerns inmates.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Higher Education and Corrections Council to facilitate postsecondary education for inmates housed in county jails;
- ▶ directs the Utah Board of Higher Education to assign student success advisors to correctional facilities;
- ▶ requires an institution of higher education to consider an inmate a state resident for tuition purposes;
- ▶ requires the Department of Corrections (department) to:
 - create a reentry division that focuses on the successful reentry of inmates into the community;
 - coordinate with the Board of Pardons and Parole (board) regarding inmate records and ensure that inmate records are complete and, when applicable, shared with the board;
 - report on the department's inmate program implementation progress;



- 26 • publish a notice informing an individual depositing money into an inmate's
- 27 account that a process exists for the individual to review the inmate's financial
- 28 records;
- 29 • provide certain assistance to an inmate participating in a postsecondary
- 30 certificate or degree program;
- 31 • use an inmate's board hearing when determining the timing of an inmate's
- 32 programs;
- 33 • create an incentive program to encourage an inmate to complete the inmate's
- 34 programs by the inmate's board hearing;
- 35 • ensure that an inmate may continue participating in programs under certain
- 36 circumstances;
- 37 • under certain circumstances, start an inmate in at least two of the inmate's
- 38 programs as soon as the inmate's case action plan is created;
- 39 • allow an inmate to participate in more than one program at a time throughout
- 40 the inmate's time within the correctional facility under certain circumstances;
- 41 • prioritize placement of inmates in county correctional facilities that meet
- 42 specified requirements regarding inmate programs;
- 43 • periodically confer with an inmate to determine whether the inmate is on track
- 44 to complete the inmate's programs by the inmate's board hearing;
- 45 • include in an inmate's record the reason why certain program requirements were
- 46 not met, if the department is unable to meet specified program requirements;
- 47 and
- 48 • provide an annual report on the department's public website concerning inmate
- 49 program data;
- 50 ▶ requires the board to use certain factors when setting an inmate's board hearing; and
- 51 ▶ makes technical and conforming changes.

52 **Money Appropriated in this Bill:**

53 None

54 **Other Special Clauses:**

55 None

56 **Utah Code Sections Affected:**

57 AMENDS:

- 58 **53B-1-402**, as last amended by Laws of Utah 2023, Chapter 254
- 59 **53B-8-102**, as last amended by Laws of Utah 2023, Chapters 44, 50
- 60 **53B-35-101**, as enacted by Laws of Utah 2022, Chapter 147
- 61 **53B-35-202**, as enacted by Laws of Utah 2022, Chapter 147
- 62 **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177
- 63 **64-13-23**, as last amended by Laws of Utah 2021, Chapter 260
- 64 **64-13-42**, as last amended by Laws of Utah 2018, Chapter 415
- 65 **64-13-48**, as enacted by Laws of Utah 2022, Chapter 144
- 66 **77-27-7**, as last amended by Laws of Utah 2022, Chapter 430

67 ENACTS:

- 68 **53B-35-301**, Utah Code Annotated 1953
- 69 **64-13-50**, Utah Code Annotated 1953



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

72 Section 1. Section **53B-1-402** is amended to read:

73 **53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

74 (1) (a) There is established the Utah Board of Higher Education, which:

- 75 (i) is the governing board for the institutions of higher education;
- 76 (ii) controls, oversees, and regulates the Utah system of higher education in a manner
- 77 consistent with the purpose of this title and the specific powers and responsibilities granted to
- 78 the board; and

79 (b) (i) The University of Utah shall provide administrative support for the board.

80 (ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's

81 independence, including in relation to the powers and responsibilities granted to the board.

82 (2) The board shall:

83 (a) establish and promote a state-level vision and goals for higher education that

84 emphasize data-driven retrospective and prospective system priorities, including:

- 85 (i) quality;
- 86 (ii) affordability;
- 87 (iii) access and equity;

- 88 (iv) completion;
- 89 (v) workforce alignment and preparation for high-quality jobs; and
- 90 (vi) economic growth;
- 91 (b) establish system policies and practices that advance the vision and goals;
- 92 (c) establish metrics to demonstrate and monitor:
- 93 (i) performance related to the goals; and
- 94 (ii) performance on measures of operational efficiency;
- 95 (d) collect and analyze data including economic data, demographic data, and data
- 96 related to the metrics;
- 97 (e) govern data quality and collection across institutions;
- 98 (f) establish, approve, and oversee each institution's mission and role in accordance
- 99 with Section [53B-16-101](#);
- 100 (g) assess an institution's performance in accomplishing the institution's mission and
- 101 role;
- 102 (h) participate in the establishment and review of programs of instruction in accordance
- 103 with Section [53B-16-102](#);
- 104 (i) perform the following duties related to an institution of higher education president,
- 105 including:
- 106 (i) appointing an institution of higher education president in accordance with Section
- 107 [53B-2-102](#);
- 108 (ii) through the commissioner and the board's executive committee:
- 109 (A) providing support and guidance to an institution of higher education president; and
- 110 (B) evaluating an institution of higher education president based on institution
- 111 performance and progress toward systemwide priorities;
- 112 (iii) setting the terms of employment for an institution of higher education president,
- 113 including performance-based compensation, through an employment contract or another
- 114 method of establishing employment; and
- 115 (iv) establishing, through a public process, a statewide succession plan to develop
- 116 potential institution presidents from within the system;
- 117 (j) create and implement a strategic finance plan for higher education, including by:
- 118 (i) establishing comprehensive budget and finance priorities for academic education

119 and technical education;

120 (ii) allocating statewide resources to institutions;

121 (iii) setting tuition for each institution;

122 (iv) administering state financial aid programs;

123 (v) administering performance funding in accordance with Chapter 7, Part 7,

124 Performance Funding; and

125 (vi) developing a strategic capital facility plan and prioritization process in accordance

126 with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

127 (k) create and annually report to the Higher Education Appropriations Subcommittee

128 on a seamless articulated education system for Utah students that responds to changing

129 demographics and workforce, including by:

130 (i) providing for statewide prior learning assessment, in accordance with Section

131 53B-16-110;

132 (ii) establishing and maintaining clear pathways for articulation and transfer, in

133 accordance with Section 53B-16-105;

134 (iii) establishing degree program requirement guidelines, including credit hour limits;

135 (iv) aligning general education requirements across degree-granting institutions;

136 (v) coordinating and incentivizing collaboration and partnerships between institutions

137 in delivering programs;

138 (vi) coordinating distance delivery of programs;

139 (vii) coordinating work-based learning; and

140 (viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and

141 (c);

142 (l) coordinate with the public education system:

143 (i) regarding public education programs that provide postsecondary credit or

144 certificates; and

145 (ii) to ensure that an institution of higher education providing technical education

146 serves secondary students in the public education system;

147 (m) delegate to an institution board of trustees certain duties related to institution

148 governance including:

149 (i) guidance and support for the institution president;

- 150 (ii) effective administration;
- 151 (iii) the institution's responsibility for contributing to progress toward achieving
- 152 systemwide goals; and
- 153 (iv) other responsibilities determined by the board;
- 154 (n) delegate to an institution of higher education president management of the
- 155 institution of higher education;
- 156 (o) consult with an institution of higher education board of trustees or institution of
- 157 higher education president before acting on matters pertaining to the institution of higher
- 158 education;
- 159 (p) maximize efficiency throughout the Utah system of higher education by identifying
- 160 and establishing shared administrative services, beginning with:
 - 161 (i) commercialization;
 - 162 (ii) services for compliance with Title IX of the Education Amendments of 1972, 20
 - 163 U.S.C. Sec. 1681 et seq.;
 - 164 (iii) information technology services; and
 - 165 (iv) human resources, payroll, and benefits administration;
- 166 (q) develop strategies for providing higher education, including career and technical
- 167 education, in rural areas;
- 168 (r) manage and facilitate a process for initiating, prioritizing, and implementing
- 169 education reform initiatives, beginning with common applications and direct admissions;
- 170 (s) provide ongoing quality review of programs[~~;~~and];
- 171 (t) before each annual legislative general session, provide to the Higher Education
- 172 Appropriations Subcommittee a prioritization of all projects and proposals for which the board
- 173 or an institution of higher education seeks an appropriation[~~;~~]; and
- 174 (u) coordinate with the Department of Corrections to establish educational programs
- 175 for inmates as described in Section [64-13-6](#).
- 176 (3) The board shall submit an annual report of the board's activities and performance
- 177 against the board's goals and metrics to:
 - 178 (a) the Education Interim Committee;
 - 179 (b) the Higher Education Appropriations Subcommittee;
 - 180 (c) the governor; and

- 181 (d) each institution of higher education.
- 182 (4) The board shall prepare and submit an annual report detailing the board's progress
183 and recommendations on workforce related issues, including career and technical education, to
184 the governor and to the [Legislature's] Education Interim Committee by October 31 of each
185 year, including information detailing:
- 186 (a) how institutions of higher education are meeting the career and technical education
187 needs of secondary students;
- 188 (b) how the system emphasized high demand, high wage, and high skill jobs in
189 business and industry;
- 190 (c) performance outcomes, including:
- 191 (i) entered employment;
- 192 (ii) job retention; and
- 193 (iii) earnings;
- 194 (d) an analysis of workforce needs and efforts to meet workforce needs; and
- 195 (e) student tuition and fees.
- 196 (5) The board may modify the name of an institution of higher education to reflect the
197 role and general course of study of the institution.
- 198 (6) The board may not take action relating to merging a technical college with another
199 institution of higher education without legislative approval.
- 200 (7) This section does not affect the power and authority vested in the State Board of
201 Education to apply for, accept, and manage federal appropriations for the establishment and
202 maintenance of career and technical education.
- 203 (8) The board shall ensure that any training or certification that an employee of the
204 higher education system is required to complete under this title or by board rule complies with
205 Title 63G, Chapter 22, State Training and Certification Requirements.
- 206 (9) The board shall adopt a policy requiring institutions to provide at least three work
207 days of paid bereavement leave for an employee:
- 208 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;
- 209 or
- 210 (b) following the end of another individual's pregnancy by way of a miscarriage or
211 stillbirth, if:

- 212 (i) the employee is the individual's spouse or partner;
- 213 (ii) (A) the employee is the individual's former spouse or partner; and
- 214 (B) the employee would have been a biological parent of a child born as a result of the
- 215 pregnancy;
- 216 (iii) the employee provides documentation to show that the individual intended for the
- 217 employee to be an adoptive parent, as that term is defined in Section [78B-6-103](#), of a child born
- 218 as a result of the pregnancy; or
- 219 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part
- 220 8, Gestational Agreement, the employee would have been a parent of a child born as a result of
- 221 the pregnancy.

222 Section 2. Section **53B-8-102** is amended to read:

223 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

224 (1) As used in this section:

225 (a) "Eligible person" means an individual who is entitled to post-secondary educational

226 benefits under Title 38 U.S.C., Veterans' Benefits.

227 (b) "Immediate family member" means an individual's spouse or dependent child.

228 (c) "Inmate" means the same as that term is defined in Section [64-13-1](#).

229 ~~(c)~~ (d) "Military service member" means an individual who:

230 (i) is serving on active duty in the United States Armed Forces within the state of Utah;

231 (ii) is a member of a reserve component of the United States Armed Forces assigned in

232 Utah;

233 (iii) is a member of the Utah National Guard; or

234 (iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned

235 outside of Utah pursuant to federal permanent change of station orders.

236 ~~(d)~~ (e) "Military veteran" has the same meaning as veteran in Section [68-3-12.5](#).

237 ~~(e)~~ (f) "Parent" means a student's biological or adoptive parent.

238 (2) The meaning of "resident student" is determined by reference to the general law on

239 the subject of domicile, except as provided in this section.

240 (3) (a) Institutions within the state system of higher education may grant resident

241 student status to any student who has come to Utah and established residency for the purpose of

242 attending an institution of higher education, and who, prior to registration as a resident student:

- 243 (i) has maintained continuous Utah residency status for one full year;
- 244 (ii) has signed a written declaration that the student has relinquished residency in any
245 other state; and
- 246 (iii) has submitted objective evidence that the student has taken overt steps to establish
247 permanent residency in Utah and that the student does not maintain a residence elsewhere.
- 248 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:
- 249 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
250 high school in the past 12 months;
- 251 (ii) a Utah voter registration dated a reasonable period prior to application;
- 252 (iii) a Utah driver license or identification card with an original date of issue or a
253 renewal date several months prior to application;
- 254 (iv) a Utah vehicle registration dated a reasonable period prior to application;
- 255 (v) evidence of employment in Utah for a reasonable period prior to application;
- 256 (vi) proof of payment of Utah resident income taxes for the previous year;
- 257 (vii) a rental agreement showing the student's name and Utah address for at least 12
258 months prior to application; and
- 259 (viii) utility bills showing the student's name and Utah address for at least 12 months
260 prior to application.
- 261 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
262 resident of Utah is not eligible to apply for resident student status.
- 263 (4) Except as provided in Subsection (8), an institution within the state system of
264 higher education may establish stricter criteria for determining resident student status.
- 265 (5) If an institution does not have a minimum credit-hour requirement, that institution
266 shall honor the decision of another institution within the state system of higher education to
267 grant a student resident student status, unless:
- 268 (a) the student obtained resident student status under false pretenses; or
- 269 (b) the facts existing at the time of the granting of resident student status have changed.
- 270 (6) Within the limits established in [~~Title 53B, Chapter 8, Tuition Waiver and~~
271 ~~Scholarships~~] [Chapter 8, Tuition Waiver and Scholarships](#), each institution within the state
272 system of higher education may, regardless of its policy on obtaining resident student status,
273 waive nonresident tuition either in whole or in part, but not other fees.

274 (7) In addition to the waivers of nonresident tuition under Subsection (6), each
275 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to
276 the maximum number allowed by the appropriate athletic conference as recommended by the
277 president of each institution.

278 (8) Notwithstanding Subsection (3), an institution within the state system of higher
279 education shall grant resident student status for tuition purposes to:

280 (a) a military service member, if the military service member provides:

281 (i) the military service member's current United States military identification card; and

282 (ii) (A) a statement from the military service member's current commander, or
283 equivalent, stating that the military service member is assigned in Utah; or

284 (B) evidence that the military service member is domiciled in Utah, as described in
285 Subsection (9)(a);

286 (b) a military service member's immediate family member, if the military service
287 member's immediate family member provides:

288 (i) (A) the military service member's current United States military identification card;
289 or

290 (B) the immediate family member's current United States military identification card;
291 and

292 (ii) (A) a statement from the military service member's current commander, or
293 equivalent, stating that the military service member is assigned in Utah; or

294 (B) evidence that the military service member is domiciled in Utah, as described in
295 Subsection (9)(a);

296 (c) a military veteran, regardless of whether the military veteran served in Utah, if the
297 military veteran provides:

298 (i) evidence of an honorable or general discharge;

299 (ii) a signed written declaration that the military veteran has relinquished residency in
300 any other state and does not maintain a residence elsewhere;

301 (iii) objective evidence that the military veteran has demonstrated an intent to establish
302 residency in Utah, which may include any one of the following:

303 (A) a Utah voter registration card;

304 (B) a Utah driver license or identification card;

- 305 (C) a Utah vehicle registration;
- 306 (D) evidence of employment in Utah;
- 307 (E) a rental agreement showing the military veteran's name and Utah address; or
- 308 (F) utility bills showing the military veteran's name and Utah address;
- 309 (d) a military veteran's immediate family member, regardless of whether the military
- 310 veteran served in Utah, if the military veteran's immediate family member provides:
 - 311 (i) evidence of the military veteran's honorable or general discharge;
 - 312 (ii) a signed written declaration that the military veteran's immediate family member
 - 313 has relinquished residency in any other state and does not maintain a residence elsewhere; and
 - 314 (iii) objective evidence that the military veteran's immediate family member has
 - 315 demonstrated an intent to establish residency in Utah, which may include ~~any~~ one of the items
 - 316 described in Subsection (8)(c)(iii); ~~or~~
 - 317 (e) an eligible person who provides:
 - 318 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;
 - 319 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;
 - 320 and
 - 321 (iii) objective evidence that the eligible person has demonstrated an intent to establish
 - 322 residency in Utah, which may include ~~any~~ one of the items described in Subsection
 - 323 (8)(c)(iii)~~[-];~~
 - 324 (f) an alien who provides:
 - 325 (i) evidence that the alien is a special immigrant visa recipient;
 - 326 (ii) evidence that the alien has been granted refugee status, humanitarian parole,
 - 327 temporary protected status, or asylum; or
 - 328 (iii) evidence that the alien has submitted in good faith an application for refugee
 - 329 status, humanitarian parole, temporary protected status, or asylum under United States
 - 330 immigration law~~[-];~~ or
 - 331 (g) an inmate:
 - 332 (i) during the time the inmate is enrolled in the course; and
 - 333 (ii) for one year after the day on which the inmate is released from a correctional
 - 334 facility as defined in Section [64-13-1](#).
 - 335 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

- 336 (i) a current Utah voter registration card;
- 337 (ii) a valid Utah driver license or identification card;
- 338 (iii) a current Utah vehicle registration;
- 339 (iv) a copy of a Utah income tax return, in the military service member's or military
- 340 service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or
- 341 (v) proof that the military service member or military service member's spouse owns a
- 342 home in Utah, including a property tax notice for property owned in Utah.
- 343 (b) Aliens who are present in the United States on visitor, student, or other visas not
- 344 listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country,
- 345 do not have the capacity to intend to reside in Utah for an indefinite period and therefore are
- 346 classified as nonresidents.
- 347 (c) Aliens who have been granted or have applied for permanent resident status in the
- 348 United States are classified for purposes of resident student status according to the same
- 349 criteria applicable to citizens.
- 350 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose
- 351 reservation or trust lands lie partly or wholly within Utah or whose border is at any point
- 352 contiguous with the border of Utah, and any American Indian who is a member of a federally
- 353 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
- 354 to resident student status.
- 355 (11) A Job Corps student is entitled to resident student status if the student:
- 356 (a) is admitted as a full-time, part-time, or summer school student in a program of
- 357 study leading to a degree or certificate; and
- 358 (b) submits verification that the student is a current Job Corps student.
- 359 (12) A person is entitled to resident student status and may immediately apply for
- 360 resident student status if the person:
- 361 (a) marries a Utah resident eligible to be a resident student under this section; and
- 362 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as
- 363 provided in Subsection (3).
- 364 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one
- 365 parent who has been domiciled in Utah for at least 12 months prior to the student's application
- 366 is entitled to resident student status.

367 (14) (a) A person who has established domicile in Utah for full-time permanent
368 employment may rebut the presumption of a nonresident classification by providing substantial
369 evidence that the reason for the individual's move to Utah was, in good faith, based on an
370 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable
371 work-related move for full-time permanent employment in Utah.

372 (b) All relevant evidence concerning the motivation for the move shall be considered,
373 including:

374 (i) the person's employment and educational history;

375 (ii) the dates when Utah employment was first considered, offered, and accepted;

376 (iii) when the person moved to Utah;

377 (iv) the dates when the person applied for admission, was admitted, and was enrolled
378 as a postsecondary student;

379 (v) whether the person applied for admission to an institution of higher education
380 sooner than four months from the date of moving to Utah;

381 (vi) evidence that the person is an independent person who is:

382 (A) at least 24 years old; or

383 (B) not claimed as a dependent on someone else's tax returns; and

384 (vii) any other factors related to abandonment of a former domicile and establishment
385 of a new domicile in Utah for purposes other than to attend an institution of higher education.

386 (15) (a) A person who is in residence in Utah to participate in a United States Olympic
387 athlete training program, at a facility in Utah, approved by the governing body for the athlete's
388 Olympic sport, shall be entitled to resident status for tuition purposes.

389 (b) Upon the termination of the athlete's participation in the training program, the
390 athlete shall be subject to the same residency standards applicable to other persons under this
391 section.

392 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah
393 counts for Utah residency for tuition purposes upon termination of the athlete's participation in
394 a Utah Olympic athlete training program.

395 (16) (a) A person who has established domicile in Utah for reasons related to divorce,
396 the death of a spouse, or long-term health care responsibilities for an immediate family
397 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a

398 nonresident classification by providing substantial evidence that the reason for the individual's
399 move to Utah was, in good faith, based on the long-term health care responsibilities.

400 (b) All relevant evidence concerning the motivation for the move shall be considered,
401 including:

402 (i) the person's employment and educational history;

403 (ii) the dates when the long-term health care responsibilities in Utah were first
404 considered, offered, and accepted;

405 (iii) when the person moved to Utah;

406 (iv) the dates when the person applied for admission, was admitted, and was enrolled
407 as a postsecondary student;

408 (v) whether the person applied for admission to an institution of higher education
409 sooner than four months from the date of moving to Utah;

410 (vi) evidence that the person is an independent person who is:

411 (A) at least 24 years old; or

412 (B) not claimed as a dependent on someone else's tax returns; and

413 (vii) any other factors related to abandonment of a former domicile and establishment
414 of a new domicile in Utah for purposes other than to attend an institution of higher education.

415 (17) The board, after consultation with the institutions, shall make rules not
416 inconsistent with this section:

417 (a) concerning the definition of resident and nonresident students;

418 (b) establishing procedures for classifying and reclassifying students;

419 (c) establishing criteria for determining and judging claims of residency or domicile;

420 (d) establishing appeals procedures; and

421 (e) other matters related to this section.

422 (18) A student shall be exempt from paying the nonresident portion of total tuition if
423 the student:

424 (a) is a foreign national legally admitted to the United States;

425 (b) attended high school in this state for three or more years; and

426 (c) graduated from a high school in this state or received the equivalent of a high
427 school diploma in this state.

428 Section 3. Section **53B-35-101** is amended to read:

429 **53B-35-101. Definitions.**

430 As used in this chapter~~["council"]~~:

431 (1) "Correctional facility" means the same as that term is defined in Section [64-13-1](#).

432 (2) "Council" means the Higher Education and Corrections Council created in Section

433 [53B-35-201](#).

434 (3) "Department" means the Department of Corrections created in Section [64-13-2](#).

435 (4) "Inmate" means the same as that term is defined in Section [64-13-1](#).

436 (5) "Institution of higher education" means an institution described in Section

437 [53B-1-102](#).

438 Section 4. Section **53B-35-202** is amended to read:

439 **53B-35-202. Council duties -- Reporting.**

440 (1) The council shall:

441 (a) coordinate, facilitate, and support [~~the delivery of~~] higher education delivered in the
442 state's correctional facilities, including the county jails under contract with the Department of
443 Corrections to house inmates, to prepare incarcerated individuals for integration and productive
444 employment upon release;

445 (b) explore and provide recommendations to the board and the [~~Utah~~] Department of
446 Corrections for the efficient and effective delivery of higher education programs to incarcerated
447 individuals, including:

448 (i) evidence-based practices and technologies;

449 (ii) methods of maximizing and facilitating incarcerated individuals' access to
450 educational programs;

451 (iii) methods of supporting and facilitating timely completion of courses, certificates,
452 and degrees;

453 (iv) methods of emphasizing educational programs that:

454 (A) align with current and future workforce demands of the state;

455 (B) lead to occupations that are accessible to released incarcerated individuals;

456 (C) provide sustainable wages following release; and

457 (D) maximize accessibility and timely completion during incarceration;

458 (v) use of cross-institutional application of coursework toward certificates and degrees;

459 (vi) use of coursework that encourages personal and civic development; and

460 (vii) methods of leveraging innovative course delivery, including technology resources;
461 (c) explore methods and make recommendations for the collection and analysis of
462 critical data regarding:

463 (i) enrollment and completion of postsecondary education courses, certificate
464 programs, credentials, and degree programs;

465 (ii) federal and state student aid awarded to incarcerated individuals;

466 (iii) costs of postsecondary education in prison, including any recommendations for
467 continued improvement; and

468 (iv) outcomes of formerly incarcerated individuals who participated in postsecondary
469 programming during incarceration if the individual is under the supervision of the Department
470 of Corrections, including recidivism, employment, and post-release postsecondary education
471 engagement; and

472 (d) recommend requests for legislative appropriations to the board to support the
473 purposes and objectives of the council.

474 (2) The council shall annually report regarding the council's plans and programs, the
475 number of enrollees served, and the number of enrollees receiving degrees and certificates to:

476 (a) the board;

477 (b) before the committee's November interim committee meeting, the Education
478 Interim Committee; and

479 (c) at least 30 days before the beginning of the annual legislative session, the Higher
480 Education Appropriations Subcommittee.

481 Section 5. Section **53B-35-301** is enacted to read:

482 **Part 3. Student Support**

483 **53B-35-301. Higher education student advisors.**

484 (1) An institution of higher education providing education to inmates in a correctional
485 facility shall ~~§~~ , to the extent that resources allow, ~~§~~ provide relevant academic and career
485a advising services that are substantially
486 similar to services provided to a student who is not a confined or incarcerated individual.

487 (2) Each participating institution of higher education described in Subsection (1) shall
488 report annually to the council regarding the guidance and support provided.

489 Section 6. Section **64-13-6** is amended to read:

490 **64-13-6. Department duties.**

- 491 (1) The department shall:
- 492 (a) protect the public through institutional care and confinement, and supervision in the
493 community of offenders where appropriate;
- 494 (b) implement court-ordered punishment of offenders;
- 495 (c) provide evidence-based and evidence-informed program opportunities for offenders
496 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,
497 cognitive, educational, and career-readiness program opportunities;
- 498 (d) ensure that offender participation in all program opportunities described in
499 Subsection (1)(c) is voluntary;
- 500 (e) where appropriate, utilize offender volunteers as mentors in the program
501 opportunities described in Subsection (1)(c);
- 502 (f) provide treatment for sex offenders who are found to be treatable based upon
503 criteria developed by the department;
- 504 (g) provide the results of ongoing clinical assessment of sex offenders and objective
505 diagnostic testing to sentencing and release authorities;
- 506 (h) manage programs that take into account the needs and interests of victims, where
507 reasonable;
- 508 (i) supervise probationers and parolees as directed by statute and implemented by the
509 courts and the Board of Pardons and Parole;
- 510 (j) subject to Subsection (2), investigate criminal conduct involving offenders
511 incarcerated in a state correctional facility;
- 512 (k) cooperate and exchange information with other state, local, and federal law
513 enforcement agencies to achieve greater success in prevention and detection of crime and
514 apprehension of criminals;
- 515 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
516 Offender Supervision;
- 517 (m) establish a case action plan based on appropriate validated risk, needs, and
518 responsivity assessments for each offender as follows:
- 519 (i) (A) if an offender is to be supervised in the community, the department shall
520 establish a case action plan for the offender no later than 60 days after the day on which the
521 department's community supervision of the offender begins; and

522 (B) if the offender is committed to the custody of the department, the department shall
523 establish a case action plan for the offender no later than 90 days after the day on which the
524 offender is committed to the custody of the department;

525 (ii) each case action plan shall:

526 (A) integrate an individualized, evidence-based, and evidence-informed treatment and
527 program plan with clearly defined completion requirements; and

528 (B) require that a case manager will:

529 (I) ensure that an assessment of the education level, occupational interests, and
530 aptitudes of the inmate has been completed;

531 (II) refer the inmate to a higher education student advisor at an institution offering
532 programs consistent with the inmate's interests and aptitudes for advisement on educational
533 preferences and plans;

534 (III) incorporate the inmate's interests, aptitudes, and student advisement into an
535 education plan consistent with the guidance provided by the Higher Education and Corrections
536 Council created in Section 53B-35-201; and

537 (IV) refer the inmate to the student advisor at the institution called for in the case
538 action plan for guidance and assistance with the education process;

539 (iii) the department shall share each newly established case action plan with the
540 sentencing and release authority within 30 days after the day on which the case action plan is
541 established; and

542 (iv) the department shall share any changes to a case action plan, including any change
543 in an offender's risk assessment, with the sentencing and release authority within 30 days after
544 the day of the change;

545 (n) ensure that an inmate has reasonable access to legal research;

546 (o) ensure that any training or certification required of a public official or public
547 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
548 22, State Training and Certification Requirements, if the training or certification is required:

549 (i) under this title;

550 (ii) by the department; or

551 (iii) by an agency or division within the department; [~~and~~]

552 [~~(p)~~] (p) when reporting on statewide recidivism, include the metrics and requirements

553 described in Section [63M-7-102](#);

554 (q) create a reentry division that focuses on the successful reentry of inmates into the
555 community;

556 (r) coordinate with the Board of Pardons and Parole regarding inmate records that are
557 necessary for the Board of Pardons and Parole to make necessary determinations regarding an
558 inmate; and

559 (s) ensure that inmate records regarding discipline, programs, and other relevant
560 metrics are:

561 (i) complete and updated in a timely manner; and

562 (ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

563 (2) The department may in the course of supervising probationers and parolees:

564 (a) respond in accordance with the graduated and evidence-based processes established
565 by the Utah Sentencing Commission under Subsection [63M-7-404\(6\)](#), to an individual's
566 violation of one or more terms of the probation or parole; and

567 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
568 sanction for an individual's violation of the terms of probation or parole a period of
569 incarceration of not more than three consecutive days and not more than a total of five days
570 within a period of 30 days.

571 (3) (a) By following the procedures in Subsection (3)(b), the department may
572 investigate the following occurrences at state correctional facilities:

573 (i) criminal conduct of departmental employees;

574 (ii) felony crimes resulting in serious bodily injury;

575 (iii) death of any person; or

576 (iv) aggravated kidnaping.

577 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
578 shall:

579 (i) notify the sheriff or other appropriate law enforcement agency promptly after
580 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
581 occurred; and

582 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
583 conduct an investigation involving an occurrence specified in Subsection (3)(a).

584 (4) Upon request, the department shall provide copies of investigative reports of
585 criminal conduct to the sheriff or other appropriate law enforcement agencies.

586 (5) (a) The executive director of the department, or the executive director's designee if
587 the designee possesses expertise in correctional programming, shall consult at least annually
588 with cognitive and career-readiness staff experts from the Utah system of higher education and
589 the State Board of Education to review the department's evidence-based and evidence-informed
590 treatment and program opportunities.

591 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
592 Law Enforcement and Criminal Justice Interim Committee regarding:

593 (i) the department's implementation of and offender participation in evidence-based
594 and evidence-informed treatment and program opportunities designed to reduce the
595 criminogenic and recidivism risks of offenders over time[-]; and

596 (ii) the progress of the department's implementation of the inmate program
597 requirements described in Section 64-13-50.

598 (6) (a) As used in this Subsection (6):

599 (i) "Accounts receivable" means any amount owed by an offender arising from a
600 criminal judgment that has not been paid.

601 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
602 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
603 reimbursement of a reward, and damages that an offender is ordered to pay.

604 (b) The department shall collect and disburse, with any interest and any other costs
605 assessed under Section 64-13-21, an accounts receivable for an offender during:

606 (i) the parole period and any extension of that period in accordance with Subsection
607 (6)(c); and

608 (ii) the probation period for which the court orders supervised probation and any
609 extension of that period by the department in accordance with Subsection 77-18-105(7).

610 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
611 time that the offender's sentence expires or terminates, the department shall be referred to the
612 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
613 accounts receivable as described in Section 77-18-114.

614 (ii) If the board makes an order for restitution within 60 days from the day on which

615 the offender's sentence expires or terminates, the board shall refer the order for restitution to
616 the sentencing court to be entered as a civil judgment of restitution as described in Section
617 77-18-114.

618 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

619 Section 7. Section 64-13-23 is amended to read:

620 **64-13-23. Offender's income and finances.**

621 (1) The department may require each offender, while in the custody of the department
622 or while on probation or parole, to place funds received or earned by the offender from any
623 source into:

624 (a) an account administered by the department; or

625 (b) a joint account with the department at a federally insured financial institution.

626 (2) The department may require each offender to maintain a minimum balance in an
627 account under Subsection (1) for the particular offender's use upon:

628 (a) discharge from the custody of the department; or

629 (b) completion of parole or probation.

630 (3) If the funds are placed in a joint account at a federally insured financial institution:

631 (a) any interest accrues to the benefit of the offender account; and

632 (b) the department may require that the signatures of both the offender and a
633 departmental representative be submitted to the financial institution to withdraw funds from the
634 account.

635 (4) If the funds are placed in an account administered by the department, the
636 department may by rule designate:

637 (a) a certain portion of the offender's funds as interest-bearing savings; and

638 (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day
639 expenses.

640 (5) The department may withhold part of the offender's funds in an account under
641 Subsection (1) for expenses of:

642 (a) supervision or treatment;

643 (b) restitution, reparation, fines, alimony, support payments, or similar court-ordered
644 payments;

645 (c) obtaining the offender's DNA specimen, if the offender is required under Section

646 53-10-404 to provide a specimen;

647 (d) department-ordered repayment of a fine that is incurred under Section 64-13-33;

648 and

649 (e) [any] other debt to the state.

650 (6) (a) An offender may not be granted free process in civil actions, including petitions
651 for a writ of habeas corpus, if, at any time from the date the cause of action arose through the
652 date the cause of action remains pending, there are any funds in an account under Subsection
653 (1) that have not been withheld or are not subject to withholding under Subsection (4) or (5).

654 (b) The amount assessed for the filing fee, service of process and other fees and costs
655 shall not exceed the total amount of funds the offender has in excess of the indigence threshold
656 established by the department but not less than \$25 including the withholdings under
657 Subsection (4) or (5) during the identified period of time.

658 (c) The amounts assessed shall not exceed the regular fees and costs provided by law.

659 (7) The department may disclose information on offender accounts to the Office of
660 Recovery Services and other appropriate state agencies.

661 (8) The department shall publish a notice on the department's website, and any website
662 used by an individual depositing funds into an offender's account, that the individual may
663 request from the department a copy of a statement of the offender's financial account in
664 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

665 Section 8. Section 64-13-42 is amended to read:

666 **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**
667 **education and training programs.**

668 (1) (a) There is created within the General Fund a restricted account known as the
669 Prison Telephone Surcharge Account.

670 (b) The Prison Telephone Surcharge Account consists of:

671 (i) [~~beginning July 1, 2006,~~] revenue generated by the state from pay telephone services
672 located at any correctional facility as defined in Section 64-13-1;

673 (ii) interest on account money;

674 (iii) (A) money paid by inmates participating in postsecondary education provided by
675 the department; and

676 (B) money repaid by former inmates who have a written agreement with the

677 department to pay for a specified portion of the tuition costs under the department's deferred
678 tuition payment program;

679 (iv) money collected by the Office of State Debt Collection for debt described in
680 Subsection (1)(b)(iii); and

681 (v) money appropriated by the Legislature.

682 (2) Upon appropriation by the Legislature, money from the Prison Telephone
683 Surcharge Account shall be used by the department for education and training programs for
684 offenders and inmates as defined in Section 64-13-1.

685 Section 9. Section 64-13-48 is amended to read:

686 **64-13-48. Educational and career-readiness programs.**

687 (1) The department shall, in accordance with Subsection 64-13-6(1)(c), ensure that
688 appropriate evidence-based and evidence-informed educational or career-readiness programs
689 are made available to an inmate as soon as practicable after the creation of the inmate's case
690 action plan.

691 (2) The department shall provide incarcerated women with substantially equivalent
692 educational and career-readiness opportunities as incarcerated men.

693 (3) Before an inmate begins an educational or career-readiness program, the
694 department shall provide reasonable access to resources necessary for an inmate to apply for
695 grants or other available financial aid that may be available to pay for the inmate's program.

696 (4) (a) The department shall consider an inmate's current participation in an
697 educational or career-readiness program when the department makes a decision with regard to
698 an inmate's:

699 (i) transfer to another area or facility; or

700 (ii) appropriate disciplinary sanction.

701 (b) When possible, the department shall use best efforts to allow an inmate to continue
702 the inmate's participation in an educational or career-readiness program while the facility is
703 under lockdown, quarantine, or a similar status.

704 (5) (a) The department shall maintain records on an inmate's educational progress,
705 including completed life skills, certifications, and credit- and non-credit-bearing courses, made
706 while the inmate is incarcerated.

707 (b) The department shall facilitate the transfer of information related to the inmate's

708 educational process upon the inmate's release, including the inmate's post-release contact
709 information and the records described in Subsection (5)(a), to:

710 (i) the inmate; or

711 (ii) an entity that the inmate has authorized to receive the inmate's records or

712 post-release contact information, including an institution:

713 (A) from which the inmate received educational instruction while the inmate was
714 incarcerated; or

715 (B) at which the inmate plans to continue the inmate's post-incarceration education.

716 (6) Beginning May 1, 2023, the department shall provide an annual report to the
717 Higher Education Appropriations Subcommittee regarding educational and career-readiness
718 programs for inmates, which shall include:

719 (a) the number of inmates who are participating in an educational or career-readiness
720 program, including an accredited postsecondary education program;

721 (b) the percentage of inmates who are participating in an educational or
722 career-readiness program as compared to the total inmate population;

723 (c) inmate program completion and graduation data, including the number of
724 completions and graduations in each educational or career-readiness program;

725 (d) the potential effect of educational or career-readiness programs on recidivism, as
726 determined by a comparison of:

727 (i) the total number of inmates who return to incarceration after a previous
728 incarceration; and

729 (ii) the number of inmates who return to incarceration after a previous incarceration
730 who participated in or completed an educational or career-readiness program;

731 (e) the number of inmates who were transferred to a different facility while currently
732 participating in an educational or career-readiness program, including the number of inmates
733 who were unable to continue a program after a transfer to a different facility; and

734 (f) the department's:

735 (i) recommendation for resources that may increase inmates' access to and participation
736 in an educational or career-readiness program; and

737 (ii) estimate of how many additional inmates would participate in an educational or
738 career-readiness program if the resources were provided.

739 (7) The department shall:

740 (a) ensure that an inmate enrolled in an educational or career-readiness program has
741 access to modern technology determined by the provider of the program as necessary for an
742 inmate to participate in the program; and

743 (b) assist an inmate in applying for jobs within 30 days before the day on which the
744 inmate is released from the department's custody.

745 [~~7~~] (8) The department may make rules in accordance with Section 64-13-10 and
746 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this
747 section.

748 Section 10. Section **64-13-50** is enacted to read:

749 **64-13-50. Inmate program requirements -- Records -- Reporting.**

750 (1) As used in this section:

751 (a) "Board" means the Board of Pardons and Parole.

752 (b) "Board hearing" means a hearing established under Subsection 77-27-7(1), which is
753 the earliest possible point at which the board may consider an inmate's release from a
754 correctional facility.

755 (c) (i) "Program" means a part of an inmate's case action plan that is required or
756 optional and includes:

757 (A) sex offender treatment;

758 (B) substance use treatment;

759 (C) educational programs, including literacy programs;

760 (D) career-readiness programs;

761 (E) life-skills training; and

762 (F) transition programs meant to prepare an inmate who is about to leave a correctional
763 facility in accordance with Section 64-13-10.6.

764 (ii) "Program" includes online and in-person programs.

765 (2) On or before January 1, 2026, the department shall:

766 (a) use an inmate's board hearing when determining the timing of an inmate's programs
767 to ensure that an inmate will have the ability to complete all of the inmate's programs by the
768 inmate's board hearing;

769 (b) create an incentive plan to encourage an inmate to complete the inmate's programs

770 by the inmate's board hearing;

771 (c) in accordance with Subsection 64-13-48(4) and Subsection (3), use the department's
772 best efforts to ensure that when an inmate is transferred within a correctional facility or to a
773 different correctional facility, the inmate is able to continue all programs that the inmate has
774 already started and has not yet completed, without requiring the inmate to restart a program
775 from the beginning or wait on a waiting list for the program, unless the program's continuation
776 would be impossible due to the inmate's transfer to a more restrictive setting due to a
777 behavioral or disciplinary violation;

778 (d) in accordance with Subsection (3), use the department's best efforts to ensure that if
779 an inmate opts out of an optional program, the inmate is able to rejoin the program within six
780 months without being required to restart the program from the beginning or wait on a waiting
781 list;

782 (e) in accordance with Subsection (3), as soon as an inmate's case action plan is created
783 in accordance with Subsection 64-13-6(1)(m), use the department's best efforts to start the
784 inmate in at least two of the inmate's programs;

785 (f) in accordance with Subsection (3), use the department's best efforts to allow an
786 inmate to participate in more than one program at a time throughout the inmate's time within
787 the correctional facility, including, if applicable, providing technological methods for an inmate
788 to participate in an online program;

789 (g) in accordance with Section 64-13e-103, prioritize the placement of inmates within
790 county correctional facilities that:

791 (i) offer, allow, or facilitate department-specified programs for inmates; and

792 (ii) collect and provide inmate program completion data to the department; and

793 (h) periodically confer with an inmate and, if necessary, the board, to determine
794 whether the inmate is on track to complete all of the inmate's programs by the inmate's board
795 hearing.

796 (3) If the department is unable to meet a requirement described in Subsection (2)(c),
797 (2)(d), (2)(e), or (2)(f), the department shall:

798 (a) include in the inmate's records the reason why the requirement was not met; and

799 (b) ensure the information described in Subsection (3)(a) is made available to the
800 board.

801 (4) The department shall provide an annual report on the department's public website
802 that states how many inmates:

803 (a) are currently participating in one or more programs; and

804 (b) have successfully completed one or more programs during the prior year.

805 Section 11. Section 77-27-7 is amended to read:

806 **77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists --**
807 **Mental competency.**

808 (1) (a) The Board of Pardons and Parole shall determine within six months after the
809 date of an offender's commitment to the custody of the Department of Corrections, for serving
810 a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the
811 offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and
812 shall promptly notify the offender of the date.

813 (b) When determining the hearing date under Subsection (1)(a), the board shall
814 consider:

815 (i) the type and severity of offenses;

816 (ii) prior criminal history;

817 (iii) criminogenic risk factors; and

818 (iv) evidence-based assessments.

819 (2) Before reaching a final decision to release any offender under this chapter, the chair
820 shall cause the offender to appear before the board, its panel, or any appointed hearing officer,
821 who shall personally interview the offender to consider the offender's fitness for release and
822 verify as far as possible information furnished from other sources. Any offender may waive a
823 personal appearance before the board. Any offender outside of the state shall, if ordered by the
824 board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in
825 which the offender is housed in lieu of an appearance before the board. The offender shall be
826 promptly notified in writing of the board's decision.

827 (3) (a) In the case of an offender convicted of violating or attempting to violate any of
828 the provisions of Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402,
829 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3,
830 or 76-5-405, the chair may appoint one or more alienists who shall examine the offender within
831 six months prior to a hearing at which an original parole date is granted on any offense listed in

832 this Subsection (3).

833 (b) The alienists shall report in writing the results of the examination to the board prior
834 to the hearing. The report of the appointed alienists shall specifically address the question of
835 the offender's current mental condition and attitudes as they relate to any danger the offender
836 may pose to children or others if the offender is released on parole.

837 (4) A parolee may petition the board for termination of lifetime parole as provided in
838 Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or
839 convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section
840 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, 76-5-404.3,
841 or 76-5-405, and released on parole before January 1, 2019.

842 (5) In any case where an offender's mental competency is questioned by the board, the
843 chair may appoint one or more alienists to examine the offender and report in writing to the
844 board, specifically addressing the issue of competency.

845 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
846 board shall make rules governing:

- 847 (a) the hearing process;
- 848 (b) alienist examination; and
- 849 (c) parolee petitions for termination of parole.

850 Section 12. **Effective date.**

851 This bill takes effect on May 1, 2024.