

**HIGHER EDUCATION GOVERNANCE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ann Millner**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions regarding governance of the state's system of higher education.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ removes an exception for public employment of a relative under certain circumstances;
- ▶ creates, within the University of Utah, the Office of the Commissioner of the Utah System of Higher Education and the Utah Board of Higher Education for the purposes of shared administrative services;
- ▶ amends the membership and duties of the State Board of Higher Education (board);
- ▶ amends the nominating and appointment process of members of the board;
- ▶ amends the duties of the commissioner of higher education;
- ▶ repeals requirements regarding the establishment of certain committees;
- ▶ amends provisions regarding the employment, support, and evaluation of institution of higher education presidents;
- ▶ amends provisions regarding the approval of programs;
- ▶ requires the board to engage in certain program and discipline reviews;
- ▶ amends provisions regarding the set aside and reallocation of new performance



28 funding;

29       ▶ repeals obsolete provisions regarding past requirements; and

30       ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       This bill provides revisor instructions.

35 **Utah Code Sections Affected:**

36 AMENDS:

37       **52-3-1**, as last amended by Laws of Utah 2018, Chapter 118

38       **53B-1-101.5**, as last amended by Laws of Utah 2020, Chapter 365

39       **53B-1-401**, as last amended by Laws of Utah 2022, Chapters 166, 177

40       **53B-1-402**, as last amended by Laws of Utah 2022, Chapters 166, 177

41       **53B-1-403**, as enacted by Laws of Utah 2020, Chapter 365

42       **53B-1-404**, as last amended by Laws of Utah 2022, Chapter 362

43       **53B-1-408**, as last amended by Laws of Utah 2021, Chapter 187

44       **53B-1-501**, as enacted by Laws of Utah 2020, Chapter 365 and last amended by

45 Coordination Clause, Laws of Utah 2020, Chapter 365

46       **53B-2-102**, as last amended by Laws of Utah 2021, Chapter 187

47       **53B-2a-101**, as last amended by Laws of Utah 2020, Chapters 152, 365

48       **53B-2a-112**, as last amended by Laws of Utah 2022, Chapter 421

49       **53B-7-705**, as last amended by Laws of Utah 2021, Chapter 351

50       **53B-7-706**, as last amended by Laws of Utah 2021, Chapter 351

51       **53B-13a-102**, as last amended by Laws of Utah 2022, Chapter 370

52       **53B-13b-102**, as last amended by Laws of Utah 2017, Chapter 143

53       **53B-13c-101**, as enacted by Laws of Utah 2021, Chapter 271

54       **53B-16-101**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1

55       **53B-16-102**, as last amended by Laws of Utah 2020, Chapter 365

56       **53B-16-105**, as last amended by Laws of Utah 2020, Chapter 365

57       **53B-20-101**, as enacted by Laws of Utah 1987, Chapter 167

58       **67-1-12**, as last amended by Laws of Utah 2017, Chapter 382

59 REPEALS:

60 **53B-1-406**, as enacted by Laws of Utah 2020, Chapter 365

61 **53B-1-502**, as enacted by Laws of Utah 2020, Chapter 365

62 **53B-6-106**, as last amended by Laws of Utah 2020, Chapter 365



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

65 Section 1. Section **52-3-1** is amended to read:

66 **52-3-1. Employment of relatives and household members prohibited --**

67 **Exceptions.**

68 (1) As used in this chapter:

69 (a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid  
70 from public funds.

71 (b) "Chief administrative officer" means the person who has ultimate responsibility for  
72 the operation of the department or agency of the state or a political subdivision.

73 (c) "Household member" means a person who resides in the same residence as the  
74 public officer.

75 (d) "Public officer" means a person who holds a position that is compensated by public  
76 funds.

77 (e) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,  
78 grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin,  
79 mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

80 (2) (a) A public officer may not employ, appoint, or vote for or recommend the  
81 appointment of an appointee when the appointee will be directly supervised by a relative or  
82 household member, unless:

83 (i) the appointee is eligible or qualified to be employed by a department or agency of  
84 the state or a political subdivision of the state as a result of the appointee's compliance with  
85 civil service or merit system laws or regulations;

86 (ii) the appointee will be compensated from funds designated for vocational training;

87 (iii) the appointee will be employed for a period of 12 weeks or less;

88 (iv) the appointee is a volunteer as defined by the employing entity; or

89 (v) the chief administrative officer determines that the appointee is the only or best

90 person available, qualified, or eligible for the position.

91 (b) A public officer may not directly supervise an appointee who is a relative or  
92 household member of the public officer, unless:

93 (i) the appointee was appointed or employed before the public officer assumed the  
94 public officer's supervisory position, if the appointee's appointment did not violate the  
95 provisions of this chapter in effect at the time of the appointee's appointment;

96 (ii) the appointee is eligible or qualified to be employed by a department or agency of  
97 the state or a political subdivision of the state as a result of the appointee's compliance with  
98 civil service or merit system laws or regulations;

99 (iii) the appointee will be compensated from funds designated for vocational training;

100 (iv) the appointee will be employed for a period of 12 weeks or less;

101 (v) the appointee is a volunteer as defined by the employing entity;

102 (vi) the appointee is the only person available, qualified, or eligible for the position; or

103 (vii) the chief administrative officer determines that the public officer is the only  
104 individual available or best qualified to perform supervisory functions for the appointee.

105 (c) When a public officer supervises a relative or household member under Subsection  
106 (2)(b):

107 (i) the public officer shall immediately submit a complete written disclosure of the  
108 public officer's relationship with the relative or household member:

109 (A) for a public officer subject to the requirements of Title 67, Chapter 16, Utah Public  
110 Officers' and Employees' Ethics Act, in the same manner the public officer is required to make  
111 a disclosure under Section [67-16-7](#);

112 (B) for a public officer subject to the requirements of Title 17, Chapter 16a, County  
113 Officers and Employees Disclosure Act, in the same manner the public officer is required to  
114 make a disclosure under Section [17-16a-6](#); and

115 (C) for a public officer subject to the requirements of Title 10, Chapter 3, Part 13,  
116 Municipal Officers' and Employees' Ethics Act, in the same manner the public officer is  
117 required to make a disclosure under Section [10-3-1306](#); and

118 (ii) the public officer may not evaluate the job performance of or recommend salary  
119 increases for the relative or household member.

120 (d) A disclosure submitted under this Subsection (2) is public, and the person or entity

121 with which the public officer files the disclosure shall make the disclosure available for public  
 122 inspection.

123 (3) An appointee may not accept or retain employment if accepting or retaining  
 124 employment will place the appointee under the direct supervision of a relative or household  
 125 member unless:

126 (a) the relative or household member was appointed or employed before the appointee  
 127 assumed the appointee's position, if the appointment of the relative or household member did  
 128 not violate the provisions of this chapter in effect at the time of the appointment;

129 (b) the appointee was or is eligible or qualified to be employed by a department or  
 130 agency of the state or a political subdivision of the state as a result of the appointee's  
 131 compliance with civil service or merit system laws or regulations;

132 (c) the appointee is the only person available, qualified, or eligible for the position;

133 [~~(d) the appointee is compensated from funds designated for vocational training;~~]

134 [~~(e)~~] (d) the appointee is employed for a period of 12 weeks or less;

135 [~~(f)~~] (e) the appointee is a volunteer as defined by the employing entity; or

136 [~~(g)~~] (f) the chief administrative officer determines that the appointee's relative or  
 137 household member is the only individual available or qualified to supervise the appointee.

138 Section 2. Section **53B-1-101.5** is amended to read:

139 **53B-1-101.5. Definitions.**

140 As used in this title:

141 (1) (a) "Academic education" means an educational program that is offered by a  
 142 degree-granting institution.

143 (b) "Academic education" does not include technical education.

144 (2) "Board" means the Utah Board of Higher Education described in Section  
 145 [53B-1-402](#).

146 (3) "Career and technical education" means an educational program that:

147 (a) is designed to meet industry needs;

148 (b) leads to:

149 (i) a certificate; or

150 (ii) a degree; and

151 (c) may qualify for funding under the Carl D. Perkins Career and Technical Education

152 Improvement Act of 2006, 20 U.S.C. 2301 et seq.

153 (4) "Commissioner" means the commissioner of higher education appointed in  
154 accordance with Section 53B-1-408.

155 (5) "Degree-granting institution of higher education" or "degree-granting institution"  
156 means an institution of higher education described in Subsection 53B-1-102(1)(a).

157 (6) "Institution board of trustees" means:

158 (a) an institution of higher education board of trustees described in Section 53B-2-103;

159 or

160 (b) a technical college board of trustees described in Section 53B-2a-108.

161 (7) "Technical college" means an institution of higher education described in  
162 Subsection 53B-1-102(1)(b).

163 (8) (a) "Technical education" means career and technical education that:

164 (i) leads to ~~[an institutional]~~ a certificate; or

165 (ii) is short-term training.

166 (b) "Technical education" does not include general education.

167 Section 3. Section 53B-1-401 is amended to read:

168 **53B-1-401. Definitions.**

169 As used in this part:

170 (1) "Board" means the Utah Board of Higher Education described in Section  
171 53B-1-402.

172 (2) "Institution of higher education" or "institution" means an institution of higher  
173 education described in Section 53B-1-102.

174 (3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of  
175 gestational age or the duration of the pregnancy.

176 ~~[(4) "Nominating committee" means the committee described in Section 53B-1-406.]~~

177 Section 4. Section 53B-1-402 is amended to read:

178 **53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

179 (1) There is established [a] the Utah Board of Higher Education, formerly the State  
180 Board of Regents, which:

181 ~~[(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;]~~

182 ~~[(b)]~~ (a) is the governing board for the institutions of higher education;

183           ~~[(e)]~~ (b) controls, ~~[manages, and supervises]~~ oversees, and regulates the Utah system of  
184 higher education; and

185           ~~[(d)]~~ (c) is a body politic and corporate with perpetual succession and with all rights,  
186 immunities, and franchises necessary to function as a body politic and corporate.

187           (2) The board shall:

188           (a) establish and promote a state-level vision and goals for higher education that  
189 emphasize data-driven retrospective and prospective system priorities, including:

190           (i) quality;

191           (ii) affordability;

192           (iii) access and equity;

193           (iv) completion;

194           (v) workforce alignment and preparation for high-quality jobs; and

195           (vi) economic growth;

196           (b) ~~[establish]~~ system policies and practices that advance the vision and goals;

197           (c) ~~[establish]~~ metrics to demonstrate and monitor:

198           (i) performance related to the goals; and

199           (ii) performance on measures of operational efficiency;

200           (d) collect and analyze data including economic data, demographic data, and data  
201 related to the metrics;

202           (e) ~~[coordinate]~~ govern data quality and collection across institutions;

203           (f) establish, approve, and oversee each institution's mission and role in accordance  
204 with Section [53B-16-101](#);

205           (g) assess an institution's performance in accomplishing the institution's mission and  
206 role;

207           (h) participate in the establishment and review of programs of instruction in accordance  
208 with Section [53B-16-102](#);

209           (i) perform the following duties related to an institution of higher education president,  
210 including:

211           (i) appointing an institution of higher education president in accordance with Section  
212 [53B-2-102](#);

213           (ii) through the commissioner and the board's executive committee:

214 (A) providing support and guidance to an institution of higher education president; and  
215 [(iii)] (B) evaluating an institution of higher education president based on institution  
216 performance and progress toward systemwide priorities; [~~and~~]  
217 [(iv)] (iii) setting the [~~compensation~~] terms of employment for an institution of higher  
218 education president[;], including performance-based compensation, through an employment  
219 contract or another method of establishing employment; and  
220 (iv) establishing, through a public process, a statewide succession plan to develop  
221 potential institution presidents from within the system;  
222 (j) create and implement a strategic finance plan for higher education, including by:  
223 (i) establishing comprehensive budget and finance priorities for academic education  
224 and technical education;  
225 (ii) allocating statewide resources to institutions;  
226 (iii) setting tuition for each institution;  
227 (iv) administering state financial aid programs;  
228 (v) administering performance funding in accordance with Chapter 7, Part 7,  
229 Performance Funding; and  
230 (vi) developing a strategic capital facility plan and prioritization process in accordance  
231 with Chapter 22, Part 2, Capital Developments, and Sections [53B-2a-117](#) and [53B-2a-118](#);  
232 (k) create and annually report to the Higher Education Appropriations Subcommittee  
233 on a seamless articulated education system for Utah students that responds to changing  
234 demographics and workforce, including by:  
235 (i) providing for statewide prior learning assessment, in accordance with Section  
236 [53B-16-110](#);  
237 (ii) establishing and maintaining clear pathways for articulation and transfer, in  
238 accordance with Section [53B-16-105](#);  
239 (iii) establishing degree program requirement guidelines, including credit hour limits;  
240 (iv) aligning general education requirements across degree-granting institutions;  
241 (v) coordinating and incentivizing collaboration and partnerships between institutions  
242 in delivering programs;  
243 (vi) coordinating distance delivery of programs; [~~and~~]  
244 (vii) coordinating work-based learning; and



- 245 (viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and  
246 (c);
- 247 (l) coordinate with the public education system:
- 248 (i) regarding public education programs that provide postsecondary credit or  
249 certificates; and
- 250 (ii) to ensure that an institution of higher education providing technical education  
251 serves secondary students in the public education system;
- 252 (m) delegate to an institution board of trustees certain duties related to institution  
253 governance including:
- 254 (i) guidance and support for the institution president;
- 255 (ii) effective administration;
- 256 (iii) the institution's responsibility for contributing to progress toward achieving  
257 systemwide goals; and
- 258 (iv) other responsibilities determined by the board;
- 259 (n) delegate to an institution of higher education president management of the  
260 institution of higher education;
- 261 (o) consult with an institution of higher education board of trustees or institution of  
262 higher education president before acting on matters pertaining to the institution of higher  
263 education;
- 264 (p) maximize efficiency throughout the Utah system of higher education by identifying  
265 and establishing shared administrative services<sup>[‡]</sup>, beginning with:
- 266 (i) commercialization;
- 267 (ii) services for compliance with Title IX of the Education Amendments of 1972, 20  
268 U.S.C. Sec. 1681 et seq.;
- 269 (iii) information technology services; and
- 270 (iv) human resources, payroll, and benefits administration;
- 271 (q) develop strategies for providing higher education, including career and technical  
272 education, in rural areas;
- 273 (r) manage and facilitate a process for initiating, prioritizing, and implementing  
274 education reform initiatives, beginning with common applications and direct admissions; and
- 275 (s) provide ongoing quality review of [~~institutions~~] programs.

276 (3) The board shall submit an annual report of the board's activities and performance  
277 against the board's goals and metrics to:

- 278 (a) the Education Interim Committee;
- 279 (b) the Higher Education Appropriations Subcommittee;
- 280 (c) the governor; and
- 281 (d) each institution of higher education.

282 (4) The board shall prepare and submit an annual report detailing the board's progress  
283 and recommendations on workforce related issues, including career and technical education, to  
284 the governor and to the Legislature's Education Interim Committee by October 31 of each year,  
285 including information detailing:

286 (a) how institutions of higher education are meeting the career and technical education  
287 needs of secondary students [~~are being met by institutions of higher education~~];

288 (b) how the system provides an emphasis on high demand, high wage, and high skill  
289 jobs in business and industry [~~is being provided~~];

290 (c) performance outcomes, including:

- 291 (i) entered employment;
- 292 (ii) job retention; and
- 293 (iii) earnings;

294 (d) an analysis of workforce needs and efforts to meet workforce needs; and

295 (e) student tuition and fees.

296 (5) The board may modify the name of an institution of higher education to reflect the  
297 role and general course of study of the institution.

298 (6) The board may not take action relating to merging a technical college with another  
299 institution of higher education without legislative approval.

300 (7) This section does not affect the power and authority vested in the State Board of  
301 Education to apply for, accept, and manage federal appropriations for the establishment and  
302 maintenance of career and technical education.

303 (8) The board shall ensure that any training or certification that an employee of the  
304 higher education system is required to complete under this title or by board rule complies with  
305 Title 63G, Chapter 22, State Training and Certification Requirements.

306 (9) The board shall adopt a policy requiring institutions to provide at least three work

307 days of paid bereavement leave for an employee:

308 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;

309 or

310 (b) following the end of another individual's pregnancy by way of a miscarriage or

311 stillbirth, if:

312 (i) the employee is the individual's spouse or partner;

313 (ii) (A) the employee is the individual's former spouse or partner; and

314 (B) the employee would have been a biological parent of a child born as a result of the

315 pregnancy;

316 (iii) the employee provides documentation to show that the individual intended for the  
317 employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born  
318 as a result of the pregnancy; or

319 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part  
320 8, Gestational Agreement, the employee would have been a parent of a child born as a result of  
321 the pregnancy.

322 Section 5. Section **53B-1-403** is amended to read:

323 **53B-1-403. Committees.**

324 [~~(1) The board shall form:~~]

325 [~~(a) a committee to focus on technical education; and~~]

326 [~~(b) a committee to focus on academic education. (2)~~] The board may form

327 committees [~~in addition to the committees described in Subsection (1)~~] to support the board in  
328 fulfilling the board's duties.

329 Section 6. Section **53B-1-404** is amended to read:

330 **53B-1-404. Membership of the board -- Student appointee -- Terms -- Oath --**

331 **Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation --**

332 **Training.**

333 (1) The board consists of [~~18~~] 10 residents of the state [~~appointed by~~] whom the  
334 governor appoints with the advice and consent of the Senate, in accordance with Title 63G,  
335 Chapter 24, Part 2, Vacancies, [~~as follows:~~] and this section.

336 [~~(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from~~  
337 ~~among candidates presented to the governor by a nominating committee; and]~~

338 ~~[(b) two student members appointed as described in Subsection (4).]~~

339 (2) (a) For an appointment of a member effective July 1, ~~[2020]~~ 2023, the governor  
340 shall appoint the member in accordance with Section 53B-1-501.

341 (b) Unless ~~[appointed by]~~ the governor appoints an individual as described in Section  
342 53B-1-501, the term of each individual who is a member of the State Board of ~~[Regents on~~  
343 May 12, 2020, expires on June 30, 2020] Higher Education on the effective date of this bill,  
344 expires on June 30, 2023.

345 ~~[(3) If the governor is not satisfied with a sufficient number of the candidates presented~~  
346 ~~by the nominating committee to make the required number of appointments, the governor may~~  
347 ~~request that the committee nominate additional candidates.]~~

348 ~~[(4) (a) For the appointments described in Subsection (1)(b), the governor shall~~  
349 ~~appoint:]~~

350 ~~[(i) one individual who is enrolled in a certificate program at a technical college at the~~  
351 ~~time of the appointment; and]~~

352 ~~[(ii) one individual who:]~~

353 ~~[(A) is a fully matriculated student enrolled in a degree-granting institution; and]~~

354 ~~[(B) is not serving as a student body president at the time of the nomination.]~~

355 ~~[(b) The governor shall select:]~~

356 ~~[(i) an appointee described in Subsection (4)(a)(i) from among three nominees;~~  
357 ~~presented to the governor by a committee consisting of eight students, one from each technical~~  
358 ~~college, each of whom is recognized by the student's technical college; and]~~

359 ~~[(ii) an appointee described in Subsection (4)(a)(ii) from among three nominees~~  
360 ~~presented to the governor by the student body presidents of degree-granting institutions.]~~

361 ~~[(c) An appointee described in Subsection (4)(a) is not subject to the public comment~~  
362 ~~process described in Section 63G-24-204.]~~

363 ~~[(5)]~~ (3) (a) ~~[AH]~~ The governor shall make all appointments to the board ~~[shall be~~  
364 ~~made]~~ on a nonpartisan basis.

365 (b) An individual may not serve simultaneously on the board and an institution board  
366 of trustees.

367 (c) The governor shall ensure that one appointment to the board is a student member  
368 whom, notwithstanding Subsection (1), the governor appoints without the advice and consent

369 of the Senate.

370 ~~[(6)]~~ (4) (a) (i) Except as provided in Subsection (6)(a)(ii) and Section 53B-1-501,  
371 ~~[members shall be appointed to]~~ the governor shall appoint board members to six-year  
372 staggered terms~~[, each of which begins]~~ beginning on July 1 of the year of appointment.

373 (ii) ~~[A member described in Subsection (1)(b) shall be appointed]~~ The governor shall  
374 appoint the student member described in Subsection (3)(c) to a one-year term.

375 (b) (i) A board member ~~[described in Subsection (1)(a)]~~ other than the student member  
376 described in Subsection (3)(c) may serve up to two consecutive full terms.

377 ~~[(ii) The governor may appoint a member described in Subsection (1)(a) to a second~~  
378 ~~consecutive full term without a recommendation from the nominating committee.]~~

379 ~~[(iii)]~~ (ii) ~~[A]~~ The student member described in Subsection ~~[(1)(b)]~~ (3)(c) may not  
380 serve more than one full term.

381 ~~[(e)]~~ (5) ~~[(f)]~~ The governor may, after consulting with the president of the Senate,  
382 remove a member for cause.

383 ~~[(ii) The governor shall consult with the president of the Senate before removing a~~  
384 ~~member.]~~

385 ~~[(7)]~~ (6) (a) A board member shall take the official oath of office before entering upon  
386 the duties of office.

387 (b) The ~~[oath shall be filed]~~ board shall file the oath described in Subsection (6)(a)  
388 with the Division of Archives and Records Services.

389 ~~[(8)]~~ (7) The board shall elect a chair and vice chair from among the board's members  
390 ~~[who shall]~~ to serve terms of two years and until ~~[their]~~ the board chooses and qualifies  
391 successors ~~[are chosen and qualified].~~

392 ~~[(9)]~~ (8) (a) The board shall appoint a secretary from the commissioner's staff to serve  
393 at the board's discretion.

394 (b) The board's secretary is a full-time employee.

395 (c) The secretary shall record and maintain a record of all board meetings and perform  
396 other duties as the board directs.

397 ~~[(10)]~~ (9) (a) The board may establish advisory committees, including a faculty and  
398 staff advisory committee.

399 (b) ~~[A]~~ The board shall address all matters requiring board determination ~~[shall be~~

400 addressed] in a properly convened meeting of the board or the board's executive committee.

401 ~~[(11)]~~ (10) (a) The board shall enact bylaws for the board's own government not  
402 inconsistent with the constitution or the laws of this state.

403 (b) The board shall provide for an executive committee in the bylaws that:

404 (i) has the full authority of the board to act upon routine matters during the interim  
405 between board meetings;

406 (ii) may not act on nonroutine matters except under extraordinary and emergency  
407 circumstances; and

408 (iii) shall report to the board at the board's next meeting following an action undertaken  
409 by the executive committee.

410 ~~[(12)]~~ (11) (a) The board shall meet regularly upon the board's own determination.

411 (b) The board may also meet, in full or executive session, at the request of the chair,  
412 the commissioner, or at least five members of the board.

413 ~~[(13) A quorum of the board is required to conduct the board's business and consists of  
414 10 members.]~~

415 (12) The board may not conduct the board's business without the agreement of a  
416 majority of the board.

417 ~~[(14)]~~ (13) (a) [A] The governor shall immediately fill a vacancy in the board occurring  
418 before the expiration of a member's full term [shall be immediately filled through the  
419 nomination process described in Section 53B-1-406 and in] in accordance with this section.

420 (b) An individual ~~[appointed]~~ whom the governor appoints under Subsection ~~[(14)(a)]~~  
421 (13)(a) serves for the remainder of the unexpired term.

422 ~~[(15)]~~ (14) (a) (i) Subject to Subsection ~~[(15)(a)(ii)]~~ (14)(a)(ii), a member shall receive  
423 a daily salary for each calendar day that the member attends a board meeting that is the same as  
424 the daily salary for a member of the Legislature described in Section 36-2-3.

425 (ii) A member may receive a salary for up to 10 calendar days per calendar year.

426 (b) A member may receive per diem and travel expenses in accordance with:

427 (i) Section 63A-3-106;

428 (ii) Section 63A-3-107; and

429 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
430 63A-3-107.

431 ~~[(16)]~~ (15) The commissioner shall provide to each member:

432 (a) initial training when the member joins the board; and

433 (b) ongoing annual training.

434 ~~[(17)]~~ (16) A board member shall comply with the conflict of interest provisions

435 described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

436 Section 7. Section **53B-1-408** is amended to read:

437 **53B-1-408. Appointment of commissioner of higher education -- Qualifications --**

438 **Associate commissioners -- Duties -- Office.**

439 (1) (a) The board, upon approval from the governor and with the advice and consent of  
440 the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as  
441 the board's chief executive officer.

442 (b) The following may terminate the commissioner ~~[may be terminated by]~~:

443 (i) the board; or

444 (ii) the governor, after consultation with the board.

445 (c) The board shall:

446 (i) set the salary of the commissioner;

447 (ii) subject to Subsection (3), prescribe the duties and functions of the commissioner;

448 and

449 (iii) select a commissioner on the basis of outstanding professional qualifications.

450 ~~[(2) (a) The commissioner shall appoint, subject to approval by the board:]~~

451 ~~[(i) an associate commissioner for academic education; and]~~

452 ~~[(ii) an associate commissioner for technical education.]~~

453 ~~[(b) (i)]~~ (2) (a) The commissioner may appoint associate commissioners ~~[in addition to~~  
454 ~~the associate commissioners described in Subsection (2)(a)].~~

455 ~~[(ii)]~~ (b) An ~~[association]~~ associate commissioner described in Subsection ~~[(2)(b)(i)]~~  
456 (2)(a) is not subject to the approval of the board.

457 (3) The commissioner is responsible to the board to:

458 (a) ensure ~~[that]~~ the proper execution of the policies, programs, and strategic plan of  
459 the board ~~[are properly executed]~~;

460 (b) furnish information about the Utah system of higher education and make  
461 recommendations regarding that information to the board;

462 (c) provide state-level leadership in any activity affecting an institution of higher  
463 education; ~~and]~~

464 (d) in consultation with the board's executive committee and in accordance with  
465 Subsection 53B-1-402(2), provide the evaluation of and support and guidance to an institution  
466 of higher education president, including the provision of an executive coach for the president's  
467 first year of service; and

468 ~~[(d)]~~ (e) perform other duties ~~[assigned by]~~ the board assigns in carrying out the board's  
469 duties and responsibilities.

470 (4) (a) There is created, within the University of Utah, the Office of the Commissioner  
471 of the Utah System of Higher Education and the Utah Board of Higher Education.

472 (b) The commissioner, the Office of the Commissioner of the Utah System of Higher  
473 Education and the Utah Board of Higher Education, and the board shall share administrative  
474 services with the University of Utah, as the board defines.

475 (c) Nothing in this Subsection (4) limits or reduces the independence of the  
476 commissioner, the Office of the Commissioner of the Utah System of Higher Education and the  
477 Utah Board of Higher Education, or the board in relation to statutory duties, including policy,  
478 internal audits, oversight of presidents, and systemwide strategic planning and prioritization.

479 Section 8. Section **53B-1-501** is amended to read:

480 **53B-1-501. Establishment of initial board membership in 2023.**

481 (1) ~~[(a)]~~ The governor shall appoint, with the advice and consent of the Senate,  
482 individuals to the board, to ensure that beginning July 1, ~~[2020]~~ 2023, the board consists of ~~[18~~  
483 ~~members, including:]~~ 10 members with new terms in accordance with this section.

484 ~~[(i) at least six individuals who were members of the State Board of Regents on May~~  
485 ~~12, 2020;]~~

486 ~~[(ii) at least six individuals who were members of the Utah System of Technical~~  
487 ~~Colleges Board of Trustees on May 12, 2020; and]~~

488 ~~[(iii) two student members appointed to the board in accordance with Section~~  
489 ~~53B-1-404.]~~

490 ~~[(b) Before making an appointment described in Subsection (1)(a), the governor shall~~  
491 ~~consult:]~~

492 ~~[(i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents~~



493 leadership; and]

494 ~~[(ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of~~  
 495 ~~Technical Colleges Board of Trustees leadership.]~~

496 (2) ~~[(a)]~~ Except for ~~[an]~~ the appointment of the student member described in  
 497 Subsection ~~[(1)(a)(iii)]~~ 53B-1-404(3)(c), the governor shall appoint ~~[an]~~ each individual to a  
 498 two-year, four-year, or six-year term to ensure that one-third of the members complete the  
 499 members' terms on June 30 of each ~~[even]~~ odd number year.

500 ~~[(b) The governor may appoint an individual described in Subsection (1)(a) to a second~~  
 501 ~~term without the individual being considered by the nominating committee described in~~  
 502 ~~Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the~~  
 503 ~~individual:]~~

504 ~~[(i) is serving the individual's first full term on the State Board of Regents or the Utah~~  
 505 ~~System of Technical Colleges Board of Trustees; or]~~

506 ~~[(ii) is not a member of the State Board of Regents or the Utah System of Technical~~  
 507 ~~Colleges Board of Trustees.]~~

508 ~~[(c) An appointment described in Subsection (2)(b) is for a six-year term.]~~

509 (3) Following the appointments described in this section, the governor shall fill a  
 510 vacancy on the board ~~[shall be filled]~~ in accordance with Section 53B-1-404.

511 (4) Notwithstanding Section 67-1-2, for an appointment described in this section:

512 (a) a majority of the president of the Senate, the Senate majority leader, and the Senate  
 513 minority leader may waive the 30-day requirement described in Subsection 67-1-2(1); and

514 (b) the Senate is not required to hold a confirmation hearing.

515 Section 9. Section **53B-2-102** is amended to read:

516 **53B-2-102. Appointment of institution of higher education presidents.**

517 (1) As used in this section:

518 (a) "Institution of higher education" means:

519 (i) a degree-granting institution; or

520 (ii) a technical college.

521 (b) "President" means the president of an institution of higher education.

522 (c) "Search committee" means a committee that selects finalists for a position as an  
 523 institution of higher education president.

524 (2) The board shall appoint a president for each institution of higher education.

525 (3) An institution of higher education president serves ~~[at the pleasure of]~~ in  
526 accordance with the terms of employment that the board establishes as described in Section  
527 53B-1-402.

528 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), to appoint an institution of higher  
529 education president, the board shall establish a search committee that includes representatives  
530 of faculty, staff, students, the institution of higher education board of trustees, alumni, the  
531 outgoing institution of higher education president's executive council or cabinet, and the board.

532 (ii) The board may delegate the authority to appoint the search committee described in  
533 Subsection (4)(a)(i) to an institution of higher education board of trustees.

534 (iii) The commissioner shall provide staff support to a search committee.

535 (b) (i) Except as provided in Subsection (4)(b)(ii), a search committee shall be  
536 cochaired by a member of the board and a member of the institution of higher education board  
537 of trustees.

538 (ii) The board may delegate the authority to chair a search committee to the institution  
539 of higher education board trustees.

540 (c) A search committee described in Subsection (4)(a) shall forward three to five  
541 finalists to the board to consider for a position as an institution of higher education president.

542 (d) A search committee may not forward an individual to the board as a finalist unless  
543 two-thirds of the search committee members, as verified by the commissioner, find the  
544 individual to be qualified and likely to succeed as an institution of higher education president.

545 (5) (a) The board shall select an institution of higher education president from among  
546 the finalists presented by a search committee.

547 (b) If the board is not satisfied with the finalists forwarded by a search committee, the  
548 board may direct the search committee to resume the search process until the search committee  
549 has forwarded three finalists with whom the board is satisfied.

550 (6) The board, through the commissioner, shall:

551 (a) create a comprehensive, active recruiting plan to ensure a strong, diverse pool of  
552 potential candidates for institution of higher education presidents[-]; and

553 (b) review, in a closed executive session, the progress of the individual institution in  
554 relation to the succession plan described in Section 53B-1-402.

555 (7) (a) Except as provided in Subsection (7)(b), a record or information gathered or  
556 generated during the search process, including a candidate's application and the search  
557 committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

558 (b) Application materials for a publicly named finalist described in Subsection (5)(a)  
559 are not protected records under Section 63G-2-305.

560 Section 10. Section 53B-2a-101 is amended to read:

561 **53B-2a-101. Definitions.**

562 As used in this chapter:

563 (1) "Capital development" means the same as capital development project, as defined  
564 in Section 63A-5b-401.

565 (2) "Competency-based" means mastery of subject matter or skill level, as  
566 demonstrated through business and industry approved standards and assessments, achieved  
567 through participation in a hands-on learning environment, and which is tied to observable,  
568 measurable performance objectives.

569 (3) "Dedicated project" means a capital development project for which state funds from  
570 the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or  
571 used.

572 (4) "Nondedicated project" means a capital development project for which state funds  
573 from a source other than the Technical Colleges Capital Projects Fund created in Section  
574 53B-2a-118 are requested or used.

575 [~~(5) "Open-entry, open-exit" means:]~~

576 [~~(a) a method of instructional delivery that allows for flexible scheduling in response to~~  
577 ~~individual student needs or requirements and demonstrated competency when knowledge and~~  
578 ~~skills have been mastered;]~~

579 [~~(b) students have the flexibility to begin or end study at any time, progress through~~  
580 ~~course material at their own pace, and demonstrate competency when knowledge and skills~~  
581 ~~have been mastered; and]~~

582 [~~(c) if competency is demonstrated in a program of study, a credential, certificate, or~~  
583 ~~diploma may be awarded.]~~

584 [~~(6)~~ (5) "State funds" means the same as that term is defined in Section 63A-5b-401.

585 Section 11. Section 53B-2a-112 is amended to read:

586           **53B-2a-112. Technical colleges -- Relationships with other public and higher**  
587 **education institutions -- Agreements -- Priorities -- New capital facilities.**

588           (1) As used in this section, "higher education institution" means:

589           (a) Utah State University for:

590           (i) Bridgerland Technical College;

591           (ii) Tooele Technical College; and

592           (iii) Uintah Basin Technical College;

593           (b) Weber State University for:

594           (i) Ogden-Weber Technical College; and

595           (ii) Davis Technical College;

596           (c) Utah Valley University for Mountainland Technical College;

597           (d) Southern Utah University for Southwest Technical College; and

598           (e) Utah Tech University for Dixie Technical College.

599           (2) A technical college may enter into agreements:

600           (a) with other higher education institutions to cultivate cooperative relationships; or

601           (b) with other public and higher education institutions to enhance career and technical  
602 education within the technical college's region.

603           (3) Before a technical college develops new instructional facilities, the technical  
604 college shall give priority to:

605           (a) maintaining the technical college's existing instructional facilities for both  
606 secondary and adult students;

607           (b) coordinating with the president of the technical college's [~~higher education~~  
608 ~~institution~~] degree-granting partner and entering into any necessary agreements to provide  
609 career and technical education to secondary and adult students that:

610           (i) maintain and support existing higher education career and technical education  
611 programs; and

612           (ii) maximize the use of existing higher education facilities; and

613           (c) developing cooperative agreements with school districts, charter schools, other  
614 higher education institutions, businesses, industries, and community and private agencies to  
615 maximize the availability of career and technical education instructional facilities for both  
616 secondary and adult students.

617 (4) (a) Before submitting a funding request pertaining to new capital facilities and land  
618 purchases to the board, a technical college shall:

619 (i) ensure that all available instructional facilities are maximized in accordance with  
620 Subsections (3)(a) through (c); and

621 (ii) coordinate the request with the president of the technical college's [~~higher~~  
622 ~~education institution~~] degree-granting partner, if applicable.

623 (b) The Division of Facilities Construction and Management shall make a finding that  
624 the requirements of this section are met before the Division of Facilities Construction and  
625 Management may consider a funding request from the board pertaining to new capital facilities  
626 and land purchases for a technical college.

627 (c) A technical college may not construct, approve the construction of, plan for the  
628 design or construction of, or consent to the construction of a career and technical education  
629 facility without approval of the Legislature.

630 (5) Before acquiring new fiscal and administrative support structures, a technical  
631 college shall:

632 (a) review the use of existing public or higher education administrative and accounting  
633 systems, financial record systems, and student and financial aid systems for the delivery of  
634 [~~career and technical~~] education in the region;

635 (b) determine the feasibility of using existing systems; and

636 (c) with the approval of the technical college board of trustees and the board, use the  
637 existing systems.

638 Section 12. Section **53B-7-705** is amended to read:

639 **53B-7-705. Determination of full new performance funding amount -- Role of**  
640 **appropriations subcommittee -- Program review.**

641 (1) In accordance with this section, and based on money deposited into the account, the  
642 Legislature shall, as part of the higher education appropriations budget process, annually  
643 determine the full new performance funding amount for each:

644 (a) degree-granting institution; and

645 (b) technical college.

646 (2) (a) Before January 1, 2024, the Legislature shall annually allocate:

647 (i) 90% of the money in the account to degree-granting institutions; and

648 (ii) 10% of the money in the account to technical colleges.  
649 (b) After January 1, 2024, the Legislature shall annually allocate:  
650 (i) 85% of the money in the account to degree-granting institutions; and  
651 (ii) 15% of the money in the account to technical colleges.  
652 (3) (a) The Legislature shall determine a degree-granting institution's full new  
653 performance funding amount based on the degree-granting institution's prior year share of:  
654 (i) full-time equivalent enrollment in all degree-granting institutions; and  
655 (ii) the total state-funded appropriated budget for all degree-granting institutions.  
656 (b) In determining a degree-granting institution's full new performance funding  
657 amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i)  
658 and (ii).  
659 (4) (a) The Legislature shall determine a technical college's full new performance  
660 funding amount based on the technical college's prior year share of:  
661 (i) (A) before January 1, 2024, membership hours for all technical colleges; and  
662 (B) after January 1, 2024, full-time equivalent enrollment for all technical colleges; and  
663 (ii) the total state-funded appropriated budget for all technical colleges.  
664 (b) In determining a technical college's full new performance funding amount, the  
665 Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).  
666 (5) Annually, at least 30 days before the first day of the legislative general session the  
667 board shall submit a report to the Higher Education Appropriations Subcommittee on each  
668 degree-granting institution's and each technical college's performance.  
669 (6) (a) In accordance with this Subsection (6), and based on the report described in  
670 Subsection (5), the Legislature shall determine for each degree-granting institution and each  
671 technical college:  
672 (i) the portion of the full new performance funding amount earned; and  
673 (ii) the amount of new performance funding to recommend that the Legislature  
674 appropriate, from the account, to the degree-granting institution or technical college.  
675 (b) (i) This Subsection (6)(b) applies before January 1, 2024.  
676 (ii) A degree-granting institution earns the full new performance funding amount if the  
677 degree-granting institution has a positive change in performance of at least 1% compared to the  
678 degree-granting institution's average performance over the previous five years.

679 (iii) A technical college earns the full new performance funding amount if the technical  
680 college has a positive change in the technical college's performance of at least 5% compared to  
681 the technical college's average performance over the previous five years.

682 (c) After January 1, 2024, a degree-granting institution or technical college earns the  
683 full new performance funding amount if the degree-granting institution or technical college  
684 meets the annual performance goals the board sets under Subsection 53B-7-706(1)(a)(ii).

685 (d) Before January 1, 2024, a degree-granting institution or technical college that has a  
686 positive change in performance that is less than a change described in Subsection (6)(b) is  
687 eligible to receive a prorated amount of the full new performance funding amount.

688 (e) Before January 1, 2024, a degree-granting or technical college that has a negative  
689 change, or no change, in performance over a time period described in Subsection (6)(b) is not  
690 eligible to receive new performance funding.

691 (f) After January 1, 2024, a degree-granting institution or technical college that does  
692 not meet the goals the board sets under Subsection 53B-7-706(1)(a)(ii):

693 (i) is not eligible to receive the full new performance funding amount; and

694 (ii) is eligible to receive a prorated amount of the full new performance funding  
695 amount for performance that is greater than zero as measured by the model the board  
696 establishes under Subsection 53B-7-706(1)(a)(i)(B).

697 (g) ~~(f)~~ After January 1, 2024, if a degree-granting institution or technical college does  
698 not earn the full new performance funding amount as described in Subsection (6)(c), the board  
699 ~~shall~~:

700 ~~(A)~~ (i) shall set aside the unearned new performance funding; and

701 ~~(B)~~ (ii) may, at the end of an annual performance goal period within a five-year  
702 period for which the board sets goals under Subsection 53B-7-706(1)(a)(ii), ~~allocate~~  
703 reallocate the funds set aside under Subsection ~~[(6)(g)(i)(A)] (6)(g)(i)~~ to a degree-granting  
704 institution or technical college that meets or exceeds the degree-granting institution's or  
705 technical college's ~~[five-year goals described in Subsection 53B-7-706(1)(a)(ii)(B)]~~:

706 (A) previous year's annual performance goal; and

707 (B) the performance goal that the institution previously failed to meet which caused the  
708 funding set aside.

709 ~~(ii) The board may reallocate the funds described in Subsection (6)(g)(i)(A) on a~~

710 ~~one-time basis to a degree-granting institution or technical college that exceeds the~~  
711 ~~degree-granting institution's or technical college's annual performance goals until the board~~  
712 ~~evaluates performance of five-year goals as described Subsection 53B-7-706(5).]~~

713 (7) An appropriation described in this section is ongoing.

714 (8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature  
715 may, by majority vote, appropriate or refrain from appropriating money for performance  
716 funding as circumstances require in a particular year.

717 Section 13. Section 53B-7-706 is amended to read:

718 **53B-7-706. Performance metrics for institutions -- Determination of**  
719 **performance.**

720 (1) (a) (i) (A) The board shall establish a model for determining a degree-granting  
721 institution's performance.

722 (B) Beginning in March 2021, the board shall establish a model for determining a  
723 degree-granting institution's or technical college's performance.

724 (ii) Beginning in May 2021, the board shall:

725 (A) set a five-year goal for the Utah System of Higher Education for each metric  
726 described in Subsection (2)(a)(ii);

727 (B) adopt five-year goals for each degree-granting institution and technical college that  
728 align with each goal described in Subsection (1)(a)(ii)(A); and

729 (C) ensure the goals the board adopts for each degree-granting institution and technical  
730 college described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals  
731 described in Subsection (1)(a)(ii)(A); and

732 (b) (i) The board shall submit a draft of the model described in this section to the  
733 Higher Education Appropriations Subcommittee and the governor for comments and  
734 recommendations.

735 (ii) Beginning in 2021, and every five years thereafter, the board shall:

736 (A) submit the model described in Subsection (1)(a)(i) and the goals described in  
737 Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the  
738 governor for comments and recommendations; and

739 (B) consider the comments and recommendations described in Subsection  
740 (1)(b)(ii)(A), and make any necessary changes to the model described in Subsection (1)(a)(i)



741 and the goals described in Subsection (1)(a)(ii).

742 (c) Beginning in 2021, and every five years thereafter, the Executive Appropriations  
743 Committee, the Higher Education Appropriations Subcommittee, and the Education Interim  
744 Committee shall prepare and jointly meet to consider legislation for introduction at the  
745 following general legislative session to adopt the goals described in Subsection (1)(a)(ii).

746 (2) (a) (i) The model described in Subsection (1)(a)(i)(A) shall include metrics,  
747 including:

748 (A) completion, measured by degrees and certificates awarded;

749 (B) completion by underserved students, measured by degrees and certificates awarded  
750 to underserved students;

751 (C) responsiveness to workforce needs, measured by degrees and certificates awarded  
752 in high market demand fields;

753 (D) institutional efficiency, measured by degrees and certificates awarded per full-time  
754 equivalent student; and

755 (E) for a research university, research, measured by total research expenditures.

756 (ii) Beginning in 2021, the board shall set the goals and establish the performance  
757 model described in Subsection (1)(a)(i)(B) for the following metrics:

758 (A) access;

759 (B) timely completion; and

760 (C) high-yield awards.

761 (b) (i) Subject to Subsection (2)(b)(ii), the board shall determine the relative weights of  
762 the metrics described in Subsection (2)(a)(i).

763 (ii) The board shall assign the responsiveness to workforce needs metric described in  
764 Subsection (2)(a)(i)(C) a weight of at least 25% when determining a degree-granting  
765 institution's performance.

766 (c) Beginning in 2021, the board shall determine and establish in board policy, the  
767 definitions, measures, and relative weights of the metrics described in Subsection (2)(a)(ii)  
768 based on each degree-granting institution's and each technical college's mission.

769 (3) (a) For each degree-granting institution, the board shall annually determine the  
770 degree-granting institution's:

771 (i) performance; and

772 (ii) change in performance compared to the degree-granting institution's average  
773 performance over the previous five years.

774 (b) [~~Beginning in 2022, for~~] For each degree-granting institution and technical college,  
775 the board shall annually:

776 (i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii)  
777 that will advance the degree-granting institution or technical college toward achievement of the  
778 five-year goals described in Subsection (1)(a)(ii);

779 (ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and

780 (iii) include a degree-granting institution's or technical college's performance under this  
781 section in the evaluation described in Subsection [~~53B-1-402(2)(i)(iii)~~] 53B-1-402(2)(i).

782 (4) (a) The board shall use the model described in Subsection (1)(a)(i)(A) to make the  
783 report described in Section 53B-7-705 for determining a degree-granting institution's  
784 performance funding for a fiscal year beginning on or after July 1, 2018, but before July 1,  
785 2024.

786 (b) For a fiscal year beginning on or after July 1, 2024, the board shall use the model  
787 described in Subsection (1)(a)(i)(B) to make the report described in Section 53B-7-705 for  
788 determining a degree-granting institution's or technical college's performance funding.

789 (5) At the end of each five-year period for which the board sets goals under Subsection  
790 (1)(a)(ii):

791 (a) the board shall:

792 (i) review the Utah System of Higher Education's performance in meeting the goals the  
793 board sets under Subsection (1)(a)(ii)(A);

794 (ii) review each degree-granting institution's and each technical college's performance  
795 in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and

796 (iii) allocate any funds not allocated under Subsection 53B-7-705(6)(g) to each  
797 degree-granting institution and each technical college that meets or exceeds the goals the board  
798 sets under Subsection (1)(a)(ii)(B); and

799 (b) the Legislature may appropriate additional funds for the board to allocate to each  
800 degree-granting institution and each technical college that meets or exceeds goals as described  
801 in Subsection (5)(a)(iii).

802 (6) In year two or three of each five-year period for which the board sets goals under

803 Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open  
804 meeting to review the goals the board sets under Subsection (1)(a)(ii):

- 805 (a) the Executive Appropriations Committee;
- 806 (b) the Higher Education Appropriations Subcommittee; and
- 807 (c) the Education Interim Committee.

808 Section 14. Section **53B-13a-102** is amended to read:

809 **53B-13a-102. Definitions.**

810 As used in this chapter:

811 (1) (a) "Cost of attendance" means the estimated costs associated with attending an  
812 institution, as established by the institution in accordance with board policies.

813 (b) "Cost of attendance" includes costs payable to the institution, other direct  
814 educational expenses, transportation, and living expenses while attending the institution.

815 (2) (a) "Eligible student" means a financially needy student who is:

816 (i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at  
817 least a half-time basis, as defined by the board, in an eligible postsecondary program leading to  
818 a defined education or training objective, as defined by the board;

819 (ii) making satisfactory academic progress, as defined by the institution in published  
820 policies or rules, toward an education or training objective; and

821 (iii) (A) a resident student under Section **53B-8-102** and rules of the board; or

822 (B) exempt from paying the nonresident portion of total tuition under Section  
823 **53B-8-106**.

824 (b) "Eligible student" does not include a graduate student.

825 (3) "Financially needy student" means a student who demonstrates the financial  
826 inability to meet all or a portion of the cost of attendance at an institution for any period of  
827 attendance as defined by the board, after considering the student's expected family contribution.

828 (4) "Fiscal year" means the fiscal year of the state.

829 (5) "Partner award" means a financial award described in Section **53B-13a-106**.

830 (6) "Program" means the Utah Promise Program.

831 (7) "Promise partner" means an employer that participates in the program described in  
832 Section **53B-13a-106**.

833 (8) "Utah postsecondary institution" or "institution" means:

- 834 (a) an institution of higher education listed in Section 53B-1-102; or
- 835 (b) a Utah private, nonprofit postsecondary institution that is accredited by ~~[a regional]~~
- 836 ~~an accrediting organization [recognized by the board]~~ that the United States Department of
- 837 Education recognizes.

838 Section 15. Section 53B-13b-102 is amended to read:

839 **53B-13b-102. Definitions.**

840 As used in this chapter:

841 (1) "Federal program" means a veterans educational assistance program established in:

842 (a) United States Code, Title 10, Chapter 1606, Educational Assistance for Members of

843 the Selected Reserve;

844 (b) United States Code, Title 38, Chapter 30, All-Volunteer Force Educational

845 Assistance Program;

846 (c) United States Code, Title 38, Chapter 31, Training and Rehabilitation for Veterans

847 with Service-Connected Disabilities;

848 (d) United States Code, Title 38, Chapter 32, Post-Vietnam Era Veterans' Educational

849 Assistance; or

850 (e) United States Code, Title 38, Chapter 33, Post-9/11 Educational Assistance.

851 (2) "Institution of higher education" or "institution" means:

852 (a) an institution of higher education listed in Subsection 53B-2-101(1); or

853 (b) a private, nonprofit, postsecondary institution located in Utah that is accredited by

854 ~~[a recognized]~~ an accrediting organization [recognized by] that the United States Department

855 of Education recognizes.

856 (3) "Program" means the Veterans Tuition Gap Program created in this chapter.

857 (4) (a) "Qualifying military veteran" means a veteran, as defined in Section 68-3-12.5,

858 who:

859 (i) is a resident student under Section 53B-8-102 and rules of the board;

860 (ii) is accepted into an institution and enrolled in a program leading to a bachelor's

861 degree;

862 (iii) (A) has exhausted the federal benefit under a federal program; or

863 (B) demonstrates that the veteran no longer qualifies to receive federal benefits under

864 any federal program; and

865 (iv) has not completed a bachelor's degree.

866 (b) "Qualifying military veteran" does not include a family member.

867 Section 16. Section **53B-13c-101** is amended to read:

868 **53B-13c-101. Definitions.**

869 As used in this chapter:

870 (1) (a) "Cost of attendance" means the estimated costs associated with taking an online  
871 course, as established by an eligible institution in accordance with board policies.

872 (b) "Cost of attendance" includes tuition, costs payable to the eligible institution, and  
873 other direct educational expenses related to taking an online course.

874 (2) "Eligible institution" means an institution that offers a postsecondary level course  
875 of instruction using digital technology.

876 (3) "Eligible student" means a financially needy student who is:

877 (a) at least 26 years old;

878 (b) enrolled in an online course at an eligible institution;

879 (c) pursuing:

880 (i) an online postsecondary degree program in a field where there is a demonstrated  
881 industry need; or

882 (ii) an online non-degree program that is designed to meet industry needs and leads to a  
883 certificate or another recognized educational credential; and

884 (d) a resident student under Section **53B-8-102** and rules the board establishes.

885 (4) "Financially needy student" means a student who demonstrates the financial  
886 inability to meet all or a portion of the cost of attendance at an eligible institution as defined by  
887 the board, after utilizing family and personal resources, federal assistance, and scholarships.

888 (5) "Fiscal year" means the fiscal year of the state.

889 (6) "Institution" means:

890 (a) an institution described in Section **53B-1-102**; or

891 (b) a Utah private, nonprofit postsecondary institution that is accredited by [~~a regional~~]  
892 an accrediting organization that the [board] United States Department of Education recognizes.

893 (7) "Online course" means a postsecondary level course of instruction offered by an  
894 eligible institution using digital technology.

895 (8) "Program" means the Adult Learners Grant Program established in Section

896 53B-13c-102.

897 (9) "Tuition" means tuition and fees at the rate charged for residents of the state.

898 Section 17. Section **53B-16-101** is amended to read:

899 **53B-16-101. Establishment of institutional roles and general courses of study.**

900 (1) Except as institutional roles are specifically assigned by the Legislature, the board:

901 (a) shall establish and define the roles of the various institutions of higher education;

902 and

903 (b) shall, within each institution of higher education's primary role, prescribe the

904 general course of study to be offered at the institution of higher education, including for:

905 (i) research universities, which provide undergraduate, graduate, and research programs

906 and include:

907 (A) the University of Utah; and

908 (B) Utah State University;

909 (ii) regional universities, which provide career and technical education, undergraduate

910 associate and baccalaureate programs, and select master's degree programs to fill regional

911 demands and include:

912 (A) Weber State University;

913 (B) Southern Utah University;

914 (C) Utah Tech University; and

915 (D) Utah Valley University;

916 (iii) comprehensive community colleges, which provide associate programs and

917 include:

918 (A) Salt Lake Community College; and

919 (B) Snow College; and

920 (iv) technical colleges and degree-granting institutions that provide technical

921 education, and include:

922 (A) each technical college; and

923 (B) the degree-granting institutions described in Section [53B-2a-201](#).

924 (2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each

925 institution of higher education described in Subsections (1)(b)(i) through (iii) has career and

926 technical education included in the institution of higher education's primary role.

927 (b) The board shall determine the extent to which an institution described in  
928 Subsection (2)(a) provides career and technical education within the institution's primary role.

929 (3) The board shall further clarify each institution of higher education's primary role by  
930 clarifying:

931 (a) the level of program that the institution of higher education generally offers, in  
932 accordance with Subsection 53B-16-102(3);

933 (b) broad fields that are within the institution of higher education's mission; and

934 (c) any special characteristics of the institution of higher education, such as being a  
935 land grant university.

936 Section 18. Section **53B-16-102** is amended to read:

937 **53B-16-102. Changes in curriculum -- Substantial alterations in institutional**  
938 **operations -- Program approval -- Periodic review of programs -- Career and technical**  
939 **education curriculum changes.**

940 (1) As used in this section:

941 (a) "Institution of higher education" means an institution described in Section  
942 [53B-1-102](#).

943 (b) "Program of instruction" means a program of curriculum that leads to the  
944 completion of a degree, diploma, certificate, or other credential.

945 (2) Under procedures and policies approved by the board and developed in consultation  
946 with each institution of higher education, each institution of higher education may make such  
947 changes in the institution of higher education's curriculum as necessary to better effectuate the  
948 institution of higher education's primary role.

949 (3) The board shall establish criteria for whether an institution of higher education may  
950 approve a new program of instruction, including criteria related to whether:

951 (a) the program of instruction meets identified workforce needs;

952 (b) the institution of higher education is maximizing collaboration with other  
953 institutions of higher education to provide for efficiency in offering the program of instruction;

954 (c) the new program of instruction is within the institution of higher education's  
955 mission and role; and

956 (d) the new program of instruction meets other criteria determined by the board.

957 (4) (a) Except as provided in Subsection (4)(b), without the approval of the board, an

958 institution of higher education may not:

959 (i) establish a branch, extension center, college, or professional school; or

960 (ii) establish a new program of instruction.

961 (b) An institution of higher education may, with the approval of the institution of  
962 higher education's board of trustees, establish a new program of instruction that meets the  
963 criteria described in Subsection (3), subject to board review for pathway articulation.

964 (5) (a) An institution of higher education shall notify the board of a proposed new  
965 program of instruction, including how the proposed new program of instruction meets the  
966 criteria described in Subsection (3).

967 (b) The board shall establish procedures and guidelines for institutional boards of  
968 trustees to consider an institutional proposal for a new program of instruction described in  
969 Subsection (4)(b).

970 (6) (a) The board shall conduct a periodic review of all new programs of instruction,  
971 including those funded by gifts, grants, and contracts, no later than two years after the first  
972 cohort to begin the program of instruction completes the program of instruction.

973 (b) The board may conduct a periodic review of any program of instruction at an  
974 institution of higher education, including a program of instruction funded by a gift, grant, or  
975 contract.

976 (c) The board shall conduct:

977 (i) at least once every seven years, at least one review described in Subsection (6)(b) of  
978 each program of instruction at each institution; and

979 (ii) annually, a qualitative and quantitative review of academic disciplines across the  
980 system, including enrollment, graduation rates, and workforce placement, ensuring that the  
981 board conducts a review of all disciplines within the system at least once every seven years.

982 ~~[(c)]~~ (d) Following a review described in this Subsection (6) and after providing the  
983 relevant institution of higher education an opportunity to respond to the board's review of a  
984 given program of instruction, the board may ~~[recommend that the institution of higher~~  
985 ~~education]~~ modify, consolidate, or terminate the program of instruction.

986 ~~[(7)]~~ Prior to requiring modification or termination of a program, the board shall give  
987 ~~the institution of higher education adequate opportunity for a hearing before the board.]~~

988 ~~[(8)]~~ (7) In making decisions related to career and technical education curriculum



989 changes, the board shall coordinate on behalf of the boards of trustees of higher education  
 990 institutions a review of the proposed changes by the State Board of Education to ensure an  
 991 orderly and systematic career and technical education curriculum that eliminates overlap and  
 992 duplication of course work with high schools and technical colleges.

993 Section 19. Section **53B-16-105** is amended to read:

994 **53B-16-105. Common course numbering -- Transferability of credits --**

995 **Agreement with competency-based general education provider -- Policies.**

996 (1) As used in this section:

997 (a) (i) "Accredited institution" means an institution that:

998 (A) offers a competency-based postsecondary general education course online or in  
 999 person; and

1000 (B) is accredited by an organization that the United States Department of Education  
 1001 recognizes.

1002 ~~[(a)]~~ (b) "Articulation agreement" means an agreement between the board and a  
 1003 provider that allows a student to transfer credit awarded by the provider for a general education  
 1004 course to any institution of higher education.

1005 ~~[(b)]~~ (c) "Competency-based" means a system where a student advances to higher  
 1006 levels of learning when the student demonstrates competency of concepts and skills regardless  
 1007 of time, place, or pace.

1008 ~~[(c)]~~ (d) "Competency-based general education provider" or "provider" means a private  
 1009 institution that:

1010 (i) offers a postsecondary competency-based general education course online or in  
 1011 person;

1012 (ii) awards academic credit; and

1013 (iii) does not award degrees, including associates degrees or baccalaureate degrees.

1014 ~~[(d)]~~ (e) "Credit for prior learning" means the same as that term is defined in Section  
 1015 **53B-16-110.**

1016 ~~[(e)]~~ (f) "Institution of higher education" means an institution described in Section  
 1017 **53B-1-102.**

1018 ~~[(f) "Regionally accredited institution" means an institution that:]~~

1019 ~~[(i) offers a competency-based postsecondary general education course online or in~~

1020 ~~person; and]~~

1021 ~~[(ii) is accredited by a regional accrediting body recognized by the United States~~

1022 ~~Department of Education.]~~

1023 (2) The board shall:

1024 (a) facilitate articulation and the seamless transfer of courses, programs, and credit for  
1025 prior learning within the Utah ~~[system of higher education]~~ System of Higher Education;

1026 (b) provide for the efficient and effective progression and transfer of students within  
1027 the Utah ~~[system of higher education]~~ System of Higher Education;

1028 (c) avoid the unnecessary duplication of courses;

1029 (d) communicate ways in which a student may earn credit for prior learning; and

1030 (e) allow a student to proceed toward the student's educational objectives as rapidly as  
1031 the student's circumstances permit.

1032 (3) The board shall develop, coordinate, and maintain a transfer and articulation system  
1033 that:

1034 (a) maintains a course numbering system that assigns common numbers to specified  
1035 courses of similar level with similar curricular content, rigor, and standards;

1036 (b) allows a student to track courses that transfer among institutions of higher  
1037 education ~~[to meet requirements for general education and lower division courses that transfer~~  
1038 ~~to baccalaureate majors]~~;

1039 (c) allows a student to transfer courses from a provider with which the board has an  
1040 articulation agreement to any institution of higher education;

1041 (d) allows a student to transfer competency-based general education courses from [~~a~~  
1042 ~~regionally]~~ an accredited institution to an institution of higher education;

1043 (e) improves program planning;

1044 (f) increases communication and coordination between institutions of higher education;

1045 (g) facilitates student acceleration and the transfer of students and credits between  
1046 institutions of higher education; and

1047 (h) if the system includes a software or data tool:

1048 (i) provides predictive analysis that models probabilities of student success; and

1049 (ii) develops tailored strategies to best support students.

1050 (4) (a) The board shall identify general education courses in the humanities, social

1051 sciences, arts, physical sciences, and life sciences with uniform prefixes and common course  
1052 numbers.

1053 (b) A degree-granting institution shall annually identify institution courses that satisfy  
1054 requirements of courses described in Subsection (4)(a).

1055 (c) A degree-granting institution shall accept a course described in Subsection (3)(c),  
1056 (3)(d), or (4)(a) toward filling specific area requirements for general education or lower  
1057 division courses that transfer to baccalaureate majors.

1058 (5) (a) The board shall:

1059 (i) identify technical education programs with common names, descriptions, lengths,  
1060 and objectives; and

1061 (ii) within technical education programs, common course names, descriptions, length,  
1062 and objectives allowing for customization of electives to meet regional industry demand.

1063 (b) The commissioner shall appoint committees of faculty members from technical  
1064 education committees to recommend aligned programs and courses that will satisfy graduation  
1065 requirements.

1066 [~~(5)~~] (6) (a) The board shall identify common prerequisite courses and course  
1067 substitutions for degree programs across degree-granting institutions.

1068 (b) The commissioner shall appoint committees of faculty members from the  
1069 degree-granting institutions to recommend appropriate courses of similar content and  
1070 numbering that will satisfy requirements for lower division courses that transfer to  
1071 baccalaureate majors.

1072 (c) A degree-granting institution shall annually identify institution courses that satisfy  
1073 requirements of courses described in Subsection [~~(5)(a)~~] (6)(a).

1074 (d) A degree-granting institution shall accept a course described in Subsection (3)(c),  
1075 (3)(d), or [~~(5)(a)~~] (6)(a) toward filling graduation requirements.

1076 [~~(6)~~] (7) (a) (i) The board shall seek proposals from providers to enter into articulation  
1077 agreements.

1078 (ii) A proposal described in Subsection [~~(6)(a)(i)~~] (7)(a)(i) shall include the general  
1079 education courses that the provider intends to include in an articulation agreement.

1080 (b) The board shall:

1081 (i) evaluate each general education course included in a proposal described in

1082 Subsection [~~(6)(a)~~] (7)(a) to determine whether the course is equally rigorous and includes the  
1083 same subject matter as the equivalent course offered by any institution of higher education; and

1084 (ii) if the board determines that a course included in a provider's proposal is equally  
1085 rigorous and includes the same subject matter as the equivalent course offered by any  
1086 institution of higher education, enter into an articulation agreement with the provider.

1087 [~~(7)~~] (8) The board shall establish policies to administer the policies and requirements  
1088 described in this section.

1089 [~~(8)~~] (9) The board shall include information demonstrating that institutions of higher  
1090 education are complying with the provisions of this section and the policies established in  
1091 accordance with Subsection [~~(7)~~] (8) in the annual report described in Section [53B-1-402](#).

1092 Section 20. Section **53B-20-101** is amended to read:

1093 **53B-20-101. Property of institutions to vest in state board.**

1094 The State Board of [~~Regents~~] Higher Education is the successor to, and vested with, all  
1095 the powers and authority relating to all properties, real and personal, tangible and intangible,  
1096 and to the control and management of the property which was held by the governing board of  
1097 each institution prior to the creation of the board.

1098 Section 21. Section **67-1-12** is amended to read:

1099 **67-1-12. Displaced defense workers.**

1100 (1) The governor, through the Department of Workforce Services, may use funds  
1101 specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection  
1102 (2):

1103 (a) Department of Defense employees within the state who lose their employment  
1104 because of reductions in defense spending by the federal government;

1105 (b) persons dismissed by a defense-related industry employer because of reductions in  
1106 federal government defense contracts received by the employer; and

1107 (c) defense-related businesses in the state that have been severely and adversely  
1108 impacted because of reductions in defense spending.

1109 (2) Funds appropriated under this section before fiscal year 1999-2000 but not  
1110 expended shall remain with the agency that possesses the funds and shall be used in a manner  
1111 consistent with this section. Any amount appropriated under this section in fiscal year  
1112 1999-2000 or thereafter may be used to:

- 1113 (a) provide matching or enhancement funds for grants, loans, or other assistance  
1114 received by the state from the United States Department of Labor, Department of Defense, or  
1115 other federal agency to assist in retraining, community assistance, or technology transfer  
1116 activities;
- 1117 (b) fund or match available private or public funds from the state or local level to be  
1118 used for retraining, community assistance, technology transfer, or educational projects  
1119 coordinated by state or federal agencies;
- 1120 (c) provide for retraining, upgraded services, and programs at technical colleges, public  
1121 schools, higher education institutions, or any other appropriate public or private entity that are  
1122 designed to teach specific job skills requested by a private employer in the state or required for  
1123 occupations that are in demand in the state;
- 1124 (d) aid public or private entities that provide assistance in locating new employment;
- 1125 (e) inform the public of assistance programs available for persons who have lost their  
1126 employment;
- 1127 (f) increase funding for assistance and retraining programs;
- 1128 (g) provide assistance for small start-up companies owned or operated by persons who  
1129 have lost their employment;
- 1130 (h) enhance the implementation of dual-use technologies programs, community  
1131 adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and
- 1132 (i) coordinate local and national resources to protect and enhance current Utah defense  
1133 installations and related operations and to facilitate conversion or enhancement efforts by:
- 1134 (i) creating and operating state information clearinghouse operations that monitor  
1135 relevant activities on the federal, state, and local level;
- 1136 (ii) identifying, seeking, and matching funds from federal and other public agencies  
1137 and private donors;
- 1138 (iii) identifying and coordinating needs in different geographic areas;
- 1139 (iv) coordinating training and retraining centers;
- 1140 (v) coordinating technology transfer efforts between public entities, private entities,  
1141 and institutions of higher education;
- 1142 (vi) facilitating the development of local and national awareness and support for Utah  
1143 defense installations;

1144 (vii) studying the creation of strategic alliances, tax incentives, and relocation and  
1145 consolidation assistance; and

1146 (viii) exploring feasible alternative uses for the physical and human resources at  
1147 defense installations and in related industries should reductions in mission occur.

1148 (3) The governor, through the Department of Workforce Services, may coordinate and  
1149 administer the expenditure of money under this section and collaborate with [~~applied~~  
1150 ~~technology centers, public~~] institutions of higher [~~learning~~] education, or other appropriate  
1151 public or private entities to provide retraining and other services described in Subsection (2).

1152 Section 22. **Repealer.**

1153 This bill repeals:

1154 Section **53B-1-406, Nominating committee.**

1155 Section **53B-1-502, Transition of Utah System of Technical Colleges to Utah Board**  
1156 **of Higher Education -- Recommendations.**

1157 Section **53B-6-106, Jobs Now and economic development initiatives.**

1158 Section 23. **Revisor instructions.**

1159 The Legislature intends that the Office of Legislative Research and General Counsel, in  
1160 preparing the Utah Code database for publication, replace the reference in Section [53B-1-404](#)  
1161 from "the effective date of this bill" to the bill's actual effective date.