

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

Higher Education Performance Funding

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LONG TITLE

General Description:

This bill amends and enacts provisions related to performance funding for higher education institutions and applied technology colleges.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the powers and duties of the Utah College of Applied Technology Board of Trustees to include responsibilities related to a performance funding model;
- ▶ creates a restricted account;
- ▶ requires that, up to a limit, certain income tax revenue be deposited in a restricted account;
- ▶ restricts the use of funding in a restricted account to performance funding for higher education institutions and applied technology colleges;
- ▶ directs the Legislature to appropriate money in a restricted account to higher education institutions and applied technology colleges based on performance;
- ▶ requires the State Board of Regents and the Utah College Applied Technology Board of Trustees to:
 - develop models for measuring the performance of higher education institutions and applied technology colleges; and
 - report annually to the Higher Education Appropriations Subcommittee on the performance of higher education institutions and applied technology colleges; and
- ▶ provides non-lapsing authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

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32 None

33 List of sections affected:

34 AMENDS:

35 53B-2a-104

36 53B-7-101

37 63J-1-602.3

38

39 ENACTS:

40 53B-7-701

41 53B-7-702

42 53B-7-703

43 53B-7-704

44 53B-7-705

45 53B-7-705

46 53B-7-706

47 53B-7-707

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49 Statutory text:

50 **53B-2a-104. Utah College of Applied Technology Board of Trustees -- Powers and**
51 **duties.**

52 (1) The Utah College of Applied Technology Board of Trustees is vested with the control,
53 management, and supervision of applied technology colleges within the Utah College
54 of Applied Technology in a manner consistent with the policy and purpose of this title
55 and the specific powers and responsibilities granted to the board of trustees.

56 (2) The board of trustees shall:

57 (a) ensure that an applied technology college complies with the requirements in
58 Section 53B-2a-106;

59 (b) appoint the commissioner of technical education in accordance with Section
60 53B-2a-102;

61 (c) advise the commissioner of technical education and the State Board of
62 Regents on issues related to career and technical education, including
63 articulation with institutions of higher education and public education;

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- 64 (d) ensure that a secondary student in the public education system has access to
65 career and technical education through an applied technology college in the
66 secondary student's service region;
- 67 (e) in consultation with the State Board of Education, the State Board of Regents,
68 and applied technology college presidents, develop strategies for providing
69 career and technical education in rural areas, considering distances between
70 rural career and technical education providers;
- 71 (f) receive budget requests from each applied technology college, compile and
72 prioritize the requests, and submit the request to:
- 73 (i) the Legislature; and
74 (ii) the Governor's Office of Management and Budget;
- 75 (g) receive funding requests pertaining to capital facilities and land purchases from
76 each applied technology college, ensure that the requests comply with Section
77 53B-2a-112, prioritize the requests, and submit the prioritized requests to the
78 State Building Board;
- 79 (h) in accordance with Chapter 7, Part 7, Performance Funding:
- 80 (i) develop a formula for performance funding; and
- 81 (ii) report to the Higher Education Appropriations Subcommittee annually;
- 82 ~~(h)~~ (i) in conjunction with the commissioner of technical education, establish benchmarks,
83 provide oversight, evaluate program performance, and obtain independent audits to ensure
84 that an applied technology college follows the non-credit career and technical education
85 mission described in this part;
- 86 ~~(i)~~ (j) approve programs for the Utah College of Applied Technology;
- 87 ~~(j)~~ (k) approve the tuition rates for applied technology colleges within the Utah College of
88 Applied Technology;
- 89 ~~(k)~~ (l) prepare and submit an annual report detailing the board of trustees' progress and
90 recommendations on career and technical education issues to the governor and to the
91 Legislature's Education Interim Committee by October 31 of each year, which shall include
92 information detailing:
- 93 (i) how the career and technical education needs of secondary students are
94 being met, including what access secondary students have to programs
95 offered at applied technology colleges;

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96 (ii) how the emphasis on high demand, high wage, and high skill jobs in
97 business and industry described in Section 53B-2a-106 is being
98 provided;

99 (iii) performance outcomes, including:

100 ~~[(A)entered employment;~~

101 ~~_____ (B) job retention]~~ (A) performance on the metrics described in
102 Section 53B-7-707; and

103 ~~[(G)]~~ (B) earnings; and

104 (iv) student tuition and fees; and

105 ~~[(f)]~~ (m) collaborate with the State Board of Regents, the State Board of Education, the state
106 system of public education, the state system of higher education, the Department of
107 Workforce Services, and the Governor's Office of Economic Development on the delivery of
108 career and technical education.

109 (3) The board of trustees, the commissioner of technical education, or an applied
110 technology college, president, or board of directors may not conduct a feasibility study
111 or perform another act relating to offering a degree or awarding credit.

112

113 **53B-7-101. Combined requests for appropriations -- Board review of operating**
114 **budgets -- Submission of budgets -- Recommendations -- Hearing request --**
115 **Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

116 (1) As used in this section:

117 (a) (i) "Higher education institution" or "institution" means an institution of
118 higher education listed in Section 53B-1-102.

119 (ii) "Higher education institution" or "institution" does not include the Utah
120 College of Applied Technology.

121 (b) "Research university" means the University of Utah or Utah State University.

122 (2) (a) The board shall recommend a combined appropriation for the operating
123 budgets of higher education institutions for inclusion in a state appropriations
124 act.

125 (b) The board's combined budget recommendation shall include:

126 (i) employee compensation;

127 (ii) mandatory costs, including building operations and maintenance, fuel,

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128 and power;

129 ~~[(iii)mission based funding described in Subsection (3);]~~

130 ~~[(iv)]~~ (iii) performance funding described in ~~[Subsection (4)]~~ Part 7, Performance Funding;

131 ~~[(v)]~~ (iv) statewide and institutional priorities, including scholarships, financial aid, and

132 technology infrastructure; and

133 ~~[(vi)]~~ (v) ~~[unfunded historic]~~ enrollment growth.

134 (c) The board's recommendations shall be available for presentation to the
135 governor and to the Legislature at least 30 days prior to the convening of the
136 Legislature, and shall include schedules showing the recommended amounts
137 for each institution, including separately funded programs or divisions.

138 (d) The recommended appropriations shall be determined by the board only after it
139 has reviewed the proposed institutional operating budgets, and has consulted
140 with the various institutions and board staff in order to make appropriate
141 adjustments.

142 ~~[(3)(a)The board shall establish mission based funding:~~

143 ~~—— (b) Mission based funding shall include:~~

144 ~~—— (i) enrollment growth; and~~

145 ~~—— (ii) up to three strategic priorities.~~

146 ~~—— (c) The strategic priorities described in Subsection (3)(b)(ii) shall be:~~

147 ~~—— (i) approved by the board; and~~

148 ~~—— (ii) designed to improve the availability, effectiveness, or quality of higher
149 education in the state.~~

150 ~~—— (d) Concurrent with recommending mission based funding, the board shall also
151 recommend to the Legislature ways to address funding any inequities for
152 institutions as compared to institutions with similar missions.]~~

153 ~~[(4)(a)The board shall establish performance funding:~~

154 ~~—— (b) Performance funding shall include metrics approved by the board, including:~~

155 ~~—— (i) degrees and certificates granted;~~

156 ~~—— (ii) services provided to traditionally underserved populations;~~

157 ~~—— (iii) responsiveness to workforce needs;~~

158 ~~—— (iv) institutional efficiency; and~~

159 ~~—— (v) for a research university, graduate research metrics.~~

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160 ~~(c) The board shall:~~

161 ~~(i) award performance funding appropriated by the Legislature to~~
162 ~~institutions based on the institution's success in meeting the metrics~~
163 ~~described in Subsection (4)(b); and~~

164 ~~(ii) reallocate funding that is not awarded to an institution under Subsection~~
165 ~~(4)(c)(i) for distribution to other institutions that meet the metrics~~
166 ~~described in Subsection (4)(b).]~~

167 [(5)] (3)(a) Institutional operating budgets shall be submitted to the board at least 90 days
168 prior to the convening of the Legislature in accordance with procedures established by the
169 board.

170 (b) Funding requests pertaining to capital facilities and land purchases shall be
171 submitted in accordance with procedures prescribed by the State Building
172 Board.

173 [(6)] (4)(a) The budget recommendations of the board shall be accompanied by full
174 explanations and supporting data.

175 (b) The appropriations recommended by the board shall be made with the dual
176 objective of:

177 (i) justifying for higher educational institutions appropriations consistent with
178 their needs, and consistent with the financial ability of the state; and

179 (ii) determining an equitable distribution of funds among the respective
180 institutions in accordance with the aims and objectives of the statewide
181 master plan for higher education.

182 [(7)] (5)(a) The board shall request a hearing with the governor on the recommended
183 appropriations.

184 (b) After the governor delivers his budget message to the Legislature, the board
185 shall request hearings on the recommended appropriations with the appropriate
186 committees of the Legislature.

187 (c) If either the total amount of the state appropriations or its allocation among the
188 institutions as proposed by the Legislature or its committees is substantially
189 different from the recommendations of the board, the board may request further
190 hearings with the Legislature or its appropriate committees to reconsider both
191 the total amount and the allocation.

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192 ~~[(8)]~~ (6) The board may devise, establish, periodically review, and revise formulas for its use
193 and for the use of the governor and the committees of the Legislature in making
194 appropriation recommendations.

195 ~~[(9)]~~ (7)(a)The board shall recommend to each session of the Legislature the minimum
196 tuitions, resident and nonresident, for each institution which it considers necessary to
197 implement the budget recommendations.

198 (b) The board may fix the tuition, fees, and charges for each institution at levels it
199 finds necessary to meet budget requirements.

200 ~~[(10)]~~ (8) ~~[(a)]~~Money allocated to each institution by legislative appropriation may be
201 budgeted in accordance with institutional work programs approved by the board, provided
202 that the expenditures funded by appropriations for each institution are kept within the
203 appropriations for the applicable period.

204 ~~[(b)A president of an institution shall:~~

205 ~~————— (i) ——— establish initiatives for the president's institution each year that are:~~

206 ~~————— (A) ——— aligned with the strategic priorities described in Subsection (3);~~
207 ~~and~~

208 ~~————— (B) ——— consistent with the institution's mission and role; and~~

209 ~~————— (ii) ——— allocate the institution's mission-based funding to the initiatives.]~~

210 ~~[(11)]~~ (9) The dedicated credits, including revenues derived from tuitions, fees, federal
211 grants, and proceeds from sales received by the institutions are appropriated to the
212 respective institutions and used in accordance with institutional work programs.

213 ~~[(12)]~~ (10) Each institution may do its own purchasing, issue its own payrolls, and handle its
214 own financial affairs under the general supervision of the board.

215 ~~[(13)]~~ (11) ~~[(a)]~~If the Legislature appropriates money in accordance with this section, it shall
216 be distributed to the board and higher education institutions to fund the items described in
217 Subsection (2)(b).

218 ~~[(b)During each general session of the Legislature following a fiscal year in which the~~
219 ~~Legislature provides an appropriation for mission-based funding or performance funding, the~~
220 ~~board and institutions shall report to the Legislature's Higher Education Appropriations~~
221 ~~Subcommittee on the use of the previous year's mission-based funding and performance~~
222 ~~funding, including performance outcomes relating to the strategic initiatives approved by the~~
223 ~~board.]~~

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224 **53B-7-701 Title.**

225 This part is known as "Performance Funding".

226

227 **53B-7-702 Definitions.**

228 As used in this part:

229 (1) "Account" means the Performance Funding Restricted Account created in Section
230 53B-7-703.

231 (2) "Applied technology college" means the same as that term is defined in Section
232 53B-2a-101.

233 (3) "Full performance funding amount" means the maximum amount of performance
234 funding that a higher education institution or applied technology college may qualify for
235 in a fiscal year, which is determined by the Legislature in accordance with Section
236 53B-7-705.

237 (4) "GOED" means the Governor's Office of Economic Development created in Section
238 63N-1-201.

239 (5) "Higher education institution" means the same as that term is defined in Section
240 53B-7-101.

241 (6) "Job" means a detailed occupation described in the Standard Occupational
242 Classification System maintained by the Bureau of Labor Statistics.

243 (7) "Membership hour" means 60 minutes of scheduled instruction provided by an applied
244 technology college to a student enrolled in the applied technology college.

245 (8) "Performance" means total performance across the metrics described in:

246 (a) Section 53B-7-706 for a higher education institution; or

247 (b) Section 53B-7-707 for an applied technology college.

248 (9) "Targeted job" means a job:

249 (a) designated by the Department of Workforce Services or GOED in accordance
250 with Section 53B-7-704; and

251 (b) for which a portion of the annual growth in personal income tax revenue
252 generated by the job is deposited into the account in accordance with Section
253 53B-7-703.

254 (10) "UCAT" means the Utah College of Applied Technology described in Chapter 2a, Utah
255 College of Applied Technology.

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256 **53B-7-703 Higher Education Performance Funding Restricted Account -- Creation--** 257 **Deposits into account.**

258 (1) There is created within the Education Fund a restricted account known as the
259 Performance Funding Restricted Account.

260 (2) Money in the account shall be:

261 (a) used for performance funding for:

262 (i) higher education institutions; and

263 (ii) applied technology colleges; and

264 (b) appropriated by the Legislature in accordance with Section 53B-7-705.

265 (3) (a) Money in the account shall earn interest.

266 (b) All interest earned on account money shall be deposited into the account.

267 (4) (a) For a fiscal year beginning on or after July 1, 2017, the Department of Finance
268 shall deposit individual income tax revenue into the account in accordance with
269 Subsection (4)(b).

270 (b) Up to the limit described in Subsection (4)(c), the funding deposited into the
271 account under Subsection (4)(a) is determined by:

272 (i) calculating the growth in revenue from targeted jobs by comparing
273 revenue generated by targeted jobs in the current year to a three year rolling average of
274 revenue generated by targeted jobs; and

275 (ii) multiplying the amount of money described in Subsection (4)(b)(i) by
276 X%.

277 (c) The amount of money described in Subsection (4)(b) combined with the
278 appropriation for performance funding for the current fiscal year may not
279 exceed 10% of the combined state funded appropriations for the Utah System
280 of Higher Education and the Utah College of Applied Technology in the current
281 fiscal year.

282 (5) Money in the account is non-lapsing.

283 **53B-7-704 Designation of targeted jobs.**

284 (1) The Department of Workforce Services shall designate targeted jobs.

285 (2) The Department of Workforce Services may only designate a job as a targeted job if

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- 286 the job:
- 287 (a) has a base employment level of 100 individuals;
- 288 (b) ranks in the top 20% of jobs for:
- 289 (i) outlook based on;
- 290 (A) projected number of openings; and
- 291 (B) projected rate of growth;
- 292 (c) ranks in the top 20% of jobs for median annual wage; and
- 293 (d) requires post-secondary training.
- 294 (3) The Department of Workforce services shall designate targeted jobs for each even
- 295 numbered fiscal year.
- 296 (4) (a) In addition to the targeted jobs described in Subsection (2), GOED may
- 297 designate a job that has significant industry importance as a targeted job.
- 298 (b) In identifying the a job described in Subsection (4)(a), GOED shall consult with
- 299 the Department of Workforce Services and industry representatives.
- 300

301 **53B-7-705 Determination of maximum performance funding amount -- Appropriations**

302 **from Performance Funding Restricted Account.**

- 303 (1) In accordance with this section, and based on money deposited into the account, the
- 304 Legislature shall, as part of the higher education appropriations budget, annually
- 305 determine the full performance funding amount for each:
- 306 (a) higher education institution; and
- 307 (b) applied technology college.
- 308 (2) The Legislature shall annually allocate:
- 309 (a) 90% of the money in the account to higher education institutions; and
- 310 (b) 10% of the money in the account to applied technology colleges.
- 311 (3) (a) The Legislature shall determine a higher education institution's full performance
- 312 funding amount based on the higher education institution's prior year share of:
- 313 (i) full time equivalent enrollment in all higher education institutions;
- 314 and
- 315 (ii) the total appropriated budget for all higher education institutions.
- 316 (b) In determining a higher education institution's full performance funding amount,

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- 317 the Legislature shall weight the factors described in Subsections (3)(a)(ii) and
318 (ii) equally.
- 319 (4) (a) The Legislature shall determine an applied technology college's full
320 performance funding amount based on the applied technology college's prior
321 year share of:
- 322 (i) membership hours for all applied technology colleges; and
323 (ii) the total appropriated budget for all applied technology colleges.
- 324 (b) In determining an applied technology college's full performance funding
325 amount, the Legislature shall weight the factors described in Subsections
326 (4)(a)(i) and(ii) equally.
- 327 (5) Annually, at least 30 days prior to the commencement of the legislative general
328 session:
- 329 (a) the board shall submit a report to the Higher Education Appropriations
330 Subcommittee on each higher education institution's:
331 performance, as described in Subsection 53B-7-706(3).
- 332 (b) the UCAT Board of Trustees shall submit a report to the Higher Education
333 Appropriations Subcommittee on each applied technology college's
334 performance, as described in Subsection 53B-7-707(3):
- 335 (6) (a) In accordance with this Subsection (6), and based on the report described in
336 Subsection (5), the Legislature shall determine for each higher education
337 institution or applied technology college:
- 338 (i) the portion of the full performance funding amount earned; and
339 (ii) the amount of performance funding to appropriate.
- 340 (b) (i) A higher education institution that has a positive change in the higher
341 education institution's performance of at least X% over the higher
342 education institution's average performance over the previous five years
343 earns the full performance funding amount.
- 344 (ii) An applied technology college that has a positive change in the applied
345 technology college's performance of at least X% over the applied
346 technology college's average performance over previous five years
347 earns the full performance funding amount.
- 348 (c) A higher education institution or applied technology college that has a positive

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349 change in performance that is less than a change described in Subsection
350 (6)(b) is eligible to receive a prorated amount of performance funding.

351 (d) A higher education institution or applied technology college that has a negative
352 change, or no change, in performance is not eligible to receive performance
353 funding.

354 (7) The Legislature shall appropriate performance funding to each higher education
355 institution and applied technology college on an on-going basis.

356 **53B-7-706 Performance metrics for higher education institutions-- Determination of** 357 **performance.**

358 (1) The board shall establish a model for determining a higher education institution's
359 performance.

360 (2) (a) The model described in Subsection (1) shall include metrics including:

361 (i) completion, measured by degrees and certificates awarded;

362 (ii) services for underserved students, measured by:

363 (A) the number of students receiving federal need-based grant

364 assistance; or

365 (B) a metric determined by the board;

366 (iii) responsiveness to workforce needs, measured by degrees and

367 certificates awarded in high market demand fields;

368 (iv) institutional efficiency, measured by degrees or certificates awarded per
369 full time equivalent student; and

370 (v) for a research university, research, measured by total research
371 expenditures.

372 (b) The board shall determine the relative weights of the metrics described in
373 Subsection (2)(a).

374 (3) For each higher education institution, the board shall annually determine the higher
375 education institution's:

376 (a) performance; and

377 (b) change in performance compared to the higher education institution's average
378 performance over the previous five years.

379 **53B-7-707 Performance metrics for applied technology colleges-- Determination of**

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380 **performance.**

381 (1) The UCAT Board of Trustees shall establish a model for determining an applied
382 technology college's performance.

383 (2) (a) The model described in Subsection (1) shall include metrics including:

384 (i) completions, measured by certificates awarded;

385 (ii) continuing occupational education, measured by completions of
386 continuing occupational education certificates;

387 (iii) secondary completion, measured by:

388 (A) certificates awarded to secondary students; and

389 (B) retention of certificate seeking secondary students; and

390 (iv) placements, measured by:

391 (A) total placements in related employment, military service, or
392 continuing education;

393 (B) placements for underserved students; and

394 (C) placements from high impact programs.

395 (b) The UCAT Board of Trustees shall determine the relative weights of the metrics
396 described in Subsection (2)(a).

397 (3) For each applied technology college, the UCAT Board of Trustees shall annually
398 determine the applied technology college's:

399 (a) performance; and

400 (b) change in performance compared to the applied technology college's average
401 performance over the previous five years.

402 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

403 (1) The Utah Law Enforcement Memorial Support Restricted Account created in Section
404 53-1-120.

405 (2) Funding for the Search and Rescue Financial Assistance Program, as provided in
406 Section 53-2a-1102.

407 (3) Appropriations made to the Division of Emergency Management from the State
408 Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

409 (4) Appropriations made to the Department of Public Safety from the Department of
410 Public Safety Restricted Account, as provided in Section 53-3-106.

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- 411 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section
412 53-3-905.
- 413 (6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created
414 in Section 53-8-303.
- 415 (7) Appropriations from the DNA Specimen Restricted Account created in Section
416 53-10-407.
- 417 (8) The Canine Body Armor Restricted Account created in Section 53-16-201.
- 418 (9) The School Readiness Restricted Account created in Section 53A-1b-104.
- 419 (10) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.
- 420 (11) Money received by the Utah State Office of Rehabilitation for the sale of certain
421 products or services, as provided in Section 35A-13-202.
- 422 (12) Certain funds appropriated from the General Fund to the State Board of Regents for
423 teacher preparation programs, as provided in Section 53B-6-104.
- 424 (13) The Performance Funding Restricted Account created in Section 53B-7-703.
- 425 ~~(13)~~ (14) Funding for the Medical Education Program administered by the Medical
426 Education Council, as provided in Section 53B-24-202.
- 427 ~~(14)~~ (15) A certain portion of money collected for administrative costs under the School
428 Institutional Trust Lands Management Act, as provided under Section
429 53C-3-202.
- 430 ~~(15)~~ (16) Certain surcharges on residential and business telephone numbers imposed by
431 the Public Service Commission, as provided in Section 54-8b-10.
- 432 ~~(16)~~ (17) Certain fines collected by the Division of Occupational and Professional
433 Licensing for violation of unlawful or unprofessional conduct that are used for
434 education and enforcement purposes, as provided in Section 58-17b-505.
- 435 ~~(17)~~ (18) Certain fines collected by the Division of Occupational and Professional
436 Licensing for use in education and enforcement of the Security Personnel
437 Licensing Act, as provided in Section 58-63-103.
- 438 ~~(18)~~ (19) Appropriations from the Relative Value Study Restricted Account created in
439 Section 59-9-105.
- 440 ~~(19)~~ (20) The Cigarette Tax Restricted Account created in Section 59-14-204.