

Chapter 1
Governance, Powers, Rights, and Responsibilities

Part 1
General Provision

53B-1-101.5 Definitions.

As used in this title:

- (1)
 - (a) "Academic education" means an educational program that is offered by a degree-granting institution.
 - (b) "Academic education" does not include technical education.
- (2) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.
- (3) "Career and technical education" means an educational program that:
 - (a) is designed to meet industry needs;
 - (b) leads to:
 - (i) a certificate; or
 - (ii) a degree; and
 - (c) may qualify for funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. 2301 et seq.
- (4) "Commissioner" means the commissioner of higher education appointed in accordance with Section 53B-1-408.
- (5) "Degree-granting institution of higher education" or "degree-granting institution" means an institution of higher education described in Subsection 53B-1-102(1)(a).
- (6) "Institution board of trustees" means:
 - (a) an institution of higher education board of trustees described in Section 53B-2-103; or
 - (b) a technical college board of trustees described in Section 53B-2a-108.
- (7) "Technical college" means an institution of higher education described in Subsection 53B-1-102(1)(b).
- (8)
 - (a) "Technical education" means career and technical education that:
 - (i) leads to a certificate; or
 - (ii) is short-term training.
 - (b) "Technical education" does not include general education.

Amended by Chapter 254, 2023 General Session

53B-1-101.8 Health insurance mandates.

An institution of higher education shall include in a health plan it offers to its employees insurance mandates in accordance with Section 31A-22-605.5.

Enacted by Chapter 127, 2012 General Session

53B-1-102 Utah system of higher education.

- (1) The Utah system of higher education consists of the following institutions:
 - (a) degree-granting institutions, which are:
 - (i) the University of Utah;

- (ii) Utah State University;
 - (iii) Weber State University;
 - (iv) Southern Utah University;
 - (v) Snow College;
 - (vi) Utah Tech University;
 - (vii) Utah Valley University; and
 - (viii) Salt Lake Community College;
- (b) technical colleges, which are:
- (i) Bridgerland Technical College;
 - (ii) Davis Technical College;
 - (iii) Dixie Technical College;
 - (iv) Mountainland Technical College;
 - (v) Ogden-Weber Technical College;
 - (vi) Southwest Technical College;
 - (vii) Tooele Technical College; and
 - (viii) Uintah Basin Technical College;
- (c) the Utah Board of Higher Education; and
- (d) other public post-high school educational institutions as the Legislature may designate.
- (2) A change in the name of an institution within the Utah system of higher education is not a change in the role or mission of the institution, unless otherwise authorized by the board.
- (3) It is not the intent of the Legislature to increase the number of research universities in the state beyond the University of Utah and Utah State University.
- (4) An institution or board described in Subsection (1) is empowered to sue and be sued and to contract and be contracted with.

Amended by Chapter 1, 2021 Special Session 2

53B-1-108 Board succeeds to rights and duties of predecessor board and council.

The board is the successor to and is vested with all rights, duties, obligations, and liabilities to which its predecessor governing boards and the Coordinating Council of Higher Education were subject, except as otherwise provided by law.

Enacted by Chapter 167, 1987 General Session

53B-1-109 Coordination of higher education and public education information technology systems -- Use of unique student identifier.

- (1) As used in this section:
- (a) "Center" means the Utah Data Research Center created in Section 53B-33-201.
 - (b) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.
 - (c) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.
- (2) The board and State Board of Education, in collaboration with the center, shall:
- (a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53E-4-308; and
 - (b) coordinate access to the unique student identifier of a public education student who later attends an institution of higher education.

- (3) Information technology systems used at an institution of higher education shall use the unique student identifier of all students who have previously been assigned a unique student identifier.

Amended by Chapter 461, 2022 General Session

53B-1-110 Criminal background checks of prospective and existing employees of higher education institutions -- Board to adopt policy.

- (1) As used in this section:
 - (a) "Institution" means an institution listed in Section 53B-1-102.
 - (b) "Minor" means a person younger than 21 years of age.
- (2) The board shall adopt a policy providing for criminal background checks of:
 - (a) prospective employees of institutions; and
 - (b) existing employees of institutions, where reasonable cause exists.
- (3)
 - (a) The policy shall require that:
 - (i) an applicant for any position that involves significant contact with minors or any position considered to be security sensitive by the board or its designee shall submit to a criminal background check as a condition of employment; and
 - (ii) an existing employee submit to a criminal background check, where reasonable cause exists.
 - (b) Subsection (3)(a)(i) does not apply to adjunct faculty positions.
 - (c) The policy may allow or require applicants for positions other than those described in Subsection (3)(a)(i) to submit to a criminal background check as a condition of employment.
 - (d) The policy may allow criminal background checks for new employees to be phased in over a two-year period.
- (4) The applicant or employee shall receive written notice that the background check has been requested.
- (5) Each applicant or employee subject to a criminal background check under this section shall, if required by the institution:
 - (a) be fingerprinted; and
 - (b) consent to a fingerprint background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (6)
 - (a) Institutions may request the Utah Bureau of Criminal Identification to conduct criminal background checks of prospective employees and, where reasonable cause exists, existing employees pursuant to board policy.
 - (b) At the request of an institution, the Utah Bureau of Criminal Identification shall:
 - (i) release the individual's full record of criminal convictions to the administrator requesting the information; and
 - (ii) seek additional information from regional or national criminal data files in responding to inquiries under this section.
 - (c) Information received by the Utah Bureau of Criminal Identification from entities other than agencies or political subdivisions of the state may not be released to a private entity unless the release is permissible under applicable laws or regulations of the entity providing the information.

- (d) Except as provided in Subsection (7), the institution shall pay the cost of background checks conducted by the Utah Bureau of Criminal Identification, and the money collected shall be credited to the Utah Bureau of Criminal Identification to offset its expenses.
- (7) The board may by policy require an applicant to pay the costs of a criminal background check as a condition of employment.
- (8) The applicant or employee shall have an opportunity to respond to any information received as a result of the criminal background check.
- (9) If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons under procedures established by the board in policy.

Enacted by Chapter 248, 2007 General Session

53B-1-111 Organ donation notification.

- (1) As used in this section:
 - (a) "Donor" means the same as that term is defined in Section 26B-4-137.
 - (b) "Donor registry" means the same as that term is defined in Section 26B-4-137.
 - (c) "Institution of higher education" means an institution as described in Section 53B-3-102.
- (2)
 - (a) An institution of higher education shall distribute, twice each academic year to each enrolled student:
 - (i) an electronic message notifying each student of the option to register as a donor by selecting the Internet link described in Subsection (2)(a)(ii); and
 - (ii) through the electronic message described in Subsection (2)(a)(i) an Internet link to a website for a donor registry established under Section 26B-8-319.
 - (b) An institution of higher education may also provide to students information on donor registry by other electronic, printed, or in-person means.

Amended by Chapter 328, 2023 General Session

53B-1-112 Disclosure requirements for institution programs.

- (1) As used in this section:
 - (a) "Department" means the Department of Workforce Services.
 - (b) "Institution" means an institution of higher education described in Section 53B-1-102.
 - (c) "Job placement data" means information collected by the board, and based on information from the department, that reflects the job placement rate and industry employment information for a student who graduates from a program.
- (d)
 - (i) "Program" means a program of organized instruction or study at an institution that leads to:
 - (A) an academic degree;
 - (B) a professional degree;
 - (C) a vocational degree;
 - (D) a certificate of one year or greater or the direct assessment equivalent; or
 - (E) another recognized educational credential.
 - (ii) "Program" includes instruction or study that, in lieu of time as a measurement for student learning, utilizes direct assessment of student learning, or recognizes the direct assessment

of student learning by others, if the assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment.

- (e) "Student loan information" means the percentage of students at an institution who:
 - (i) received a Title IV loan authorized under:
 - (A) the Federal Perkins Loan Program;
 - (B) the Federal Family Education Loan Program; or
 - (C) the William D. Ford Direct Loan Program; and
 - (ii) fail to pay a loan described in Subsection (1)(e)(i)(A), (B), or (C).
 - (f) "Total costs" means:
 - (i) the estimated costs a student would incur while completing a program, including:
 - (A) tuition and fees; and
 - (B) books, supplies, and equipment; and
 - (ii) calculated based on a student's degree, the institution's average costs that would be incurred while a student completes a program and are subsidized by taxpayer contribution, including:
 - (A) tuition and fees; and
 - (B) other applicable expenses subsidized by taxpayer contribution for program completion.
 - (g) "Wage data" means information collected by the board, and based on information from the department, that reflects a student's wage the first year and fifth year after a student has successfully completed a program.
- (2)
- (a) Except as provided in Subsection (4), for each program listed in an institution's course catalog or each program otherwise offered by the institution, the institution shall provide a conspicuous and direct link on the institution's website, subject to Subsection (2)(b), to the following information maintained by the board in accordance with Subsection (3):
 - (i) job placement data;
 - (ii) to the extent supporting data is available, student loan information;
 - (iii) total costs; and
 - (iv) wage data.
 - (b) An institution shall include the information described in Subsection (2)(a) on each institutional website that includes academic, cost, financial aid, or admissions information for a program.
- (3) The board or the board's designee shall:
- (a) collect the information described in Subsection (2)(a);
 - (b) develop through user testing a format for the display of information described in Subsection (2)(a) that is easily accessible and informative; and
 - (c) maintain the information described in Subsection (2)(a) so that it is current.
- (4) An institution is not subject to Subsection (2) for a program that the institution is required to report on under 34 C.F.R. Sec. 668.412.
- (5) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the implementation and administration of this section.

Amended by Chapter 187, 2021 General Session

53B-1-113 Education loan notifications.

- (1) As used in this section:
 - (a) "Borrower" means:
 - (i) an individual enrolled in an eligible postsecondary institution who receives an education loan;
 - or

- (ii) an individual, including a parent or legal guardian, who receives an education loan to fund education expenses of an individual enrolled in an eligible postsecondary institution.
- (b) "Education loan" means a loan made to a borrower that is:
 - (i) made directly by a federal or state program; or
 - (ii) insured or guaranteed under a federal or state program.
- (c) "Eligible postsecondary institution" means a public or private postsecondary institution that:
 - (i) is located in Utah; and
 - (ii) participates in federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.
- (2) Annually, on or before July 1, an eligible postsecondary institution that receives information about a borrower's education loan shall:
 - (a) notify the borrower that the borrower has an education loan;
 - (b) direct the borrower to the National Student Loan Data System described in 20 U.S.C. Sec. 1092b to receive information about the borrower's education loan; and
 - (c) provide the borrower information on how the borrower can access an online repayment calculator.
- (3) An eligible postsecondary institution does not incur liability for information provided to a borrower in accordance with this section.

Amended by Chapter 324, 2019 General Session

Part 2

Disclosure of Foreign Gifts

53B-1-201 Definitions.

As used in this part:

- (1) "Conditional gift" means a gift as defined in Subsection (4) that is subject to conditions:
 - (a) imposed, requested, or provided by a foreign government or foreign person; and
 - (b) that relate to:
 - (i) what kinds of teachers or students may benefit from the gift; or
 - (ii) a description of the subject matter to be taught with the support of the gift.
- (2) "Foreign government" means a government other than the government of:
 - (a) the United States;
 - (b) a state within the United States;
 - (c) a territory or possession of the United States; or
 - (d) a political subdivision of the United States.
- (3) "Foreign person" means:
 - (a) a foreign government defined in Subsection (2);
 - (b) an individual who is not a citizen or national of the United States or of a territory or protectorate of the United States;
 - (c) a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized under the laws of a foreign government or that has its principal place of business located outside the United States;
 - (d) if known by the higher education institution, a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized pursuant to the

laws of the United States or a state within the United States, if a majority of the stock or other equity interest is directly or indirectly owned by, or which derives a majority of its funding from:

- (i) a foreign government;
 - (ii) an individual described in Subsection (3)(b); or
 - (iii) an entity described in Subsection (3)(c) or (d); or
- (e) if known by the higher education institution, a committee or other group in which a majority of the membership is composed of:
- (i) a foreign government;
 - (ii) an individual described in Subsection (3)(b); or
 - (iii) an entity described in Subsection (3)(c) or (d).
- (4) "Gift" means an endowment, scholarship, gift, donation, or grant of money or property of any kind.
- (5) "Higher education institution" means an institution in the state system of higher education as defined in Section 53B-1-102.
- (6) "Restricted foreign entity" means:
- (a) a company that the United States Secretary of Defense is required to list as a military company under the requirements of federal national defense authorization acts;
 - (b) any affiliate of a company described in Subsection (6)(a);
 - (c) the country with a commercial or defense industrial base of which a company described in Subsection (6)(a) is a part; or
 - (d) any subsidiary of a company described in Subsection (6)(a) or a country described in Subsection (6)(c).

Amended by Chapter 368, 2022 General Session

53B-1-202 Disclosure of foreign gifts to higher education institutions -- Prohibition on restricted foreign entity funds.

- (1)
- (a) Except as provided in Subsection (1)(c), on or before July 31 of each year, a higher education institution shall disclose to the board, by filing a disclosure report described in Subsection (2), a gift received by the higher education institution of \$50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person, during the period beginning July 1 and ending on June 30 immediately preceding the July 31 deadline.
 - (b) A higher education institution may rely on the following address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown:
 - (i) for a foreign person that is an individual, the principal residence; and
 - (ii) for a foreign person that is not an individual, the principal place of business.
 - (c) The \$50,000 amount described in Subsection (1)(a) is increased to \$250,000 if the gift, considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a foreign person:
 - (i) with a principal residence or principal place of business located in the United States; and
 - (ii) with a permanent resident status:
 - (A) under Section 245 of the Immigration and Nationality Act; and
 - (B) for 10 years or more.
- (2) A disclosure report regarding all gifts described in Subsection (1) shall include:
- (a) the amount of each gift described in Subsection (1);

- (b) the date on which each gift described in Subsection (1) was received by the higher education institution;
- (c) the name of the foreign person making each gift described in Subsection (1);
- (d) the aggregate amount of all gifts described in Subsection (1) from a foreign person during the prior fiscal year of the higher education institution;
- (e) for a conditional gift, a description of the conditions or restrictions related to the conditional gift;
- (f) for a conditional gift:
 - (i) for a foreign person that is an individual, if known, the country of citizenship or principal residence of the individual; or
 - (ii) for a foreign person that is not an individual, if known, the country of incorporation or place of business of the foreign person; and
- (g) for a conditional gift that is a contract entered into between a higher education institution and a foreign person:
 - (i) the amount;
 - (ii) the date;
 - (iii) a description of all conditions or restrictions; and
 - (iv) the name of the foreign person.
- (3) A disclosure report required by this section is a public record open to inspection and review during the higher education institution's business hours.
- (4) At the request of the board, the attorney general may file a civil action to compel a higher education institution to comply with the requirements of this section.
- (5) The board shall make rules for the administration of this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) Beginning July 1, 2023, a higher education institution may not seek or accept funding support from a restricted foreign entity or an entity that passes on funding support from a restricted foreign entity.

Amended by Chapter 368, 2022 General Session

Part 3 Reports

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

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:
 - (a) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;
 - (b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;
 - (c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;
 - (d) the reports described in Section 53B-7-705 by the board on performance;
 - (e) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

- (f) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;
 - (g) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;
 - (h) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;
 - (i) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;
 - (j) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and
 - (k) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.
- (2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:
- (a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;
 - (b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and
 - (c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.
- (3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:
- (a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;
 - (b) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and
 - (c) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Amended by Chapter 374, 2023 General Session

Part 4

Utah Board of Higher Education

53B-1-401 Definitions.

As used in this part:

- (1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.
- (2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.
- (3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

Amended by Chapter 254, 2023 General Session

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

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

- (i) is the governing board for the institutions of higher education;
 - (ii) controls, oversees, and regulates the Utah system of higher education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board; and
- (b)
- (i) The University of Utah shall provide administrative support for the board.
 - (ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.
- (2) The board shall:
- (a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:
 - (i) quality;
 - (ii) affordability;
 - (iii) access and equity;
 - (iv) completion;
 - (v) workforce alignment and preparation for high-quality jobs; and
 - (vi) economic growth;
 - (b) establish system policies and practices that advance the vision and goals;
 - (c) establish metrics to demonstrate and monitor:
 - (i) performance related to the goals; and
 - (ii) performance on measures of operational efficiency;
 - (d) collect and analyze data including economic data, demographic data, and data related to the metrics;
 - (e) govern data quality and collection across institutions;
 - (f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;
 - (g) assess an institution's performance in accomplishing the institution's mission and role;
 - (h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;
 - (i) perform the following duties related to an institution of higher education president, including:
 - (i) appointing an institution of higher education president in accordance with Section 53B-2-102;
 - (ii) through the commissioner and the board's executive committee:
 - (A) providing support and guidance to an institution of higher education president; and
 - (B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;
 - (iii) setting the terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and
 - (iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;
 - (j) create and implement a strategic finance plan for higher education, including by:
 - (i) establishing comprehensive budget and finance priorities for academic education and technical education;
 - (ii) allocating statewide resources to institutions;
 - (iii) setting tuition for each institution;
 - (iv) administering state financial aid programs;
 - (v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

- (vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;
 - (k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:
 - (i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;
 - (ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;
 - (iii) establishing degree program requirement guidelines, including credit hour limits;
 - (iv) aligning general education requirements across degree-granting institutions;
 - (v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;
 - (vi) coordinating distance delivery of programs;
 - (vii) coordinating work-based learning; and
 - (viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);
 - (l) coordinate with the public education system:
 - (i) regarding public education programs that provide postsecondary credit or certificates; and
 - (ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;
 - (m) delegate to an institution board of trustees certain duties related to institution governance including:
 - (i) guidance and support for the institution president;
 - (ii) effective administration;
 - (iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and
 - (iv) other responsibilities determined by the board;
 - (n) delegate to an institution of higher education president management of the institution of higher education;
 - (o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;
 - (p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services, beginning with:
 - (i) commercialization;
 - (ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
 - (iii) information technology services; and
 - (iv) human resources, payroll, and benefits administration;
 - (q) develop strategies for providing higher education, including career and technical education, in rural areas;
 - (r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;
 - (s) provide ongoing quality review of programs ; and
 - (t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation.
- (3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:
- (a) the Education Interim Committee;

- (b) the Higher Education Appropriations Subcommittee;
 - (c) the governor; and
 - (d) each institution of higher education.
- (4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:
- (a) how institutions of higher education are meeting the career and technical education needs of secondary students;
 - (b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;
 - (c) performance outcomes, including:
 - (i) entered employment;
 - (ii) job retention; and
 - (iii) earnings;
 - (d) an analysis of workforce needs and efforts to meet workforce needs; and
 - (e) student tuition and fees.
- (5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.
- (6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.
- (7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.
- (8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.
- (9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:
- (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or
 - (b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:
 - (i) the employee is the individual's spouse or partner;
 - (ii)
 - (A) the employee is the individual's former spouse or partner; and
 - (B) the employee would have been a biological parent of a child born as a result of the pregnancy;
 - (iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or
 - (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Amended by Chapter 254, 2023 General Session

53B-1-403 Committees.

The board may form committees to support the board in fulfilling the board's duties.

Amended by Chapter 254, 2023 General Session

53B-1-404 Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.

- (1) The board consists of 10 residents of the state whom the governor appoints with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, and this section.
- (2)
 - (a) For an appointment effective July 1, 2023, the governor shall appoint the member in accordance with Section 53B-1-501.
 - (b) Except for an individual whom the governor appoints as described in Section 53B-1-501, the term of each member of the Utah Board of Higher Education expires on July 1, 2023.
- (3)
 - (a) The governor shall make all appointments to the board on a nonpartisan basis.
 - (b) An individual may not serve simultaneously on the board and an institution board of trustees.
 - (c) The governor shall appoint at least one student member to the board.
 - (d) Notwithstanding Subsection (1), the governor's appointment of a student member described in Subsection (3)(c) is not subject to the advice and consent of the Senate.
 - (e) The governor shall ensure that the membership of the board includes:
 - (i) members with various experience, including in degree-granting institution governance, technical college governance, and representation from various industry sectors; and
 - (ii) at least one member who resides in:
 - (A) a county of the third through sixth class; or
 - (B) a county of the second class with a national park and two or more state parks.
- (4)
 - (a)
 - (i) Except as provided in Subsection (6)(a)(ii) and Section 53B-1-501, the governor shall appoint board members to six-year staggered terms beginning on July 1 of the year of appointment.
 - (ii) The governor shall appoint the student member described in Subsection (3)(c) to a one-year term.
 - (b)
 - (i) A board member other than the student member described in Subsection (3)(c) may serve up to two consecutive full terms.
 - (ii) The student member described in Subsection (3)(c) may not serve more than one full term.
- (5) The governor may, after consulting with the president of the Senate, remove a member for cause.
- (6)
 - (a) A board member shall take the official oath of office before entering upon the duties of office.
 - (b) The board shall file the oath described in Subsection (6)(a) with the Division of Archives and Records Services.
- (7) The board shall elect a chair and vice chair from among the board's members to serve terms of two years and until the board chooses and qualifies successors.
- (8)
 - (a) The board shall appoint a secretary from the commissioner's staff to serve at the board's discretion.
 - (b) The board's secretary is a full-time employee.

- (c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.
- (9)
 - (a) The board may establish advisory committees, including a faculty and staff advisory committee.
 - (b) The board shall address all matters requiring board determination in a properly convened meeting of the board or the board's executive committee.
- (10)
 - (a) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.
 - (b) The board shall provide for an executive committee in the bylaws that:
 - (i) has the full authority of the board to act upon routine matters during the interim between board meetings;
 - (ii) may not act on nonroutine matters except under extraordinary and emergency circumstances; and
 - (iii) shall report to the board at the board's next meeting following an action undertaken by the executive committee.
- (11)
 - (a) The board shall meet regularly upon the board's own determination.
 - (b) The board may also meet, in full or executive session, at the request of the chair, the commissioner, or at least five members of the board.
- (12) The board may not conduct the board's business without the agreement of a majority of the board.
- (13)
 - (a) The governor shall immediately fill a vacancy in the board occurring before the expiration of a member's full term in accordance with this section.
 - (b) An individual whom the governor appoints under Subsection (13)(a) shall serve for the remainder of the unexpired term.
- (14)
 - (a)
 - (i) Subject to Subsection (14)(a)(ii), a member shall receive a daily salary for each calendar day that the member attends a board meeting that is the same as the daily salary for a member of the Legislature described in Section 36-2-3.
 - (ii) A member may receive a salary for up to 10 calendar days per calendar year.
 - (b) A member may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (15) The commissioner shall provide to each member:
 - (a) initial training when the member joins the board; and
 - (b) ongoing annual training.
- (16) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 254, 2023 General Session

53B-1-405 Qualifications for board members.

- (1) The board shall develop qualifications for the composition of the board to ensure that combined, the board members have:
 - (a) a range of experience, including experience in industry;
 - (b) varied areas of expertise; and
 - (c) varied geographic representation.
- (2) In developing the qualifications, the board shall consider:
 - (a) expertise in:
 - (i) business or industry;
 - (ii) technical education;
 - (iii) general education; and
 - (iv) advanced education and research;
 - (b) geographic representation; and
 - (c) knowledge or experience in a field including:
 - (i) finance;
 - (ii) accounting or auditing;
 - (iii) law;
 - (iv) facilities or real estate;
 - (v) educational delivery models;
 - (vi) workforce development;
 - (vii) economic development;
 - (viii) kindergarten through grade 12 education; and
 - (ix) educational quality assessment.
- (3) The board shall consult with the governor to develop the qualifications described in this section.

Enacted by Chapter 365, 2020 General Session

53B-1-408 Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties -- Office.

- (1)
 - (a) The board, upon approval from the governor and with the advice and consent of the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as the board's chief executive officer.
 - (b) The following may terminate the commissioner:
 - (i) the board; or
 - (ii) the governor, after consultation with the board.
 - (c) The board shall:
 - (i) set the salary of the commissioner;
 - (ii) subject to Subsection (3), prescribe the duties and functions of the commissioner; and
 - (iii) select a commissioner on the basis of outstanding professional qualifications.
- (2)
 - (a) The commissioner may appoint associate commissioners.
 - (b) An associate commissioner described in Subsection (2)(a) is not subject to the approval of the board.
- (3) The commissioner is responsible to the board to:
 - (a) ensure the proper execution of the policies, programs, and strategic plan of the board;
 - (b) furnish information about the Utah system of higher education and make recommendations regarding that information to the board;
 - (c) provide state-level leadership in any activity affecting an institution of higher education;

- (d) in consultation with the board's executive committee and in accordance with Subsection 53B-1-402(2), evaluate and provide support and guidance to an institution of higher education president; and
- (e) perform other duties the board assigns in carrying out the board's duties and responsibilities.

Amended by Chapter 254, 2023 General Session

53B-1-409 Appointment and hiring of staff.

- (1) The commissioner may appoint and hire a staff of professional, legal, and administrative personnel.
- (2) The commissioner shall determine salaries, retirement provisions, and other benefits for the staff described in this section.

Enacted by Chapter 365, 2020 General Session

53B-1-410 Utah Board of Higher Education successor to rights and duties.

- (1) The board is the successor to the Utah System of Technical Colleges Board of Trustees.
- (2) For the Utah System of Technical Colleges Board of Trustees, the board:
 - (a) is vested with all rights, titles, privileges, powers, obligations, liabilities, immunities, franchises, endowments, assets, property, and claims;
 - (b) shall fulfill and perform all obligations, including obligations relating to outstanding bonds and notes; and
 - (c) may continue an administrative rule.

Enacted by Chapter 365, 2020 General Session

Part 5
Transition to Utah Board of Higher Education

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

- (1) The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that beginning July 1, 2023, the board consists of 10 members with new terms in accordance with this section.
- (2) Except for the appointment of the student member described in Subsection 53B-1-404(3)(c), the governor shall appoint each individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each odd number year.
- (3) Following the appointments described in this section, the governor shall fill a vacancy on the board in accordance with Section 53B-1-404.
- (4) Notwithstanding Section 67-1-2, for an appointment described in this section:
 - (a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection 67-1-2(2); and
 - (b) the Senate is not required to hold a confirmation hearing.

Amended by Chapter 250, 2023 General Session

Amended by Chapter 254, 2023 General Session

