

**Effective 5/9/2017**

**Part 7  
Performance Funding**

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

This part is known as "Performance Funding."

Enacted by Chapter 365, 2017 General Session

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

As used in this part:

- (1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.
- (2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined in accordance with Sections 53B-7-703 and 53B-7-704.
- (3) "Full new performance funding amount" means the maximum amount of new performance funding that a degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.
- (4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.
- (5) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.
- (6) "Performance" means total performance across the metrics described in Section 53B-7-706.
- (7) "Targeted job" means a four- and five-star job that requires postsecondary training as designated by the Department of Workforce Services.
- (8) "Technical college" means:
  - (a) the same as that term is defined in Section 53B-1-101.5; or
  - (b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

Amended by Chapter 159, 2024 General Session

Amended by Chapter 378, 2024 General Session

**53B-7-703 Performance Funding Restricted Account -- Creation -- Deposits into account --  
Legislative review.**

- (1) As used in this section:
  - (a) "Account" means the Performance Funding Restricted Account created in Subsection (2).
  - (b) "Baseline amount" means the simple five-year average amount of personal income tax withholding over fiscal years 2019-2023.
  - (c) "Personal income tax withholding means" means income tax withholding required under Title 59, Chapter 10, Part 4, Withholding of Tax.
- (2) There is created within the Income Tax Fund a restricted account known as the Performance Funding Restricted Account.
- (3) The Legislature may appropriate money to the account.
- (4) Money in the account shall be:
  - (a) used for performance funding for:

- (i) degree-granting institutions; and
  - (ii) technical colleges; and
  - (b) appropriated by the Legislature in accordance with Section 53B-7-705.
- (5)
- (a) Money in the account shall earn interest.
  - (b) All interest earned on account money shall be deposited into the account.
- (6)
- (a) Except as provided in Subsection (6)(b) or (6)(c) and beginning December 1, 2025, before the end of each calendar year, the Executive Appropriations Committee shall appropriate to the account an amount equal to 6% of the difference between the five-year average amount from the most recent five years of personal income tax withholdings and the baseline amount.
  - (b)
    - (i) As used in this Subsection (6)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:
      - (A) the board;
      - (B) degree-granting institutions; and
      - (C) technical colleges.
    - (ii) If an appropriation described in Subsection (6)(a) would exceed 10% of total higher education appropriations, the Executive Appropriations Committee shall appropriate to the account an amount equal to 10% of total higher education appropriations.
  - (c) If, after appropriating to the Public Education Economic Stabilization Restricted Account as defined in Section 53F-9-204, the remaining available revenue from the personal income tax withholdings is less than the lesser of the amounts in Subsection (6)(a) or Subsection (6)(b)(ii), the Executive Appropriations Committee shall appropriate to the account the remaining available revenue from the personal income tax withholdings.

Repealed and Re-enacted by Chapter 378, 2024 General Session

**53B-7-704 Reporting of estimated revenue growth from targeted jobs.**

- (1) On or before October 1, 2030 and each subsequent fifth year, the Department of Workforce Services shall report to the Higher Education Appropriations Subcommittee on:
  - (a) the total wages in Utah according to the Quarterly Census of Employment and Wages program over the previous five years;
  - (b) total wages in Utah attributable to four- and five-star jobs that require postsecondary training according to the Occupational Employment and Wage Statistics program over the previous five years;
  - (c) total wages in Utah for all occupations according to the Occupational Employment and Wage Statistics program over the previous five years;
  - (d) the quotient of total wages in Subsection (1)(a) and total wages in Subsection (1)(b); and
  - (e) the quotient of total wages in Subsection (1)(c) and total wages in Subsection (1)(b).
- (2) On or before October 1, 2030 and each subsequent fifth year, the commissioner shall report to the Higher Education Appropriations Subcommittee on:
  - (a) all institutions' high yield awards over the previous five years;
  - (b) the estimated revenue growth from targeted jobs associated with high yield awards over the previous five years;
  - (c) the connection between the data described in Subsections (2)(a) and (2)(b); and
  - (d) the estimated median effective income tax rate.

Repealed and Re-enacted by Chapter 378, 2024 General Session

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

- (1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:
  - (a) degree-granting institution; and
  - (b) technical college.
- (2) The Legislature shall annually allocate:
  - (a) 80% of the money in the account to degree-granting institutions; and
  - (b) 20% of the money in the account to technical colleges.
- (3)
  - (a) The Legislature shall determine a degree-granting institution's full new performance funding amount based on the degree-granting institution's prior year share of:
    - (i) full-time equivalent enrollment in all degree-granting institutions; and
    - (ii) the total state-funded appropriated budget for all degree-granting institutions.
  - (b) In determining a degree-granting institution's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).
- (4)
  - (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:
    - (i) full-time equivalent enrollment for all technical colleges; and
    - (ii) the total state-funded appropriated budget for all technical colleges.
  - (b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).
- (5) Annually, at least 30 days before the first day of the legislative general session the board shall submit a report to the Higher Education Appropriations Subcommittee on each degree-granting institution's and each technical college's performance.
- (6)
  - (a) In accordance with this Subsection (6), and based on the report described in Subsection (5), the Legislature shall determine for each degree-granting institution and each technical college:
    - (i) the portion of the full new performance funding amount earned; and
    - (ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the degree-granting institution or technical college.
  - (b) A degree-granting institution or technical college earns the full new performance funding amount if the degree-granting institution or technical college meets the annual performance goals the board sets under Subsection 53B-7-706(1)(a)(ii).
  - (c) A degree-granting institution or technical college that does not meet the goals the board sets under Subsection 53B-7-706(1)(a)(ii):
    - (i) is not eligible to receive the full new performance funding amount; and
    - (ii) is eligible to receive a prorated amount of the full new performance funding amount for performance that is greater than zero as measured by the model the board establishes under Subsection 53B-7-706(1)(a)(i)(B).
  - (d) If a degree-granting institution or technical college does not earn the full new performance funding amount as described in Subsection (6)(b), the Legislature:
    - (i) shall set aside the unearned new performance funding; and

- (ii) may, at the end of an annual performance goal period within a five-year period for which the board sets goals under Subsection 53B-7-706(1)(a)(ii), reallocate the funds set aside under Subsection (6)(d)(i) to a degree-granting institution or technical college that meets or exceeds the degree-granting institution's or technical college's:
  - (A) previous year's annual performance goal; and
  - (B) performance goal that the institution previously failed to meet which caused the funding to be set aside.
- (7) An appropriation described in this section is ongoing.
- (8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

Amended by Chapter 378, 2024 General Session

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

- (1)
  - (a)
    - (i) The board shall establish a model for determining a degree-granting institution's or technical college's performance.
    - (ii) The board shall:
      - (A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection (2)(a);
      - (B) adopt five-year goals for each degree-granting institution and technical college that align with each goal described in Subsection (1)(a)(ii)(A);
      - (C) ensure the goals the board adopts for each degree-granting institution and technical college described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals described in Subsection (1)(a)(ii)(A); and
  - (b)
    - (i) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.
    - (ii) Every five years, the board shall:
      - (A) submit the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the governor for comments and recommendations; and
      - (B) consider the comments and recommendations described in Subsection (1)(b)(ii)(A), and make any necessary changes to the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii).
  - (c) Every five years, the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee shall prepare and jointly meet to consider legislation for introduction at the following general legislative session to adopt the goals described in Subsection (1)(a)(ii).
- (2)
  - (a) The board shall set the goals and establish the performance model described in Subsection (1)(a)(i) for the following metrics:
    - (i) access;
    - (ii) timely completion; and
    - (iii) high-yield awards.
  - (b) The board shall determine the relative weights of the metrics described in Subsection (2)(a).

- (c) The board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection (2)(a) based on each degree-granting institution's and each technical college's mission.
- (3)
  - (a) For each degree-granting institution, the board shall annually determine the degree-granting institution's:
    - (i) performance; and
    - (ii) change in performance compared to the degree-granting institution's average performance over the previous five years.
  - (b) For each degree-granting institution and technical college, the board shall annually:
    - (i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii) that will advance the degree-granting institution or technical college toward achievement of the five-year goals described in Subsection (1)(a)(ii);
    - (ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and
    - (iii) include a degree-granting institution's or technical college's performance under this section in the evaluation described in Subsection 53B-1-402(2)(i).
- (4) The board shall use the model described in Subsection (1)(a)(i) to make the report described in Section 53B-7-705 for determining a degree-granting institution's or technical college's performance funding.
- (5) At the end of each five-year period for which the board sets goals under Subsection (1)(a)(ii):
  - (a) the board shall:
    - (i) review the Utah System of Higher Education's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(A);
    - (ii) review each degree-granting institution's and each technical college's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and
    - (iii) allocate any funds not allocated under Subsection 53B-7-705(6)(g) to each degree-granting institution and each technical college that meets or exceeds the goals the board sets under Subsection (1)(a)(ii)(B); and
  - (b) the Legislature may appropriate additional funds for the board to allocate to each degree-granting institution and each technical college that meets or exceeds goals as described in Subsection (5)(a)(iii).
- (6) In year two or three of each five-year period for which the board sets goals under Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open meeting to review the goals the board sets under Subsection (1)(a)(ii):
  - (a) the Executive Appropriations Committee;
  - (b) the Higher Education Appropriations Subcommittee; and
  - (c) the Education Interim Committee.

Amended by Chapter 378, 2024 General Session

**53B-7-708 Legislative audit.**

- (1) Subject to prioritization of the Audit Subcommittee, the Office of the Legislative Auditor General established under Section 36-12-15 shall in any fiscal year:
  - (a) conduct an audit of money appropriated for performance funding; and
  - (b) prepare and submit a written report for an audit described in this section in accordance with Section 36-12-15.
- (2) An audit described in this section shall include:
  - (a) an evaluation of the implementation of performance funding; and

- (b) the use of performance funding.

Amended by Chapter 21, 2023 General Session

**53B-7-709 Five-year performance goals.**

(1) As used in this section:

- (a) "Access metric" means the metric described in Subsection 53B-7-706(2)(a)(ii)(A).
- (b) "Award" means a degree or certificate that an institution grants.
- (c) "Cohort" means a group of students, defined by the year in which the group enrolls in an institution.
- (d) "Five-year performance period" means the five-year period beginning on July 1, 2022, and ending on June 30, 2027.
- (e) "High-yield award" means the same as that term is defined in board policy under Subsection 53B-7-706(2)(c).
- (f) "High-yield awards metric" means the metric described in Subsection 53B-7-706(2)(a)(ii)(C).
- (g) "Institution" means an institution of higher education described in Section 53B-1-102.
- (h) "Standard completion time" means the time in which a student typically completes an award program.
- (i) "System" means the Utah System of Higher Education.
- (j) "Timely completion metric" means the metric described in Subsection 53B-7-706(2)(a)(ii)(B).

(2) The goals established by the board in accordance with Subsection 53B-7-706(1)(a)(ii) for the Utah System of Higher Education for the five-year performance period are:

- (a) for the access metric, to increase the percent of Utah high school graduates participating in the system by 3.0%;
- (b) for the timely completion metric, to increase the system percentage of a cohort that completes an award in up to and including 1.5 times the standard completion time by 3.0%; and
- (c) for the high-yield awards metric, to increase the system percentage of high-yield awards by 3.0%.

(3) In order to meet the system goals described in Subsection (2), the goals for each institution for the five-year performance period are:

- (a) for the access metric, to increase the institution's share of Utah high school graduates participating in the system by a percentage that the board determines;
- (b) for the timely completion metric, to increase the percent of a cohort enrolled at the institution that completes an award in up to and including 1.5 times the standard completion time or sooner by a percentage that the board determines; and
- (c) for the high-yield awards metric, to increase the percent of high-yield awards the institution grants by a percentage that the board determines.

Enacted by Chapter 254, 2022 General Session