

Chapter 7 Finance

Part 1 Budgets and Funding

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

- (1) As used in this section:
 - (a) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.
 - (b) "Research university" means the University of Utah or Utah State University.
- (2)
 - (a) Subject to Subsection (3), the board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.
 - (b) The board's combined budget recommendation shall include:
 - (i) employee compensation;
 - (ii) mandatory costs, including building operations and maintenance, fuel, and power;
 - (iii) performance funding described in Part 7, Performance Funding;
 - (iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and
 - (v) enrollment growth.
 - (c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.
 - (d) The recommended appropriations shall be determined by the board only after the board has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.
- (3) In the combined request for appropriation, the board shall differentiate between appropriations requested for academic education and appropriations requested for technical education.
- (4)
 - (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.
 - (b) Except as provided in Sections 53B-2a-117 and 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the Division of Facilities Construction and Management.
- (5)
 - (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.
 - (b) The appropriations recommended by the board shall be made with the dual objective of:
 - (i) justifying for higher education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and
 - (ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.
- (6)

- (a) The board shall request a hearing with the governor on the recommended appropriations.
 - (b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the Higher Education Appropriations Subcommittee.
 - (c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.
- (7) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the Higher Education Appropriations Subcommittee in making appropriation recommendations.
- (8)
- (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.
 - (b) The board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.
- (9) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.
- (10) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions to be used in accordance with institutional work programs.
- (11) An institution may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.
- (12) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

Amended by Chapter 421, 2022 General Session

53B-7-101.5 Proposed tuition increases -- Notice -- Hearings.

- (1) If an institution within the State System of Higher Education listed in Section 53B-1-102 considers increasing tuition rates for undergraduate students in the process of preparing or implementing its budget, it shall hold a meeting to receive public input and response on the issue.
- (2) The institution shall advertise the hearing required under Subsection (1) using the following procedure:
 - (a) the institution shall advertise the institution's intent to consider an increase in student tuition rates:
 - (i) in the institution's student newspaper twice during a period of 10 days before the meeting; and
 - (ii) for each county where the institution has a campus, as a class A notice under Section 63G-30-102, for at least 10 days before the meeting; and
 - (b) the advertisement shall state that the institution will meet on a certain day, time, and place fixed in the advertisement, which shall not be less than seven days after the day the

advertisement is published, for the purpose of hearing comments regarding the proposed increase and to explain the reasons for the proposed increase.

(3) The form and content of the notice shall be substantially as follows:

"NOTICE OF PROPOSED TUITION INCREASE

The (name of the higher education institution) is proposing to increase student tuition rates. This would be an increase of _____ %, which is an increase of \$_____ per semester for a full-time resident undergraduate student. All concerned students and citizens are invited to a public hearing on the proposed increase to be held at (meeting place) on (date) at (time)."

- (4)
- (a) The institution shall provide the following information to those in attendance at the meeting required under Subsection (1):
 - (i) the current year's student enrollment for:
 - (A) the State System of Higher Education, if a systemwide increase is being considered; or
 - (B) the institution, if an increase is being considered for just a single institution;
 - (ii) total tuition revenues for the current school year;
 - (iii) projected student enrollment growth for the next school year and projected tuition revenue increases from that anticipated growth; and
 - (iv) a detailed accounting of how and where the increased tuition revenues would be spent.
 - (b) The enrollment and revenue data required under Subsection (4)(a) shall be broken down into majors or departments if the proposed tuition increases are department or major specific.
- (5) If the institution does not make a final decision on the proposed tuition increase at the meeting, it shall announce the date, time, and place of the meeting where that determination shall be made.

Amended by Chapter 435, 2023 General Session

53B-7-102 Fiscal year.

The fiscal year for each institution and for the board begins on July 1 and ends on June 30 in each year.

Enacted by Chapter 167, 1987 General Session

53B-7-103 Board designated state educational agent for federal contracts and aid -- Individual research grants -- Powers of institutions or foundations under authorized programs.

- (1)
- (a) The board is the designated state educational agency authorized to negotiate and contract with the federal government and to accept financial or other assistance from the federal government or any of its agencies in the name of and in behalf of the state of Utah, under terms and conditions as may be prescribed by congressional enactment designed to further higher education.
 - (b) Nothing in this chapter alters or limits the authority of the Division of Facilities Construction and Management to act as the designated state agency to administer programs on behalf of and accept funds from federal, state, and other sources, for capital facilities for the benefit of higher education.
- (2)

- (a) Subject to policies and procedures established by the board, an institution of higher education and the institution of higher education's employees may apply for and receive grants or research and development contracts within the educational role of the recipient institution.
 - (b) A program described in Subsection (2)(a) may be conducted by and through the institution, or by and through any foundation or organization that is established for the purpose of assisting the institution in the accomplishment of the institution's purposes.
- (3) An institution or the institution's foundation or organization engaged in a program authorized by the board may do the following:
- (a) enter into contracts with federal, state, or local governments or their subsidiary agencies or departments, with private organizations, companies, firms, or industries, or with individuals for conducting the authorized programs;
 - (b) subject to the approval of the controlling state agency, conduct authorized programs within any of the penal, corrective, or custodial institutions of this state and engage the voluntary participation of inmates in those programs;
 - (c) accept contributions, grants, or gifts from, and enter into contracts and cooperative agreements with, any private organization, company, firm, industry, or individual, or any governmental agency or department, for support of authorized programs within the educational role of the recipient institution, and may agree to provide matching funds with respect to those programs from resources available to the institution; and
 - (d) retain, accumulate, invest, commit, and expend the funds and proceeds from programs funded under Subsection (3)(c), including the acquisition of real and personal property reasonably required for their accomplishment, except that no portion of the funds and proceeds may be diverted from or used for purposes other than those authorized or undertaken under Subsection (3)(c), or may ever become a charge upon or obligation of the state of Utah or the general funds appropriated for the normal operations of the institution unless otherwise permitted by law.
- (4)
- (a) Except as provided in Subsection (4)(b), all contracts and research or development grants or contracts requiring the use or commitment of facilities, equipment, or personnel under the control of an institution of higher education are subject to the approval of the board.
 - (b)
 - (i) The board may delegate the approval of a contract or grant described in Subsection (4)(a) to an institution of higher education board of trustees.
 - (ii) If the board makes a delegation described in Subsection (4)(b)(i), the board of trustees shall annually report to the board on all approved contracts or grants.

Amended by Chapter 421, 2022 General Session

53B-7-103.5 Uses of revenue for athletic gender equity.

Beginning on July 1, 1998, a state institution of higher education shall annually use for the purposes described in Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq., an amount of revenue equal to the total amount of sales and use tax revenue collected under Title 59, Chapter 12, Sales and Use Tax Act:

- (1) during the one-year period beginning on July 1, 1997, and ending on June 30, 1998; and
- (2) on amounts paid for admission to athletic events at the institution of higher education.

Enacted by Chapter 318, 1998 General Session

53B-7-104 Retention of net reimbursed overhead revenues.

- (1) For fiscal year 1990-91 and for each succeeding year, all budget documents for the system of higher education shall reflect retention by the institutions within the system of their net reimbursed overhead revenues for support of research and related programs under policies established by the board. These overhead revenues may not be considered a dedicated credit.
- (2) The board, in conjunction with institutions within the system, shall provide the Legislature, through the Office of Legislative Fiscal Analyst, with a complete accounting of the net reimbursed overhead revenues on an annual basis. This accounting shall include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year.

Amended by Chapter 365, 2020 General Session

53B-7-105 Higher education cost disclosure.

- (1) Each institution within the Utah system of higher education shall, at the time of registration, plainly disclose to all of the institution's undergraduate resident students the following amounts, in dollar figures for a full-time equivalent student:
 - (a) the full cost of instruction;
 - (b) the amount collected from student tuition and fees; and
 - (c) the difference between the amounts described under Subsections (1)(a) and (b).
- (2) The disclosure under Subsection (1)(c) shall also clearly indicate that this balance was paid by state tax dollars and other money.

Amended by Chapter 187, 2021 General Session

53B-7-106 Personal use expenditures for officers and employees of institutions of higher education.

- (1) As used in this section:
 - (a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by an institution of higher education.
 - (b) "Institution of higher education" means an institution that is part of the state system of higher education as described in Section 53B-1-102.
 - (c) "Officer" means a person who is elected or appointed to an office or position within an institution of higher education.
 - (d)
 - (i) "Personal use expenditure" means an expenditure made without the authority of law that:
 - (A) is not directly related to the performance of an activity as an officer or employee of an institution of higher education;
 - (B) primarily furthers a personal interest of an officer or employee of an institution of higher education or the family, a friend, or an associate of an officer or employee of an institution of higher education; and
 - (C) would constitute taxable income under federal law.
 - (ii) "Personal use expenditure" does not include:
 - (A) a de minimis or incidental expenditure; or
 - (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the institution of higher education.
 - (e) "Public funds" means the same as that term is defined in Section 51-7-3.

- (2) An officer or employee of an institution of higher education may not:
 - (a) use public funds for a personal use expenditure; or
 - (b) incur indebtedness or liability on behalf of, or payable by, an institution of higher education for a personal use expenditure.
- (3) If the institution of higher education determines that an officer or employee of an institution of higher education has intentionally made a personal use expenditure in violation of Subsection (2), the institution of higher education shall:
 - (a) require the officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:
 - (i) the personal use expenditure was disbursed; or
 - (ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;
 - (b) require the officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the institution of higher education; and
 - (c) deposit the money received under Subsection (3)(b) into the operating fund of the institution of higher education.
- (4)
 - (a) Any officer or employee of an institution of higher education who has been found by the institution of higher education to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the institution of higher education.
 - (b) The institution of higher education shall establish an appeal process for an appeal made under Subsection (4)(a).
- (5)
 - (a) Subject to Subsection (5)(b), an institution of higher education may withhold all or a portion of the wages of an officer or employee of the institution of higher education who has violated Subsection (2) until the requirements of Subsection (3) have been met.
 - (b) If the officer or employee has requested an appeal under Subsection (4), the institution of higher education may only withhold the wages of the officer or employee after the appeal process has confirmed that the officer or employee violated Subsection (2).
- (6) Nothing in this chapter immunizes an officer or employee of an institution of higher education from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.
- (7) An officer or employee of an institution of higher education who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Amended by Chapter 211, 2019 General Session

Part 5

Higher Education Tuition Assistance Program

53B-7-501 Purpose.

- (1) The Legislature recognizes that community colleges and established branch campuses and centers throughout the state have a special mission to provide comprehensive higher education opportunities for financially needy students, at geographically dispersed locations and at favorable tuition rates.

- (2) The Legislature further recognizes that tuition and general fee costs to students at Utah community colleges and established branch campuses and centers represent significant challenges for many of the students they serve, and that additional scholarship money for financially needy students attending those institutions is needed to ensure financial access to higher education.
- (3) It is the purpose of this part to establish a program of matching grants as an incentive for institutions to raise money for scholarships at community colleges, branch campuses, and centers.

Enacted by Chapter 103, 1998 General Session

Part 6 Foreign Bank Accounts for Higher Education Purposes

53B-7-601 Foreign bank accounts for higher education purposes.

- (1) As used in this section, "foreign depository institution" is as defined in Section 7-1-103.
- (2) In accordance with Subsection 51-7-4(1)(b)(iii), a higher education institution may deposit funds in a foreign depository institution for purposes of conducting academic, research, or clinical activities in the foreign country, if the:
 - (a) laws of the foreign country require the money to be deposited in the foreign country; or
 - (b) terms of a grant, gift, or contract require the funds to be deposited in the foreign country.
- (3) The foreign depository institution in which funds are deposited under this section shall meet the requirements of rules made by the State Money Management Council under Section 51-7-18.

Enacted by Chapter 388, 2013 General Session

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 by the Department of Workforce Services in accordance with Section 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) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (6) "Job" means an occupation determined by the Department of Workforce Services.
- (7) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.
- (8) "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.
- (9) "Performance" means total performance across the metrics described in Sections 53B-7-706 and 53B-7-707.
- (10) "Research university" means the University of Utah or Utah State University.
- (11) "Targeted job" means a job designated by the Department of Workforce Services or the GO Utah office in accordance with Section 53B-7-704.
- (12) "Technical college" means:
 - (a) the same as that term is defined in Section 53B-1-101.5; and
 - (b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.
- (13) "Technical college graduate" means an individual who:
 - (a) has earned a certificate from an accredited program at a technical college; and
 - (b) is no longer enrolled in the technical college.

Amended by Chapter 187, 2021 General Session, (Coordination Clause)

Amended by Chapter 282, 2021 General Session

Amended by Chapter 351, 2021 General Session

Amended by Chapter 120, 2020 General Session, (Coordination Clause)

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

- (1) There is created within the Income Tax Fund a restricted account known as the "Performance Funding Restricted Account."
- (2) 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.
- (3)
 - (a) Money in the account shall earn interest.
 - (b) All interest earned on account money shall be deposited into the account.
- (4)
 - (a) Except as provided in Subsection (4)(b), the Division of Finance shall deposit into the account an amount equal to 20% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for a fiscal year beginning on or after July 1, 2019.
 - (b)
 - (i) As used in this Subsection (4)(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 a deposit described in Subsection (4)(a) would exceed 10% of total higher education appropriations, upon appropriation by the Legislature, the Division of Finance shall deposit into the account an amount equal to 10% of total higher education appropriations.
 - (c) The Legislature may appropriate money to the account.
- (5)
- (a) As used in this Subsection (5):
 - (i) "Base budget" means the same as that term is defined in legislative rule.
 - (ii) "Remaining available ongoing Income Tax Fund revenue" means the difference between:
 - (A) the estimated ongoing Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate in the next fiscal year; and
 - (B) the amount of ongoing appropriations from the Income Tax Fund and Uniform School Fund for the current year plus ongoing appropriations required under Sections 53F-9-201 and 53F-9-204 for the next fiscal year.
 - (b) Except as described in Subsection (5)(c), for a fiscal year beginning on or after July 1, 2023, when preparing the Higher Education Base Budget, the Office of the Legislative Fiscal Analyst shall:
 - (i) include in the base budget the lesser of the amount described in Subsection (4) or the remaining available ongoing Income Tax Fund revenue; and
 - (ii) appropriate the funds described in Subsection (5)(b)(i) to the Utah Board of Higher Education to distribute to institutions as described in Section 53B-7-705.
 - (c) In a fiscal year beginning on or after July 1, 2023, in which the remaining available ongoing Income Tax Fund revenue is less than zero, when preparing the base budget, the Office of the Legislative Fiscal Analyst shall include in the base budget an amount equal to the difference in the amount described in Subsection (4) for the current year and the amount described in Subsection (4) for the prior year, adjusted for any base budget reductions as directed by the Executive Appropriations Committee.
- (6) During the interim following a legislative general session in which an amount described in Subsection (4)(b) is deposited into the account, the Higher Education Appropriations Subcommittee shall review performance funding described in this part and make recommendations to the Legislature about:
- (a) the performance levels required for degree-granting institutions and technical colleges to receive performance funding as described in Section 53B-7-705;
 - (b) the performance metrics described in Sections 53B-7-706 and 53B-7-707; and
 - (c) the amount of individual income tax revenue dedicated to higher education performance funding.

Amended by Chapter 456, 2022 General Session

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

- (1) As used in this section, "baseline amount" means the average annual wages for targeted jobs over calendar years 2014, 2015, and 2016, as determined by the Department of Workforce Services using the best available information.
- (2)
- (a) The Department of Workforce Services shall designate, as a targeted job, a job that:
 - (i) has a base employment level of at least 100 individuals;
 - (ii) ranks in the top 20% of jobs for outlook based on:
 - (A) projected number of openings; and

- (B) projected rate of growth;
- (iii) ranks in the top 20% of jobs for median annual wage; and
- (iv) requires postsecondary training.
- (b) The Department of Workforce Services shall designate targeted jobs every other year.
- (c) The GO Utah office may, after consulting with the Department of Workforce Services and industry representatives, designate a job that has significant industry importance as a targeted job.
- (d) Annually, the Department of Workforce Services and the GO Utah office shall report to the Higher Education Appropriations Subcommittee on targeted jobs, including:
 - (i) the method used to determine which jobs are targeted jobs;
 - (ii) changes to which jobs are targeted jobs; and
 - (iii) the reasons for each change described in Subsection (2)(d)(ii).
- (3) Based on the targeted jobs described in Subsection (2), the Department of Workforce Services shall annually determine the estimated revenue growth from targeted jobs by:
 - (a) determining the total estimated wages for targeted jobs for the year:
 - (i) based on the average wages for targeted jobs, calculated using the most recently available wage data and data from each of the two years before the most recently available data; and
 - (ii) using the best available information;
 - (b) determining the change in estimated wages for targeted jobs by subtracting the baseline amount from the total wages for targeted jobs described in Subsection (3)(a); and
 - (c) multiplying the change in estimated wages for targeted jobs described in Subsection (3)(b) by 3.6%.
- (4) Annually, at least 30 days before the first day of the legislative general session, the Department of Workforce Services shall report the estimated revenue growth from targeted jobs to:
 - (a) the Office of the Legislative Fiscal Analyst; and
 - (b) the Division of Finance.

Amended by Chapter 282, 2021 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)
 - (a) Before January 1, 2024, the Legislature shall annually allocate:
 - (i) 90% of the money in the account to degree-granting institutions; and
 - (ii) 10% of the money in the account to technical colleges.
 - (b) After January 1, 2024, the Legislature shall annually allocate:
 - (i) 80% of the money in the account to degree-granting institutions; and
 - (ii) 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)
 - (A) before January 1, 2024, membership hours for all technical colleges; and
 - (B) after January 1, 2024, 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)
 - (i) This Subsection (6)(b) applies before January 1, 2024.
 - (ii) A degree-granting institution earns the full new performance funding amount if the degree-granting institution has a positive change in performance of at least 1% compared to the degree-granting institution's average performance over the previous five years.
 - (iii) A technical college earns the full new performance funding amount if the technical college has a positive change in the technical college's performance of at least 5% compared to the technical college's average performance over the previous five years.
 - (c) After January 1, 2024, 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).
 - (d) Before January 1, 2024, a degree-granting institution or technical college that has a positive change in performance that is less than a change described in Subsection (6)(b) is eligible to receive a prorated amount of the full new performance funding amount.
 - (e) Before January 1, 2024, a degree-granting or technical college that has a negative change, or no change, in performance over a time period described in Subsection (6)(b) is not eligible to receive new performance funding.
 - (f) After January 1, 2024, 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).
 - (g) After January 1, 2024, if a degree-granting institution or technical college does not earn the full new performance funding amount as described in Subsection (6)(c), the board:
 - (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)(g)(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 254, 2023 General Session

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

- (1)
 - (a)
 - (i)
 - (A) The board shall establish a model for determining a degree-granting institution's performance.
 - (B) Beginning in March 2021, the board shall establish a model for determining a degree-granting institution's or technical college's performance.
 - (ii) Beginning in May 2021, the board shall:
 - (A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection (2)(a)(ii);
 - (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); and
 - (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) Beginning in 2021, and every five years thereafter, 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) Beginning in 2021, and every five years thereafter, 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)
 - (i) The model described in Subsection (1)(a)(i)(A) shall include metrics, including:
 - (A) completion, measured by degrees and certificates awarded;

- (B) completion by underserved students, measured by degrees and certificates awarded to underserved students;
 - (C) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;
 - (D) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and
 - (E) for a research university, research, measured by total research expenditures.
- (ii) Beginning in 2021, the board shall set the goals and establish the performance model described in Subsection (1)(a)(i)(B) for the following metrics:
- (A) access;
 - (B) timely completion; and
 - (C) high-yield awards.
- (b)
- (i) Subject to Subsection (2)(b)(ii), the board shall determine the relative weights of the metrics described in Subsection (2)(a)(i).
 - (ii) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(i)(C) a weight of at least 25% when determining a degree-granting institution's performance.
- (c) Beginning in 2021, the board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection (2)(a)(ii) 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)
- (a) The board shall use the model described in Subsection (1)(a)(i)(A) to make the report described in Section 53B-7-705 for determining a degree-granting institution's performance funding for a fiscal year beginning on or after July 1, 2018, but before July 1, 2024.
 - (b) For a fiscal year beginning on or after July 1, 2024, the board shall use the model described in Subsection (1)(a)(i)(B) 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 254, 2023 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

Part 8

Higher Education Student Success Endowment

53B-7-801 Definitions.

As used in this part, "endowment" means the Higher Education Student Success Endowment created in Section 53B-7-802.

Amended by Chapter 374, 2023 General Session

53B-7-802 Higher Education Student Success Endowment.

- (1) There is created the Higher Education Student Success Endowment.
- (2) The endowment consists of:
 - (a) the proceeds from divestment of the dissolved Utah Higher Education Assistance Authority's loan portfolio;
 - (b) appropriations made to the endowment by the Legislature, if any;
 - (c) income from the investment of the endowment; and
 - (d) other revenues received from other sources.
- (3) The board shall account for the receipt and expenditures of endowment money in accordance with the policies and guidance of the Division of Finance.
- (4)
 - (a)
 - (i) The state treasurer shall invest the endowment money with the primary goal of providing for stability, income, and growth of the principal.
 - (ii) The state treasurer may deduct any administrative costs incurred in managing endowment assets from earnings before distributing the earnings.
 - (b) Nothing in this section requires a specific outcome in investing.
 - (c) The state treasurer may employ professional asset managers to assist in the investment of assets of the endowment.
 - (d) The state treasurer may only provide compensation to asset managers from earnings generated by the endowment's investments.

- (e) The state treasurer shall invest and manage the endowment assets as a prudent investor would, by:
 - (i) considering the purposes, terms, distribution requirements, and other circumstances of the endowment; and
 - (ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (f) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
 - (i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
 - (ii) evaluate the state treasurer's investment and management decisions respecting individual assets not in isolation, but in context of an endowment portfolio as a whole as a part of an overall investment strategy that has risk and return objectives reasonably suited to the endowment.
- (5)
 - (a) The endowment shall earn interest.
 - (b) The state treasurer shall deposit the interest or other revenue earned from investment of the endowment into the endowment.
- (6) The board:
 - (a) may expend money from the endowment for programs that:
 - (i) advance the system priorities as established in Subsection 53B-1-402(2)(a); and
 - (ii) support prospective students or current students enrolled at an institution, as described in Section 53B-2-101; and
 - (b) may not expend money from the endowment for a capital expenditure, including the construction or lease of a capital facility or operation and maintenance of a capital facility.
- (7) The board shall ensure that:
 - (a) money deposited into the endowment is irrevocable and is expended only for programs that advance the system priorities as established in Subsection 53B-1-402(2)(a); and
 - (b) creditors of the board of directors may not seize, attach, or otherwise obtain assets of the endowment.

Amended by Chapter 374, 2023 General Session

53B-7-803 Board duties.

- (1) The board shall:
 - (a) act as trustee of the endowment and exercise the state's fiduciary responsibilities;
 - (b) meet at least twice a year to conduct business on behalf of the endowment;
 - (c) review and approve all endowment policies, projections, rules, criteria, procedures, forms, standards, and performance goals;
 - (d) review and approve the budget and expenditures for the endowment in accordance with Section 53B-7-802;
 - (e) review financial records for the endowment, including endowment receipts, expenditures, and investments; and
 - (f) take any other action necessary to perform the board's fiduciary obligations.
- (2) The board shall annually submit a budget and expenditures to the Higher Education Appropriations Subcommittee no later than November 1.

Enacted by Chapter 186, 2022 General Session

53B-7-804 State grants to the authority.

To the extent otherwise allowed, a state entity may grant money or property to the endowment.

Enacted by Chapter 374, 2023 General Session

53B-7-805 Gifts to the endowment.

A person may make a contribution, gift, grant, bequest, or devise, or loans to the endowment.

Enacted by Chapter 374, 2023 General Session