

Representative John Dougall proposes the following substitute bill:

STATE SYSTEM OF HIGHER EDUCATION

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the governance of the State System of Higher Education.

Highlighted Provisions:

This bill:

- ▶ expands the membership of the State Board of Regents to include the chairs of the boards of trustees of the institutions of higher education as nonvoting members;
- ▶ grants authority to the governor to appoint a commissioner of higher education;
- ▶ grants authority to the board of trustees of a higher education institution to appoint a president for the institution with the consent of the State Board of Regents; and
- ▶ directs the governor to appoint the members of the board of trustees of a higher education institution, except the Utah College of Applied Technology, from a list of nominees submitted by the institution's board of trustees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53B-1-104**, as last amended by Laws of Utah 2006, Chapter 285

29 **53B-1-105**, as enacted by Laws of Utah 1987, Chapter 167

30 **53B-2-102**, as last amended by Laws of Utah 1991, Chapter 58

31 **53B-2-104**, as last amended by Laws of Utah 2007, Chapter 356

32 **67-22-2**, as last amended by Laws of Utah 2007, Chapters 34 and 73

33

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

35 Section 1. Section **53B-1-104** is amended to read:

36 **53B-1-104. Membership of the board -- Student appointee -- Terms -- Oath --**
37 **Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation.**

38 (1) (a) The board shall consist of [~~18~~] 28 residents of the state.

39 (b) (i) Fifteen members shall be appointed by the governor with the consent of the
40 Senate.

41 (ii) (A) One additional member shall be appointed by the governor from nominations
42 of the student body presidents council.

43 (B) The council shall nominate three qualified, matriculated students enrolled in the
44 state institutions of higher education.

45 (C) Student body presidents are not eligible for nomination.

46 (iii) All appointments to the board shall be made on a nonpartisan basis.

47 (iv) In making appointments to the board, the governor shall select:

48 (A) individuals from the state at large with due consideration for geographical
49 representation; and

50 (B) at least three individuals with personal experience in applied technology education,
51 which could include service on a campus board of directors.

52 (c) (i) In addition to the members designated under Subsection (1)(b)[~~7~~]:

53 (A) two members of the State Board of Education, appointed by the chair of the State
54 Board of Education, shall serve as nonvoting members of the board[~~7~~]; and

55 (B) the chairs of the boards of trustees of the institutions of higher education listed in
56 Section 53B-2-101 shall serve as nonvoting members of the board.

57 (ii) A nonvoting member appointed under Subsection (1)(c)(i)(A) shall continue to
58 serve as a member without a set term until the member is replaced by the chair of the State
59 Board of Education.

60 (2) (a) Five members of the board, other than the student member and the State Board
61 of Education members, shall be appointed during each odd-numbered year to six-year
62 staggered terms which commence on July 1 of the year of appointment.

63 (b) (i) The student member shall be appointed for a one-year term and may be
64 reappointed for one additional term.

65 (ii) The student member has full voting rights and may vote on selection of a board
66 chair or vice chair, but not serve in either office.

67 (c) Board members shall hold office until their successors have been appointed and
68 qualified.

69 (3) (a) Each member of the board shall take the official oath of office before entering
70 upon the duties of office.

71 (b) The oath shall be filed with the Division of Archives and Records Services.

72 (4) The board shall elect a chair and vice chair from its members who shall serve terms
73 of two years and until their successors are chosen and qualified.

74 (5) (a) The board shall appoint a secretary from the staff of its chief executive to serve
75 at its discretion.

76 (b) The secretary shall be a full-time employee who receives a salary set by the board.

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

79 (6) The board shall appoint a treasurer who serves at the discretion of the board.

80 (7) (a) The board may establish advisory committees.

81 (b) The powers and authority of the board are nondelegable, except as specifically
82 provided for in this title.

83 (c) All matters requiring board determination shall be addressed in a properly convened
84 meeting of the board or its executive committee.

85 (8) The board shall enact bylaws for its own government not inconsistent with the
86 constitution or the laws of this state.

87 (9) (a) The board shall meet regularly upon its own determination.

88 (b) The board may also meet, in full or executive session, at the request of its chair, its
89 executive officer, or five members of the board.

90 (10) A quorum of the voting members of the board is required to conduct its business
91 and consists of nine members.

92 (11) (a) A vacancy in the board occurring before the expiration of a voting member's
93 full term shall be immediately filled by appointment by the governor with the consent of the
94 Senate.

95 (b) The appointee serves for the remainder of the unexpired term.

96 (12) (a) Each member of the board shall receive a per diem as provided by law as
97 compensation for services for attending meetings of the board.

98 (b) Each member shall also be paid actual expenses incurred for attending meetings of
99 the board or its committees or for attending to any business of the institutions under the
100 direction of the board or authority of the board or its committees.

101 Section 2. Section **53B-1-105** is amended to read:

102 **53B-1-105. Appointment of commissioner of higher education -- Qualifications --**
103 **Duties.**

104 [~~(1) The board appoints a commissioner of higher education to serve at its pleasure as~~
105 ~~its chief executive officer. The board sets the salary of the commissioner and prescribes the~~
106 ~~commissioner's duties and functions. The commissioner is selected on the basis of outstanding~~
107 ~~professional qualifications.]~~

108 (1) The governor shall:

109 (a) appoint a commissioner of higher education, with the consent of the Senate, who
110 shall serve:

111 (i) at the pleasure of the governor; and

112 (ii) as the chief executive officer of the Board of Regents; and

113 (b) select the commissioner on the basis of outstanding professional qualifications.

114 (2) The commissioner is responsible [~~to the board to~~] for:

115 (a) [~~insure that its~~] insuring that the board's policies and programs are properly
116 executed;

117 (b) [~~furnish~~] furnishing information about the state system of higher education and
118 make recommendations regarding that information to the board;

119 (c) ~~[provide]~~ providing state-level leadership in ~~[all]~~ activities affecting institutions in
120 the state system of higher education; and

121 (d) ~~[perform]~~ performing other duties assigned by the board in carrying out its duties
122 and responsibilities.

123 Section 3. Section **53B-2-102** is amended to read:

124 **53B-2-102. Appointment of the president of an institution.**

125 ~~[The board, after consulting with the institution's board of trustees, appoints a president~~
126 ~~for each institution in the state system of higher education who serves at its pleasure and at~~
127 ~~such salary as it may determine.]~~

128 (1) The board of trustees of an institution shall:

129 (a) appoint a president for the institution with the consent of the State Board of
130 Regents; and

131 (b) establish the salary and terms of employment for the president.

132 (2) The president of an institution shall serve at the pleasure of the board of trustees.

133 Section 4. Section **53B-2-104** is amended to read:

134 **53B-2-104. Memberships of board of trustees -- Terms -- Vacancies -- Oath --**
135 **Officers -- Bylaws -- Quorum -- Committees -- Compensation.**

136 (1) (a) The board of trustees of an institution of higher education consists of the
137 following:

138 (i) eight persons;

139 (A) appointed by the governor [and] from a list of nominees submitted by the
140 institution's board of trustees; and

141 (B) approved by the Senate; and

142 (ii) two ex officio members who are the president of the institution's alumni
143 association, and the president of the associated students of the institution.

144 (b) The appointed members of the boards of trustees for Utah Valley University and
145 Salt Lake Community College shall be representative of the interests of business, industry, and
146 labor.

147 (c) The board of trustees of an institution shall:

148 (i) submit at least two nominations to the governor for each vacant position on the
149 board of trustees; and

150 (ii) seek recommendations for potential candidates from the president of the institution.

151 (2) (a) The governor shall appoint four members of each board of trustees during each
152 odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

153 (b) An appointed member holds office until a successor is appointed and qualified.

154 (c) The ex officio members serve for the same period as they serve as presidents and
155 until their successors have qualified.

156 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
157 appointed for the unexpired term.

158 (4) (a) Each member shall take the official oath of office prior to assuming the office.

159 (b) The oath shall be filed with the Division of Archives and Records Services.

160 (5) Each board of trustees shall elect a chair and vice chair, who serve for two years
161 and until their successors are elected and qualified.

162 (6) (a) Each board of trustees may enact bylaws for its own government, including
163 provision for regular meetings.

164 (b) (i) The board of trustees may provide for an executive committee in its bylaws.

165 (ii) If established, the committee shall have full authority of the board of trustees to act
166 upon routine matters during the interim between board of trustees meetings.

167 (iii) The committee may act on nonroutine matters only under extraordinary and
168 emergency circumstances.

169 (iv) The committee shall report its activities to the board of trustees at its next regular
170 meeting following the action.

171 (c) Copies of the board of trustees' bylaws shall be filed with the board.

172 (7) A quorum is required to conduct business and consists of six members.

173 (8) A board of trustees may establish advisory committees.

174 (9) (a) (i) Members who are not government employees shall receive no compensation
175 or benefits for their services, but may receive per diem and expenses incurred in the
176 performance of the member's official duties at the rates established by the Division of Finance
177 under Sections 63A-3-106 and 63A-3-107.

178 (ii) Members may decline to receive per diem and expenses for their service.

179 (b) (i) State government officer and employee members who do not receive salary, per
180 diem, or expenses from their agency for their service may receive per diem and expenses

181 incurred in the performance of their official duties from the board at the rates established by the
182 Division of Finance under Sections 63A-3-106 and 63A-3-107.

183 (ii) State government officer and employee members may decline to receive per diem
184 and expenses for their service.

185 (c) (i) Higher education members who do not receive salary, per diem, or expenses
186 from the entity that they represent for their service may receive per diem and expenses incurred
187 in the performance of their official duties from the committee at the rates established by the
188 Division of Finance under Sections 63A-3-106 and 63A-3-107.

189 (ii) Higher education members may decline to receive per diem and expenses for their
190 service.

191 (10) This section does not apply to the Utah College of Applied Technology.

192 Section 5. Section **67-22-2** is amended to read:

193 **67-22-2. Compensation -- Other state officers.**

194 (1) As used in this section:

195 (a) "Appointed executive" means the:

196 (i) Commissioner of the Department of Agriculture and Food;

197 (ii) Commissioner of the Insurance Department;

198 (iii) Commissioner of the Labor Commission;

199 (iv) Director, Alcoholic Beverage Control Commission;

200 (v) Commissioner of the Department of Financial Institutions;

201 (vi) Executive Director, Department of Commerce;

202 (vii) Executive Director, Commission on Criminal and Juvenile Justice;

203 (viii) Adjutant General;

204 (ix) Executive Director, Department of Community and Culture;

205 (x) Executive Director, Department of Corrections;

206 (xi) Commissioner, Department of Public Safety;

207 (xii) Executive Director, Department of Natural Resources;

208 (xiii) Director, Governor's Office of Planning and Budget;

209 (xiv) Executive Director, Department of Administrative Services;

210 (xv) Executive Director, Department of Human Resource Management;

211 (xvi) Executive Director, Department of Environmental Quality;

- 212 (xvii) Director, Governor's Office of Economic Development;
- 213 (xviii) Executive Director, Utah Science Technology and Research Governing
- 214 Authority;
- 215 (xix) Executive Director, Department of Workforce Services;
- 216 (xx) Executive Director, Department of Health, Nonphysician;
- 217 (xxi) Executive Director, Department of Human Services;
- 218 (xxii) Executive Director, Department of Transportation; [~~and~~]
- 219 (xxiii) Executive Director, Department of Technology Services[-]; and
- 220 (xxiv) Commissioner of Higher Education.
- 221 (b) "Board or commission executive" means:
- 222 (i) Members, Board of Pardons and Parole;
- 223 (ii) Chair, State Tax Commission;
- 224 (iii) Commissioners, State Tax Commission;
- 225 (iv) Executive Director, State Tax Commission;
- 226 (v) Chair, Public Service Commission; and
- 227 (vi) Commissioners, Public Service Commission.
- 228 (c) "Deputy" means the person who acts as the appointed executive's second in
- 229 command as determined by the Department of Human Resource Management.
- 230 (2) (a) The executive director of the Department of Human Resource Management
- 231 shall:
- 232 (i) before October 31 of each year, recommend to the governor a compensation plan for
- 233 the appointed executives and the board or commission executives; and
- 234 (ii) base those recommendations on market salary studies conducted by the Department
- 235 of Human Resource Management.
- 236 (b) (i) The Department of Human Resource Management shall determine the salary
- 237 range for the appointed executives by:
- 238 (A) identifying the salary range assigned to the appointed executive's deputy;
- 239 (B) designating the lowest minimum salary from those deputies' salary ranges as the
- 240 minimum salary for the appointed executives' salary range; and
- 241 (C) designating 105% of the highest maximum salary range from those deputies' salary
- 242 ranges as the maximum salary for the appointed executives' salary range.

243 (ii) If the deputy is a medical doctor, the Department of Human Resource Management
244 may not consider that deputy's salary range in designating the salary range for appointed
245 executives.

246 (c) In establishing the salary ranges for board or commission executives, the
247 Department of Human Resource Management shall set the maximum salary in the salary range
248 for each of those positions at [~~90 percent~~] 90% of the salary for district judges as established in
249 the annual appropriation act under Section 67-8-2.

250 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a
251 specific salary for each appointed executive within the range established under Subsection
252 (2)(b).

253 (ii) If the executive director of the Department of Health is a physician, the governor
254 shall establish a salary within the highest physician salary range established by the Department
255 of Human Resource Management.

256 (iii) The governor may provide salary increases for appointed executives within the
257 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

258 (b) The governor shall apply the same overtime regulations applicable to other FLSA
259 exempt positions.

260 (c) The governor may develop standards and criteria for reviewing the appointed
261 executives.

262 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are
263 not provided for in this chapter, or in Title 67, Chapter 8, Utah [~~Executive~~] Elected Official and
264 Judicial Salary Act, shall be established as provided in Section 67-19-15.

265 (5) (a) The Legislature fixes benefits for the appointed executives and the board or
266 commission executives as follows:

267 (i) the option of participating in a state retirement system established by Title 49, Utah
268 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
269 by the State Retirement Office in accordance with the Internal Revenue Code and its
270 accompanying rules and regulations;

271 (ii) health insurance;

272 (iii) dental insurance;

273 (iv) basic life insurance;

- 274 (v) unemployment compensation;
- 275 (vi) workers' compensation;
- 276 (vii) required employer contribution to Social Security;
- 277 (viii) long-term disability income insurance;
- 278 (ix) the same additional state-paid life insurance available to other noncareer service
- 279 employees;
- 280 (x) the same severance pay available to other noncareer service employees;
- 281 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 282 follows:
- 283 (A) sick leave;
- 284 (B) converted sick leave if accrued prior to January 1, 2014;
- 285 (C) educational allowances;
- 286 (D) holidays; and
- 287 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 288 provided to Schedule B state employees;
- 289 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 290 provided by law or rule upon resignation or retirement according to the same criteria and
- 291 procedures applied to Schedule B state employees;
- 292 (xiii) the option to purchase additional life insurance at group insurance rates according
- 293 to the same criteria and procedures applied to Schedule B state employees; and
- 294 (xiv) professional memberships if being a member of the professional organization is a
- 295 requirement of the position.
- 296 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 297 executive director from its existing budget.
- 298 (6) The Legislature fixes the following additional benefits:
- 299 (a) for the executive director of the State Tax Commission a vehicle for official and
- 300 personal use;
- 301 (b) for the executive director of the Department of Transportation a vehicle for official
- 302 and personal use;
- 303 (c) for the executive director of the Department of Natural Resources a vehicle for
- 304 commute and official use;

- 305 (d) for the Commissioner of Public Safety:
- 306 (i) an accidental death insurance policy if POST certified; and
- 307 (ii) a public safety vehicle for official and personal use;
- 308 (e) for the executive director of the Department of Corrections:
- 309 (i) an accidental death insurance policy if POST certified; and
- 310 (ii) a public safety vehicle for official and personal use;
- 311 (f) for the Adjutant General a vehicle for official and personal use; and
- 312 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
- 313 official use.

H.B. 190 1st Sub. (Buff) - State System of Higher Education Amendments

Fiscal Note

2008 General Session
State of Utah

State Impact

Expansion of the State Board of Regents would require an appropriation of \$12,300.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$12,300	\$12,300	\$0	\$0	\$0
Total	\$0	\$12,300	\$12,300	\$0	\$0	\$0

Individual, Business and/or Local Impact

Institutional presidents could benefit if their board of trustees voted to increase their salaries and terms of employment.