

HIGHER EDUCATION BUDGET AUTHORITY

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kory M. Holdaway

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies provisions related to the budget authority of individuals and institutions within the state system of higher education.

Highlighted Provisions:

This bill:

- ▶ authorizes the president of each institution, after consultation with the institution's board of trustees, to exercise certain powers relating to the institution's employees;
 - ▶ authorizes the presidents of institutions of higher education and the State Board of Regents to reallocate designated appropriations between line items for specific fiscal years, and encourages the presidents to exercise the budget authority provided to balance budgets in a timely manner;
 - ▶ removes requirements for certain appropriations to be made as separate line items;
 - ▶ restructures the Jobs Now Economic Development Initiative and its appropriations;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

- 30 **53B-2-106**, as last amended by Laws of Utah 2001, First Special Session, Chapter 5
- 31 **53B-2-108.1**, as enacted by Laws of Utah 2008, Second Special Session, Chapter 7
- 32 **53B-6-105**, as last amended by Laws of Utah 2008, Chapter 382
- 33 **53B-6-106**, as last amended by Laws of Utah 2008, Chapter 382
- 34 **53B-10-103**, as last amended by Laws of Utah 2001, Chapter 86

35

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

37 Section 1. Section **53B-2-106** is amended to read:

38 **53B-2-106. Duties and responsibilities of the president of each institution --**
39 **Approval by board of trustees.**

40 (1) (a) The president of each institution may exercise grants of power and authority as
41 delegated by the board, as well as the necessary and proper exercise of powers and authority
42 not specifically denied to the institution, its administration, faculty, or students by the board or
43 by law, to assure the effective and efficient administration and operation of the institution
44 consistent with the statewide master plan for higher education.

45 (b) The president of each institution may, after consultation with the institution's
46 board of trustees, exercise powers relating to the institution's employees, including faculty and
47 persons under contract with the institution, by implementing any of the following:

- 48 (i) furloughs;
- 49 (ii) reductions in force;
- 50 (iii) benefit adjustments;
- 51 (iv) program reductions or discontinuance;
- 52 (v) early retirement incentives that provide cost savings to the institution; and
- 53 (vi) other measures that provide cost savings to the institution.

54 (2) Except as provided by the board, the president of each institution, with the
55 approval of the institution's board of trustees may:

56 (a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members,
57 and other professional personnel, prescribe their duties, and determine their salaries;

58 (ii) appoint support personnel, prescribe their duties, and determine their salaries from
59 the institution's position classification plan, which may:

60 (A) be based upon similarity of duties and responsibilities within the institution; and

61 (B) as funds permit, provide salary and benefits comparable with private enterprise;

62 (iii) adopt policies for:

63 (A) employee sick leave use and accrual; and

64 (B) service recognition for employees with more than 15 years of employment with the
65 institution; and

66 (iv) subject to the authority of, policy established by, and the approval of the board of
67 regents, and recognizing the status of the institutions within the state system of higher
68 education as bodies politic and corporate, appoint attorneys to provide legal advice to the
69 institution's administration and to coordinate legal affairs within the institution. The board of
70 regents shall coordinate activities of attorneys at the institutions of higher education. The
71 institutions shall provide an annual report to the board of regents on the activities of appointed
72 attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the
73 State Risk Management Fund, or issue formal legal opinions but shall, in all respects,
74 cooperate with the Office of the Attorney General in providing legal representation to the
75 institution;

76 (b) provide for the constitution, government, and organization of the faculty and
77 administration, and enact implementing rules, including the establishment of a prescribed
78 system of tenure;

79 (c) authorize the faculty to determine the general initiation and direction of instruction
80 and of the examination, admission, and classification of students. In recognition of the diverse
81 nature and traditions of the various institutions governed by the board, the systems of faculty
82 government need not be identical but should be designed to further faculty identification with
83 and involvement in the institution's pursuit of achievement and excellence and in fulfillment
84 of the institution's role as established in the statewide master plan for higher education; and

85 (d) enact rules for administration and operation of the institution which are consistent

86 with the prescribed role established by the board, rules enacted by the board, or the laws of the
87 state. The rules may provide for administrative, faculty, student, and joint committees with
88 jurisdiction over specified institutional matters, for student government and student affairs
89 organization, for the establishment of institutional standards in furtherance of the ideals of
90 higher education fostered and subscribed to by the institution, its administration, faculty, and
91 students, and for the holding of classes on legal holidays, other than Sunday.

92 (3) Compensation costs and related office expenses for appointed attorneys shall be
93 funded within existing budgets.

94 (4) The State Board of Regents shall establish guidelines relating to the roles and
95 relationships between institutional presidents and boards of trustees, including those matters
96 which must be approved by a board of trustees before implementation by the president.

97 (5) This section does not apply to the Utah College of Applied Technology.

98 Section 2. Section **53B-2-108.1** is amended to read:

99 **53B-2-108.1. Appropriations reallocation -- Presidents' authority.**

100 (1) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures
101 Act, appropriations for the support of higher education for the [~~fiscal year beginning July 1,~~
102 ~~2008 and ending June 30, 2009;~~] fiscal years 2008-09 and 2009-10 may be reallocated
103 between line items as provided in this section.

104 (2) (a) The president of the University of Utah may reallocate between line items the
105 appropriations:

106 (i) described in Items 119-128 in S.B. 1, 2008 General Session; and

107 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
108 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
109 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
110 appropriations for the 2008-09 fiscal year.

111 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
112 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

113 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may

114 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

115 (A) 5%; and

116 (B) 1.5 times the percent of any reduction in appropriations to the University of Utah
117 for fiscal year 2008-09 made after the 2009 General Session.

118 (3) (a) The president of Utah State University may reallocate between line items the
119 appropriations:

120 (i) described in Items 129-137 in S.B. 1, 2008 General Session; and

121 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
122 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
123 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
124 appropriations for the 2008-09 fiscal year.

125 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
126 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

127 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may
128 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

129 (A) 5%; and

130 (B) 1.5 times the percent of any reduction in appropriations to Utah State University
131 for fiscal year 2008-09 made after the 2009 General Session.

132 (4) (a) The president of Weber State University may reallocate between line items the
133 appropriations:

134 (i) described in Items 138 and 139 in S.B. 1, 2008 General Session; and

135 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
136 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
137 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
138 appropriations for the 2008-09 fiscal year.

139 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
140 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

141 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may

142 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

143 (A) 5%; and

144 (B) 1.5 times the percent of any reduction in appropriations to Weber State University
145 for fiscal year 2008-09 made after the 2009 General Session.

146 (5) (a) The president of Southern Utah University may reallocate between line items
147 the appropriations:

148 (i) described in Items 140-143 in S.B. 1, 2008 General Session; and

149 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
150 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
151 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
152 appropriations for the 2008-09 fiscal year.

153 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
154 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

155 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may
156 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

157 (A) 5%; and

158 (B) 1.5 times the percent of any reduction in appropriations to Southern Utah
159 University for fiscal year 2008-09 made after the 2009 General Session.

160 (6) (a) The president of Snow College may reallocate between line items the
161 appropriations:

162 (i) described in Items 144-146 in S.B. 1, 2008 General Session; and

163 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
164 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
165 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
166 appropriations for the 2008-09 fiscal year.

167 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
168 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

169 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may

170 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

171 (A) 5%; and

172 (B) 1.5 times the percent of any reduction in appropriations to Snow College for fiscal
173 year 2008-09 made after the 2009 General Session.

174 (7) (a) The president of Dixie State College may reallocate between line items the
175 appropriations:

176 (i) described in Items 147-149 in S.B. 1, 2008 General Session; and

177 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
178 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
179 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
180 appropriations for the 2008-09 fiscal year.

181 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
182 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

183 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may
184 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

185 (A) 5%; and

186 (B) 1.5 times the percent of any reduction in appropriations to Dixie State College for
187 fiscal year 2008-09 made after the 2009 General Session.

188 (8) (a) The president of the College of Eastern Utah may reallocate between line items
189 the appropriations:

190 (i) described in Items 150-153 in S.B. 1, 2008 General Session; and

191 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
192 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
193 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
194 appropriations for the 2008-09 fiscal year.

195 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
196 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

197 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may

198 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

199 (A) 5%; and

200 (B) 1.5 times the percent of any reduction in appropriations to the College of Eastern
201 Utah for fiscal year 2008-09 made after the 2009 General Session.

202 (9) (a) The president of Utah Valley University may reallocate between line items the
203 appropriations:

204 (i) described in Items 154 and 155 in S.B. 1, 2008 General Session; and

205 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
206 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, S.B. 103, 2008 General
207 Session, [~~and~~] S.B. 2001, 2008 Second Special Session, H.B. 3, 2009 General Session, and
208 any other supplemental or other appropriations for the 2008-09 fiscal year.

209 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
210 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

211 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may
212 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

213 (A) 5%; and

214 (B) 1.5 times the percent of any reduction in appropriations to Utah Valley University
215 for fiscal year 2008-09 made after the 2009 General Session.

216 (10) (a) The president of Salt Lake Community College may reallocate between line
217 items the appropriations:

218 (i) described in Items 156-158 in S.B. 1, 2008 General Session; and

219 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
220 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
221 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
222 appropriations for the 2008-09 fiscal year.

223 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
224 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

225 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may

226 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

227 (A) 5%; and

228 (B) 1.5 times the percent of any reduction in appropriations to Salt Lake Community
229 College for fiscal year 2008-09 made after the 2009 General Session.

230 (11) (a) The State Board of Regents may reallocate between line items the
231 appropriations:

232 (i) described in Items 168-178 in S.B. 1, 2008 General Session and monies
233 appropriated in H.B. 86, 2008 General Session, and S.B. 180, 2008 General Session; and

234 (ii) as modified by supplemental appropriations, including H.B. 2, 2008 General
235 Session, H.B. 3, 2008 General Session, H.B. 4, 2008 General Session, [~~and~~] S.B. 2001, 2008
236 Second Special Session, H.B. 3, 2009 General Session, and any other supplemental or other
237 appropriations for the 2008-09 fiscal year.

238 (b) (i) The total amount of money reallocated may not exceed the net reduction [~~made~~
239 ~~in the 2008 Second Special Session~~] for the 2008-09 fiscal year.

240 (ii) The [~~money reallocated from each~~] percent of a line item appropriation that may
241 be reallocated may not exceed [~~4% of the line item.~~] the sum of:

242 (A) 5%; and

243 (B) 1.5 times the percent of any reduction in appropriations to the State Board of
244 Regents for fiscal year 2008-09 made after the 2009 General Session.

245 (12) (a) The State Board of Regents and an institution listed in Subsections (2)
246 through (10) may reallocate appropriations between line items for the 2009-10 fiscal year, in
247 accordance with Subsection (12)(b).

248 (b) The percent of a line item appropriation that may be reallocated may not exceed
249 1.5 times the percentage difference between:

250 (i) ongoing appropriations for the State Board of Regents or institution in the 2008-09
251 fiscal year; and

252 (ii) appropriations for the State Board of Regents or institution in the 2009-10 fiscal
253 year.

254 (13) In the 2008-09 and 2009-10 fiscal years, the president of each institution is
255 encouraged, as soon as is reasonably possible, to exercise the budget authority provided under
256 Subsection 53B-2-106(1)(b), as needed, to balance budgets and maintain the effective and
257 efficient administration and operation of the institution consistent with reduced institutional
258 funding.

259 Section 3. Section **53B-6-105** is amended to read:

260 **53B-6-105. Engineering and Computer Technology Initiative.**

261 (1) The Legislature recognizes that a significant increase in the number of engineering,
262 computer science, and related technology graduates from the state system of higher education
263 is required over the next several years to advance the intellectual, cultural, social, and
264 economic well-being of the state and its citizens.

265 (2) (a) (i) The State Board of Regents shall therefore develop, establish, and maintain
266 an Engineering and Computer Science Initiative within the state system of higher education to
267 double the number of graduates in engineering, computer science, and related technology by
268 2006 and triple the number of graduates by 2009.

269 (ii) The board shall make a rule in accordance with Title 63G, Chapter 3, Utah
270 Administrative Rulemaking Act, providing the criteria for those fields of study that qualify as
271 "related technology" under this section and Sections 53B-6-105.7 and 53B-6-105.9.

272 (b) The initiative shall include components that:

273 (i) improve the quality of instructional programs in engineering, computer science,
274 and related technology by providing supplemental monies for equipment purchases; and

275 (ii) provide incentives to:

276 (A) students through a loan and loan forgiveness program under Section 53B-6-105.7;

277 and

278 (B) institutions to hire and retain faculty under Section 53B-6-105.9.

279 (3) The increase in program capacity under Subsection (2)(a) shall include funding for
280 new and renovated capital facilities and funding for new engineering and computer science
281 programs.

282 (4) The Legislature shall provide an annual appropriation to the State Board of
 283 Regents to fund the initiative [~~as a budget line item for the State Board of Regents~~].

284 Section 4. Section **53B-6-106** is amended to read:

285 **53B-6-106. Jobs Now and Economic Development Initiatives.**

286 (1) (a) The [~~State Board of Regents~~] Utah College of Applied Technology shall
 287 develop, establish, and maintain a Jobs Now [~~Economic Development~~] Initiative [~~within the~~
 288 ~~state system of higher education, including the Utah College of Applied Technology~~], to
 289 promote workforce preparation programs that meet critical needs and shortages throughout the
 290 state.

291 (b) The State Board of Regents shall develop, establish, and maintain economic
 292 development initiatives within the system of higher education.

293 (2) The [~~initiative~~] initiatives specified in Subsection (1) shall provide support for
 294 technical training expansion that trains skilled potential employees within a period not to
 295 exceed 12 months for technical jobs in critical needs occupations and other innovative
 296 economic development policy initiatives.

297 (3) (a) [~~The~~] Subject to future budget constraints, the Legislature shall provide an
 298 annual appropriation to [~~fund the initiative in a line item to the State Board of Regents~~] the
 299 Utah College of Applied Technology to fund the Jobs Now Initiative established in Subsection
 300 (1)(a).

301 (b) (i) The [~~board shall allocate at least 2/3 of the appropriation to the~~] Utah College of
 302 Applied Technology [~~for distribution~~] Board of Trustees shall allocate the appropriation for
 303 the Jobs Now Initiative to college campuses within the college [~~as recommended by the Utah~~
 304 ~~College of Applied Technology Board of Trustees~~].

305 (ii) A college campus shall use money received under Subsection (3)(b)(i) for
 306 technical training expansion referred to in Subsection (2).

307 [~~(c) The board may allocate and distribute up to 1/3 of the appropriation to institutions~~
 308 ~~within the state system of higher education for short term training programs that prepare~~
 309 ~~skilled potential employees within a period not to exceed 12 months for technical jobs in~~

310 ~~critical needs occupations.]~~

311 (c) Subject to future budget constraints, the Legislature shall provide an annual
312 appropriation to the State Board of Regents to fund economic development initiatives
313 established pursuant Subsection (1)(b).

314 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[;
315 ~~the board];~~

316 (i) the Utah College of Applied Technology Board of Trustees shall make rules[:(~~†~~)] to
317 implement the Jobs Now [Economic Development] Initiative; and

318 ~~[(ii) by which institutions may apply for the moneys referred to in Subsection (3)(c).]~~

319 (ii) the board shall make rules to implement economic development initiatives.

320 Section 5. Section **53B-10-103** is amended to read:

321 **53B-10-103. Incentive loan appropriation -- Administration of incentive loan**
322 **program.**

323 (1) ~~[The]~~ Subject to future budget constraints, the Legislature shall [annually
324 appropriate to] provide an annual appropriation to the State Board of Regents for the Terrel H.
325 Bell Teaching Incentive Loans [Fund, as a budget line item for the State Board of Regents,
326 sufficient funds to support the scholarships] Program established in Section [53B-10-102]
327 53B-10-101.

328 (2) The State Board of Regents shall administer the Terrel H. Bell Teaching Incentive
329 Loans ~~[Fund]~~ Program in accordance with criteria, policies, and procedures established by the
330 board and the State Board of Education.

331 Section 6. **Effective date.**

332 If approved by two-thirds of all the members elected to each house, this bill takes effect
333 upon approval by the governor, or the day following the constitutional time limit of Utah
334 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
335 the date of veto override.