

1 **HIGHER EDUCATION BUDGET AUTHORITY**

2 **AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kory M. Holdaway**

6 **Senate Sponsor: John L. Valentine**

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**LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides an immediate effective date.



28 **Utah Code Sections Affected:**

29 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



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 board  
46 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 approval  
55 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 of

84 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 between  
103 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 be  
114 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 be  
128 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 be  
142 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 be  
156 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 be  
170 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 be  
184 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 be  
198 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 any  
208 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 be  
212 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 be  
226 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 be  
241 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) through  
246 (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 1.5  
249 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 is  
263 required over the next several years to advance the intellectual, cultural, social, and economic  
264 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, and  
274 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 Regents  
283 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 the  
303 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 technical  
306 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 skilled~~  
309 ~~potential employees within a period not to exceed 12 months for technical jobs in critical needs~~  
310 ~~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[:(i)] 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.

**Legislative Review Note**  
as of 2-24-09 10:23 AM

**Office of Legislative Research and General Counsel**

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**H.B. 432 - Higher Education Budget Authority Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Total institutional funding will not be impacted by giving presidents the authority to reallocate funding between designated line item as outlined in this bill.

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**Individual, Business and/or Local Impact**

No fiscal impact.

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