

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

USTAR GOVERNANCE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: Rebecca P. Edwards

LONG TITLE

General Description:

This bill modifies provisions regarding the Utah Science Technology and Research Governing Authority.

Highlighted Provisions:

This bill:

- ▶ requires that prospective gubernatorial appointees to the Utah Science Technology and Research Governing Authority be approved by the Senate;
- ▶ gives the governor authority to remove a member of the Utah Science Technology and Research Governing Authority before a member's term is completed;
- ▶ modifies provisions of the technology outreach innovation program; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 63M-2-102**, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-202**, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-204**, as last amended by Laws of Utah 2014, Chapter 186



28 **63M-2-301**, as last amended by Laws of Utah 2014, Chapter 186

29 **63M-2-302**, as last amended by Laws of Utah 2014, Chapter 186

30 **63M-2-401**, as enacted by Laws of Utah 2014, Chapter 186

31 **63M-2-402**, as enacted by Laws of Utah 2014, Chapter 186



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

34 Section 1. Section **63M-2-102** is amended to read:

35 **63M-2-102. Definitions.**

36 As used in this chapter:

37 (1) "Commercialization revenues" means dividends, realized capital gains, license fees,
38 royalty fees, and all other revenues received by a university as a result of commercial
39 applications, inventions, or intellectual property developed from the USTAR initiative, less:

40 (a) the portion of [~~those~~] revenues allocated to the inventor; and

41 (b) expenditures incurred by the university to legally protect the intellectual property.

42 (2) "Executive director" means the person appointed [~~by the governing authority~~] under
43 Section **63M-2-301**.

44 (3) "Research buildings" means any of the buildings listed in Section **63M-2-201**.

45 (4) "Research universities" means the University of Utah and Utah State University.

46 (5) "Technology outreach innovation program" or "TOIP" means the program
47 described in Section **63M-2-202**.

48 (6) "USTAR governing authority" means the Utah Science Technology and Research
49 Governing Authority created in Section **63M-2-301**.

50 (7) (a) "USTAR initiative" means the Utah Science Technology and Research Initiative
51 created in Section **63M-2-301**.

52 (b) "USTAR initiative" includes the projects, operations, activities, programs, and
53 services described in this chapter.

54 Section 2. Section **63M-2-202** is amended to read:

55 **63M-2-202. Technology outreach innovation program.**

56 (1) As funding becomes available from the Legislature or other sources, the USTAR
57 governing authority shall establish a technology outreach innovation program, also known as
58 the TOIP, at up to five locations distributed strategically throughout Utah.

59 (2) ~~(a)~~ The USTAR governing authority shall ensure that the technology innovation
60 outreach program acts as a resource to:

61 ~~(i)~~ (a) broker ideas, new technologies, and services to entrepreneurs and businesses
62 throughout a defined service area;

63 ~~(ii)~~ (b) engage local entrepreneurs and professors at applied technology centers,
64 colleges, and universities by connecting them to Utah's research universities;

65 ~~(iii)~~ (c) screen business ideas and new technologies to ensure that the ones with the
66 highest growth potential receive the most targeted services and attention;

67 ~~(iv)~~ (d) connect market ideas and technologies in new or existing businesses or
68 industries or in regional colleges and universities with the expertise of Utah's research
69 universities;

70 ~~(v)~~ (e) assist businesses, applied technology centers, colleges, and universities in
71 developing commercial applications for their research; and

72 ~~(vi)~~ (f) disseminate and share discoveries and technologies emanating from Utah's
73 research universities to local entrepreneurs, businesses, applied technology centers, colleges,
74 and universities.

75 ~~(b)~~ (3) In designing and operating the ~~[technology outreach program,]~~ TOIP, for each
76 TOIP location the USTAR governing authority ~~[shall]~~:

77 ~~(i) for each technology outreach program location:]~~

78 (a) may hire a TOIP director;

79 ~~(A)~~ (b) shall establish written performance standards and expectations ~~[for each~~
80 ~~location];~~ and

81 ~~(B)~~ (c) shall require reporting ~~[from each location]~~ related to those performance
82 standards and expectations on at least an annual basis~~[-and]~~.

83 ~~(ii) work cooperatively with the Technology Commercialization Offices at Utah State~~
84 ~~University and the University of Utah.]~~

85 (4) A TOIP director hired under Subsection (3) shall:

86 (a) be categorized as a schedule AC employee in accordance with Section [67-19-15](#);

87 (b) report to, and be supervised by, the executive director;

88 (c) ensure the TOIP serves to further the vision and mission of the USTAR initiative;

89 and

90 (d) as directed by the executive director, implement the policies and procedures
91 adopted by the USTAR governing authority.

92 Section 3. Section **63M-2-204** is amended to read:

93 **63M-2-204. Financial participation agreement.**

94 (1) In consideration of the money and services provided or agreed to be provided, the
95 state of Utah, Utah State University, and the University of Utah agree that they will allocate
96 commercialization revenues as follows:

97 ~~[(a) for the first \$15,000,000 received:]~~

98 ~~[(i) \$10,000,000 to Utah State University and the University of Utah, with the money~~
99 ~~distributed proportionately based upon which university conducted the research that generated~~
100 ~~the commercialization revenues; and]~~

101 ~~[(ii) \$5,000,000 to the USTAR governing authority for the ongoing operations of the~~
102 ~~USTAR initiative; and]~~

103 (a) for up to and including the first \$15,000,000 in commercialization revenues
104 generated:

105 (i) 66.6% shall be retained by the research universities, with the money distributed
106 proportionably to the university that generated the commercialization revenue; and

107 (ii) 33.4% shall be paid to the USTAR governing authority for the ongoing operation
108 of the USTAR initiative;

109 (b) for all subsequent money received:

110 (i) 50% to Utah State University and the University of Utah, with the money
111 distributed proportionately based upon which university conducted the research that generated
112 the commercialization revenues; and

113 (ii) 50% to the USTAR governing authority or other entity designated by the state to be
114 used for:

115 (A) unless prohibited by law, deposit with the state treasurer for deposit into the
116 sinking fund created under Section **63B-1a-301** for debt service on the bonds issued to fund
117 planning, design, and construction of the research buildings;

118 (B) ongoing operations of the USTAR initiative;

119 (C) replacement of equipment in the research buildings;

120 (D) recruitment and funding of additional research teams; and

121 (E) construction of additional research buildings.

122 Section 4. Section **63M-2-301** is amended to read:

123 **63M-2-301. The Utah Science Technology and Research Initiative and the Utah**
124 **Science Technology and Research Governing Authority -- Creation -- Membership --**
125 **Meetings -- Staff.**

126 (1) There is created the Utah Science Technology and Research Initiative.

127 (2) To oversee the Utah Science Technology and Research Initiative, there is created
128 the Utah Science Technology and Research Governing Authority consisting of the state
129 treasurer or the state treasurer's designee, the executive director of the Governor's Office of
130 Economic Development, and the following eight members appointed as follows:

131 (a) three appointed by the governor, with the consent of the Senate;

132 (b) two appointed by the president of the Senate;

133 (c) two appointed by the speaker of the House of Representatives; and

134 (d) one appointed by the commissioner of higher education.

135 (3) (a) (i) The eight appointed members shall serve four-year staggered terms.

136 (ii) The appointed members may not serve more than two full consecutive terms.

137 (iii) An appointed member may be removed from the board for any reason before the
138 member's term is completed at the discretion of the governor after consultation with the
139 governing authority.

140 (b) Notwithstanding Subsection (3)(a)(i), the terms of the first members of the
141 governing authority shall be staggered by lot so that half of the initial members serve two-year
142 terms and half serve four-year terms.

143 (4) Vacancies in the appointed positions on the governing authority shall be filled by
144 the appointing authority [~~with consent of the Senate~~] in the same manner as the original
145 appointment for the unexpired term.

146 (5) (a) The governor, with the consent of the Senate, shall select the chair of the
147 governing authority to serve a one-year term.

148 (b) The executive director of the Governor's Office of Economic Development shall
149 serve as the vice chair of the governing authority.

150 (6) The governing authority shall meet at least monthly and may meet more frequently
151 at the request of a majority of the members of the governing authority.

152 (7) Five members of the governing authority are a quorum.

153 (8) A member may not receive compensation or benefits for the member's service, but
154 may receive per diem and travel expenses as allowed in:

155 (a) Section 63A-3-106;

156 (b) Section 63A-3-107; and

157 (c) rules made by the Division of Finance according to Sections 63A-3-106 and
158 63A-3-107.

159 (9) (a) After consultation with the USTAR governing authority, the governor, with the
160 consent of the Senate, shall appoint a full-time executive director to provide staff support for
161 the USTAR governing authority.

162 (b) The executive director is an at-will employee who may be terminated without cause
163 by the governor ~~[or]~~, by the Senate, or by majority vote of the USTAR governing authority.

164 Section 5. Section 63M-2-302 is amended to read:

165 **63M-2-302. USTAR governing authority powers.**

166 (1) The USTAR governing authority shall:

167 (a) ensure that funds appropriated and received for research and development at the
168 research universities and for the ~~[technology outreach program]~~ TOIP are used appropriately,
169 effectively, and efficiently in accordance with the intent of the Legislature;

170 (b) in cooperation with the universities' administrations, expand key research at the two
171 research universities;

172 (c) enhance technology transfer and commercialization of research and technologies
173 developed at the research universities to create high-quality jobs and new industries in the
174 private sector in Utah;

175 (d) review state and local economic development plans and appropriations to ensure
176 that the USTAR initiative and its appropriations do not duplicate existing or planned programs;

177 (e) establish written economic development objectives for the USTAR initiative that
178 are measurable and verifiable, including how to maximize revenue to the USTAR initiative so
179 that it becomes financially self-supporting;

180 (f) by following the procedures and requirements of Title 63G, Chapter 3, Utah
181 Administrative Rulemaking Act, make rules for allocating appropriated money for research
182 teams and for the commercialization of new technology between Utah State University and the

183 University of Utah;

184 (g) verify that the USTAR initiative is being enhanced by research grants and that it is
185 meeting the governing authority's economic development objectives;

186 (h) monitor all research plans that are part of the USTAR initiative at the research
187 universities to determine that appropriations are being spent in accordance with legislative
188 intent and to maximize the benefit and return to the state; and

189 (i) develop methods and incentives to encourage investment in and contributions to the
190 USTAR initiative from the private sector.

191 (2) The USTAR governing authority may:

192 (a) in addition to money received from the Legislature, receive contributions for the
193 USTAR initiative from any source in the form of money, property, labor, or other things of
194 value;

195 (b) subject to any restrictions imposed by the donation, appropriations, or bond
196 authorizations, allocate money received by it among the research universities, technology
197 outreach program, and technology transfer offices to support commercialization and technology
198 transfer to the private sector; or

199 (c) enter into agreements necessary to obtain private equity investment in the USTAR
200 initiative.

201 Section 6. Section **63M-2-401** is amended to read:

202 **63M-2-401. Reporting requirements.**

203 (1) By October 1 of each year, the USTAR governing authority shall submit to the
204 governor; the Legislature; the Business, Economic Development, and Labor Appropriations
205 Subcommittee; and the Economic Development and Workforce Services Interim Committee an
206 annual written report of the operations, activities, programs, and services of the governing
207 authority and the USTAR initiative for the preceding fiscal year.

208 (2) For each project, operation, activity, program, or service related to the USTAR
209 initiative or overseen or funded through the USTAR governing authority, the annual report
210 shall include:

211 (a) a description of the project, operation, activity, program, or service;

212 (b) data selected and used by the governing authority to measure progress,
213 performance, and scope of the project, operation, activity, program, or service, including

214 summary data;

215 (c) a clear description of the methodology for any data in the report that includes an
216 estimation;

217 (d) the amount and source of all USTAR initiative funding, including:

218 (i) funding from legislative appropriations;

219 (ii) funding procured outside of legislative appropriations, including a separate
220 accounting of grants or investments contributing to research teams and other activities of the
221 USTAR initiative from the federal government, private entities, or other sources, and an
222 explanation of the extent to which:

223 (A) outside funding was contingent on or leveraged by legislative appropriations; and

224 (B) outside funding would continue if legislative appropriations were discontinued;

225 (iii) commercialization revenue, including a separate accounting of:

226 (A) realized commercialization revenue;

227 (B) unrealized [~~and expected~~] commercialization revenue; and

228 (C) commercialization revenue going to other parties attributable to USTAR initiative
229 funding;

230 (iv) lease revenue from each building in which the USTAR governing authority holds
231 title; and

232 (v) the amount of money deposited with the state treasurer for deposit into the sinking
233 fund created under Section [63B-1a-301](#) for debt service on the bonds issued to fund planning,
234 design, and construction of the research buildings;

235 (e) all expenses of the USTAR initiative, including:

236 (i) operational expenses;

237 (ii) for each employee receiving compensation from USTAR initiative funding,
238 compensation information, including:

239 (A) salary expenses, benefit expenses, and travel expenses;

240 (B) information for each research team employee and each employee of the

241 [~~technology outreach program~~] TOIP that receives compensation directly or indirectly through
242 USTAR initiative funding; and

243 (C) information regarding compensation for each employee from sources other than
244 USTAR initiative funding, including grants and compensation from a university or private

- 245 entity;
- 246 (iii) for each research team, salary expenses, benefit expenses, travel expenses, and
247 operations and maintenance expenses;
- 248 (iv) operational and maintenance expenses for each building in which the USTAR
249 governing authority holds title;
- 250 (v) operational and maintenance expenses paid for by USTAR initiative funding for
251 each location that has an established [~~technology outreach program~~] TOIP; and
- 252 (vi) each grant or other incentive given as a result of the USTAR initiative, including
253 grants or incentives awarded through the [~~technology outreach program~~] TOIP;
- 254 (f) the number of jobs and the corresponding salary ranges created by the USTAR
255 initiative, including the number of jobs where the employee is expected to be employed for at
256 least one year and earns at least 125% of the prevailing wage of the county where the employee
257 works;
- 258 (g) the name of each business entity receiving a grant or other incentive as a result of
259 the USTAR initiative, including the outreach program;
- 260 (h) a list of business entities that have hired employees as a result of the USTAR
261 initiative;
- 262 (i) the tax revenue generated as a result of the USTAR initiative, with actual revenue
263 generated clearly separated from potential revenue;
- 264 (j) a list of intellectual property assets, including patents, generated by research teams
265 as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's
266 percentage share of potential commercialization revenue that may be realized from those
267 assets;
- 268 (k) a description of any agreements entered into regarding private equity investment in
269 the USTAR initiative;
- 270 (l) beginning with data from the fiscal year beginning July 1, 2013, historical data from
271 previous years for comparison with the annual data reported under this Subsection (2);
- 272 (m) goals, challenges, and achievements related to the project, operation, activity,
273 program, or service;
- 274 (n) relevant federal and state statutory references and requirements;
- 275 (o) contact information of officials knowledgeable and responsible for each project,

276 operation, activity, program, or service;

277 (p) other information determined by the USTAR governing authority that:

278 (i) may be needed, useful, or of historical significance; or

279 (ii) promotes accountability and transparency for each project, operation, activity,

280 program, or service with the public and with elected officials;

281 (q) the written economic development objectives required under Subsection

282 [63M-2-302\(1\)\(e\)](#) and a description of any progress or challenges in meeting the objectives; and

283 (r) the audit report described in Section [63M-2-402](#).

284 (3) The annual report shall be designed to provide clear, accurate, and accessible

285 information to the public, the governor, and the Legislature.

286 (4) The governing authority shall:

287 (a) submit the annual report in accordance with Section [68-3-14](#); and

288 (b) make the annual report and previous annual reports accessible to the public by

289 placing a link to the reports on the USTAR initiative's website.

290 (5) In addition to the annual written report described in this section:

291 (a) upon the request of a committee, the USTAR governing authority shall provide

292 information and progress reports to the Economic Development and Workforce Services

293 Interim Committee; the Business and Labor Interim Committee; and the Business, Economic

294 Development, and Labor Appropriations Subcommittee; and

295 (b) on or before October 1, 2019, and every five years after October 1, 2019, the

296 USTAR governing authority shall include with the annual report described in this section a

297 written analysis and recommendations concerning the usefulness of the information required in

298 the annual report and the ongoing effectiveness of the USTAR initiative, including whether:

299 (i) the reporting requirements are effective at measuring the performance of the

300 USTAR initiative;

301 (ii) the reporting requirements should be modified; and

302 (iii) the USTAR initiative is beneficial to the state and should continue.

303 Section 7. Section [63M-2-402](#) is amended to read:

304 **[63M-2-402](#). Audit requirements.**

305 (1) Each fiscal year, an audit of the activities of the USTAR initiative shall be made as

306 described in this section.

- 307 (2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be
308 conducted by:
- 309 (i) the legislative auditor; or
 - 310 (ii) an independent auditor engaged by the legislative auditor.
- 311 (b) An independent auditor used under Subsection (2)(a)(ii) may not have a [~~business~~
312 ~~or contractual connection, or other connection,~~] direct financial conflict of interest with the
313 USTAR initiative or the USTAR governing authority.
- 314 (3) The USTAR governing authority shall pay the costs associated with the annual
315 audit.
- 316 (4) The annual audit shall:
- 317 (a) include a verification of the accuracy of the information required to be included in
318 the annual report described in Section [63M-2-401](#); and
 - 319 (b) be completed by September 1 of each year.

Legislative Review Note
as of 2-17-15 2:52 PM

Office of Legislative Research and General Counsel