

SB0239S03 compared with SB0239S02

~~{deleted text}~~ shows text that was in SB0239S02 but was deleted in SB0239S03.

Inserted text shows text that was not in SB0239S02 but was inserted into SB0239S03.

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~~{Senator Daniel Hemmert}~~Representative R. Curt Webb proposes the following substitute bill:

UTAH SCIENCE TECHNOLOGY AND RESEARCH

INITIATIVE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: ~~{~~R. Curt Webb

LONG TITLE

General Description:

This bill modifies provisions of the Utah Science Technology and Research Governing Authority (USTAR) Act and other related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions that require USTAR to provide ongoing funding for certain researchers at the University of Utah and Utah State University;
- ▶ modifies reporting requirements related to researchers that receive state funding;

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- ▶ requires USTAR to transfer ownership of:
 - a certain research building located on the campus of the University of Utah to the university; and
 - a certain research building located on the campus of Utah State University to the university;
- ▶ creates a new restricted account;
- ▶ amends provisions related to the Governor's Office of Economic Development's Technology Commercialization and Innovation Program; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Utah Science Technology and Research Governing Authority -- Research Capacity Building -- various programs described in this bill:
 - from the General Fund as an ongoing appropriation, (\$6,519,000); and
 - from Beginning Nonlapsing Balances as a one-time appropriation, (\$250,000);
- ▶ to the General Fund:
 - from nonlapsing balances -- Utah Science Technology and Research Governing Authority as a one-time appropriation, \$250,000;
- ▶ to the University of Utah -- Education and General:
 - from the General Fund as an ongoing appropriation, \$2,000,000; and
 - from the General Fund as a one-time appropriation, (\$2,307,300);
- ▶ to Utah State University -- Education and General:
 - from the General Fund as an ongoing appropriation, \$1,000,000;
- ▶ To USTAR -- Grant Programs -- various programs described in this bill:
 - from the General Fund as an ongoing appropriation, (\$9,220,000); and
 - from the General Fund as a one-time appropriation, \$9,220,000;
- ▶ To Governor's Office of Economic Development -- Business Development -- Outreach and International Trade:
 - from the General Fund as an ongoing appropriation, (\$2,448,900); and
 - from the General Fund as a one-time appropriation, \$2,448,900; and
- ▶ To Workforce Development Restricted Account:

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- from the General Fund as an ongoing appropriation, \$15,187,900; and
- from the General Fund as a one-time appropriation, (\$9,111,600).

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2017, Chapters 166 and 181

63M-2-502, as enacted by Laws of Utah 2016, Chapter 240

63M-2-602, as enacted by Laws of Utah 2016, Chapter 240

63M-2-802, as last amended by Laws of Utah 2017, Chapter 18

63N-3-204, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

[13-1-14, Utah Code Annotated 1953](#)

53B-17-1101, Utah Code Annotated 1953

53B-17-1102, Utah Code Annotated 1953

53B-18-1501, Utah Code Annotated 1953

53B-18-1502, Utah Code Annotated 1953

~~{ [63J-4-801, Utah Code Annotated 1953](#)~~

~~{~~REPEALS:

63M-2-702, as enacted by Laws of Utah 2016, Chapter 240

63M-2-704, as enacted by Laws of Utah 2016, Chapter 240

63M-2-705, as enacted by Laws of Utah 2016, Chapter 240

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

Section 1. Section ~~{53B-17-1101}~~13-1-14 is enacted to read:

13-1-14. Workforce Development Restricted Account.

(1) There is created a restricted account within the General Fund known as the Workforce Development Restricted Account.

(2) The restricted account shall be administered to provide funding for collaborative projects that support:

(a) economic development in the state;

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(b) workforce development in the state;

(c) the support of scientific and technical innovation and entrepreneurship in the state;

and

(d) the programs and duties of the governing authority in accordance with this chapter.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited into the restricted account.

(4) The restricted account shall be funded by appropriations made to the account by the Legislature.

(5) Subject to appropriation and direction from the Legislature, account money may be used in accordance with this part.

Section 2. Section 53B-17-1101 is enacted to read:

Part 11. USTAR Researchers

53B-17-1101. Definitions.

As used in this part:

(1) "Researcher" means an individual who:

(a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

(b) before May 8, 2018, received funding from USTAR for some or all of the researcher's startup costs or salary;

(c) was recruited to become a member of the university's faculty; and

(d) after May 8, 2018, receives some or all of the researcher's start up costs or salary from a legislative appropriation to the university for that purpose.

(2) "University" means the University of Utah.

(3) "USTAR" means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

Section ~~{2}~~3. Section 53B-17-1102 is enacted to read:

53B-17-1102. Researcher reporting requirements.

(1) On or before September 1 each year, the university shall submit a written report to the governor, the Legislature, and the Business, Economic Development, and Labor Appropriations Subcommittee.

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(2) A report under Subsection (1) shall contain:

(a) the amount and sources of funding expended on a researcher's research program,

including:

(i) university funds and other state funds;

(ii) legislative appropriations;

(iii) federal funds;

(iv) philanthropic or nonprofit funds; and

(v) industry funds;

(b) a copy of each:

(i) technology disclosure that a researcher files with the university;

(ii) license agreement that the university enters into with respect to a technology developed by a researcher, including any current, expired, or breached license; and

(iii) patent filed by the university based on technology developed by a researcher;

(c) publications in which a researcher participated, including a citation for each peer reviewed publication;

(d) the number of jobs maintained by a researcher's research program and average wages paid to those holding those jobs;

(e) expenses paid by legislative appropriations for each researcher, including:

(i) salary and benefits for a researcher or staff;

(ii) operational expenses;

(iii) capital equipment expenses; and

(iv) travel; and

(f) compensation, including salary and benefits, that a researcher received from a publicly funded source other than legislative appropriations under this part.

Section ~~3}4~~. Section **53B-18-1501** is enacted to read:

Part 15. USTAR Researchers

53B-18-1501. Definitions.

As used in this part:

(1) "Researcher" means an individual who:

(a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

(b) before May 8, 2018, received funding from USTAR for some or all of the

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researcher's startup costs or salary;

(c) was recruited to become a member of the university's faculty; and

(d) after May 8, 2018, receives some or all of the researcher's start up costs or salary from a legislative appropriation to the university for that purpose.

(2) "University" means Utah State University.

(3) "USTAR" means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

Section ~~4}5~~. Section **53B-18-1502** is enacted to read:

53B-18-1502. Researcher reporting requirements.

(1) On or before September 1 each year, the university shall submit a written report to the governor, the Legislature, and the Business, Economic Development, and Labor Appropriations Subcommittee.

(2) A report under Subsection (1) shall contain:

(a) the amount and sources of funding expended on a researcher's research program, including:

(i) university funds and other state funds;

(ii) legislative appropriations;

(iii) federal funds;

(iv) philanthropic or nonprofit funds; and

(v) industry funds.

(b) a copy of each:

(i) technology disclosure that a researcher files with the university;

(ii) license agreement that the university enters into with respect to a technology developed by a researcher, including any current, expired, or breached license; and

(iii) patent filed by the university based on technology developed by a researcher;

(c) publications in which a researcher participated, including a citation for each peer reviewed publication;

(d) the number of jobs maintained by a researcher's research program and average wages paid to those holding those jobs;

(e) expenses paid by legislative appropriations for each researcher, including:

(i) salary and benefits for a researcher or staff;

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(ii) operational expenses;

(iii) capital equipment expenses; and

(iv) travel; and

(f) compensation, including salary and benefits, that a researcher received from a publicly funded source other than legislative appropriations under this part.

Section ~~{5}~~6. Section **63I-1-253** is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.

(4) Section 53A-13-106.5 is repealed July 1, 2019.

(5) Section 53A-15-106 is repealed July 1, 2019.

(6) Sections 53A-15-206 and 53A-15-207 are repealed January 1, 2023.

(7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Title 53B, Chapter 18, Part 15, USTAR Researchers, is repealed July 1, 2028.

~~{8}~~ (10) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

~~{9}~~ (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

~~{~~ Section 6. Section **63J-4-801** is enacted to read:

~~Part 8. Workforce Development Restricted Account~~

~~63J-4-801. Workforce Development Restricted Account:~~

~~(1) There is created a restricted account within the General Fund known as the Workforce Development Restricted Account.~~

~~(2) The restricted account shall be administered to provide funding for collaborative~~

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projects that support:

- ~~— (a) economic development in the state;~~
- ~~— (b) workforce development in the state;~~
- ~~— (c) the support of scientific and technical innovation and entrepreneurship in the state;~~
- ~~and~~
- ~~— (d) the programs and duties of the governing authority in accordance with this chapter.~~
- ~~— (3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited into the restricted account.~~
- ~~— (4) The restricted account shall be funded by appropriations made to the account by the Legislature.~~
- ~~— (5) Subject to appropriation and direction from the Legislature, account money may be used in accordance with this part.~~

‡ Section 7. Section **63M-2-502** is amended to read:

63M-2-502. Principal researchers -- Agreement requirements -- Discontinuing funding.

(1) Subject to Subsection (6) and legislative appropriation, the governing authority shall:

(a) provide funding to help a research university honor its commitments to principal researchers employed by the research university; and

(b) give priority to funding provided under Subsection (1)(a).

(2) The governing authority shall enter into a written agreement with a higher education institution that employs a principal researcher:

(a) establishing performance standards and expectations for a principal researcher; and

(b) requiring the higher education institution to require a principal researcher to comply with reporting requirements set forth in Section 63M-2-702.

(3) (a) A principal researcher may not be hired on or after May 10, 2016 without the approval of the governing authority and the higher education institution.

(b) A higher education institution that enters into or renews an agreement with a principal researcher on or after May 10, 2016 shall include in the agreement:

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- (i) a specific time period for the commitment of USTAR funding;
 - (ii) the amount of USTAR funding committed to the higher education institution for the principal researcher, specifying the purpose of the funding;
 - (iii) an acknowledgment that the principal researcher understands and agrees to the reporting requirements and performance standards under this chapter; and
 - (iv) the governing authority's written approval of the terms of the new or renewed agreement.
- (4) The governing authority may not allocate money to a higher education institution for a principal researcher unless the higher education institution provides the reporting required under Section 63M-2-702.
- (5) The governing authority may discontinue allocating money to a higher education institution for a principal researcher if the governing authority and the president of the higher education institution employing the principal researcher agree in writing that:
- (a) the principal researcher:
 - (i) fails to meet the performance standards and expectations established under Subsection (2)(a);
 - (ii) receives a reasonable opportunity to remedy the failure to meet performance standards and expectations; and
 - (iii) fails to remedy the failure to meet performance standards and expectations; and
 - (b) under the circumstances, discontinuing USTAR funding to the higher education institution for the principal researcher is appropriate and justified.
- (6) Beginning on ~~May 8~~ July 1, 2018, USTAR may not provide funding to help a research university honor its commitments to principal researchers employed by the research university.

Section 8. Section **63M-2-602** is amended to read:

63M-2-602. Lease agreement for a research building -- Requirements for lease agreement.

- (1) ~~The~~ Subject to Subsection (3), the governing authority shall enter into a written lease agreement with a research university to lease to the research university a research building constructed on the research university's campus.
- (2) A lease agreement under Subsection (1) shall:

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(a) require the research university to pay the ongoing operation and maintenance expenses associated with the research building, including for any infrastructure in the research building; and

(b) subject to the reporting requirements described in Section 63M-2-705, permit the research university to use or rent space within the research building for research other than research receiving USTAR support, including research by a private entity.

(3) (a) On or before October 1, 2018, the governing authority shall transfer ownership and title of the:

(i) research building known as the James L. Sorenson Molecular Biotechnology Building, USTAR Building, located at 36 South Wasatch Drive, Salt Lake City, to the University of Utah; and

(ii) research building known as the USTAR BioInnovations Center located at ~~620 Grandview Drive, Providence;~~ ~~650 East 1600 North, North Logan,~~ to Utah State University.

(b) The provisions of Subsections (1) and (2) are no longer in effect after the transfer of ownership described in this Subsection (3) occurs.

Section 9. Section **63M-2-802** is amended to read:

63M-2-802. USTAR annual report.

(1) (a) On or before October 1 of each year, the governing authority shall submit, in accordance with Section 68-3-14, an annual written report for the preceding fiscal year to:

- (i) the Business, Economic Development, and Labor Appropriations Subcommittee;
- (ii) the Economic Development and Workforce Services Interim Committee;
- (iii) the Business and Labor Interim Committee; and
- (iv) the governor.

(b) An annual report under Subsection (1)(a) is subject to modification as provided in Subsection (5) after an audit described in Section 63M-2-803 is released.

(2) An annual report described in Subsection (1) shall include:

(a) information reported to the governing authority [~~:(i) by an institution of higher education under Section 63M-2-702; (ii)] through the survey described in Section 63M-2-703;~~

[~~and~~]

[~~(iii) by a research university, under Section 63M-2-705;]~~

(b) a clear description of the methodology used to arrive at any information in the

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report that is based on an estimate;

(c) starting with fiscal year 2017 data as a baseline, data from previous years for comparison with the annual data reported under this Subsection (2);

(d) relevant federal and state statutory references and requirements;

(e) contact information for the executive director;

(f) other information determined by the governing authority that promotes accountability and transparency; and

(g) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of progress or challenges in meeting the objectives.

(3) The governing authority shall design the annual report to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The governing authority shall:

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

(b) place a link to the annual report and previous annual reports on USTAR's website.

(5) Following the completion of an annual audit described in Section 63M-2-803, the governing authority shall:

(a) publicly issue a revised annual report that:

(i) addresses the audit;

(ii) responds to audit findings; and

(iii) incorporates any revisions to the annual report based on audit findings;

(b) publish the revised annual report on USTAR's website, with a link to the audit; and

(c) submit, in accordance with Section 68-3-14, written notification of any revisions of the annual report to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

(6) In addition to the annual written report described in this section, the governing authority shall:

(a) provide information and progress reports to a legislative committee upon request;

and

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(b) on or before [~~October 1, 2019~~] August 1, 2018, and every five years after [~~October 1, 2019, include with the annual report described in this section~~] August 1, 2018, provide to the same entities that receive the annual report described in Subsection (1)(a) a written analysis and recommendations concerning the usefulness of the information required in the annual report and USTAR's ongoing effectiveness, including whether:

(i) the reporting requirements are effective at measuring USTAR's performance;

(ii) the reporting requirements should be modified; [~~and~~]

(iii) USTAR is beneficial to the state and should continue[~~;~~]; and

(iv) whether programs in other agencies could provide similar benefits to the state more effectively or at a lower cost.

Section 10. Section **63N-3-204** is amended to read:

63N-3-204. Administration -- Grants and loans.

(1) The office shall administer this part.

(2) (a) (i) The office may award Technology Commercialization and Innovation

Program grants or issue loans under this part to an applicant that is:

(A) an institution of higher education;

(B) a licensee; or

(C) a small business.

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or

(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

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(c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.

(d) (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.

(3) (a) Funding allocations shall be made by the office with the advice of the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.

(5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1-301, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.

(6) (a) On or before August 1, 2018, the office shall provide a written analysis and recommendations concerning the usefulness of the Technology Commercialization and Innovation Program described in this part, including whether:

(i) the program is beneficial to the state and should continue; and

(ii) other office programs or programs in other agencies could provide similar benefits

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to the state more effectively or at a lower cost.

(b) The written analysis and recommendations described in this Subsection (6) shall be provided to:

- (i) the Business, Economic Development, and Labor Appropriations Subcommittee;
- (ii) the Economic Development and Workforce Services Interim Committee;
- (iii) the Business and Labor Interim Committee; and
- (iv) the governor.

Section 11. **Repealer.**

This bill repeals:

Section **63M-2-702, Reporting requirements for higher education institutions.**

Section **63M-2-704, Reporting on licensed or acquired intellectual property.**

Section **63M-2-705, Reporting on use of research buildings.**

Section 12. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Science Technology and Research Governing Authority --

Research Capacity Building

From General Fund (\$6,519,000)

From Beginning Nonlapsing Balances, One-time (\$250,000)

Schedule of Programs:

U of U Legacy Salary (\$4,200,000)

U of U Legacy Support (\$120,000)

U of U Start Up, Carry Over,

Commercialization (\$1,369,000)

USU Legacy Salary (\$775,000)

USU Legacy Support (\$305,000)

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To General Fund

From Nonlapsing Balances - Utah Science Technology and Research

Governing Authority, One-time \$250,000

Schedule of Programs:

General Fund, One-time \$250,000

ITEM 3

To University of Utah - Education and General

From General Fund \$2,000,000

From General Fund, One-time (\$2,307,300)

Schedule of Programs:

Education and General (\$307,300)

ITEM 4

To Utah State University - Education and General

From General Fund \$1,000,000

Schedule of Programs:

Education and General \$1,000,000

ITEM 5

To USTAR - Grant Programs

From General Fund (\$9,220,000)

From General Fund, One-time \$9,220,000

Schedule of Programs:

Energy Research Triangle \$0

Industry Partnership Program \$0

Science and Technology Initiation Grant \$0

Technology Acceleration Program \$0

University Technology Acceleration Grant \$0

ITEM 6

To Governor's Office of Economic Development - Business Development

From General Fund (\$2,448,900)

From General Fund, One-time \$2,448,900

Schedule of Programs:

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Outreach and International Trade \$0

ITEM 7

To Utah Science Technology and Research Governing Authority --

Workforce Development Restricted Account

From General Fund \$15,187,900

From General Fund, One-time (\$9,111,600)

Schedule of Programs:

Workforce Development Restricted

Account \$6,076,300