

HIGHER EDUCATION STUDENT ASSISTANCE

AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill amends and enacts provisions related to the Utah Higher Education Assistance Authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Higher Education Student Success Endowment (endowment) consisting of funds from the proceeds from the divestment of the Utah Higher Education Assistance Authority's (authority) loan portfolio, among other revenue sources;
- ▶ directs the state treasurer to manage the endowment;
- ▶ authorizes the Utah Board of Higher Education (board) to expend money from the endowment to advance higher education system priorities;
- ▶ enacts board duties in relation to the endowment;
- ▶ directs the board to prepare recommendations for discontinuing the authority; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53B-12-101**, as last amended by Laws of Utah 2016, Chapter 296

31 ENACTS:

32 **53B-7-801**, Utah Code Annotated 1953

33 **53B-7-802**, Utah Code Annotated 1953

34 **53B-7-803**, Utah Code Annotated 1953

35 **53B-12-109**, Utah Code Annotated 1953



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

38 Section 1. Section **53B-7-801** is enacted to read:

39 **Part 8. Higher Education Student Success Endowment**

40 **53B-7-801. Definitions.**

41 As used in this part:

42 (1) "Authority" means the Utah Higher Education Assistance Authority.

43 (2) "Endowment" means the Higher Education Student Success Endowment created in

44 Section **53B-7-802**.

45 Section 2. Section **53B-7-802** is enacted to read:

46 **53B-7-802. Higher Education Student Success Endowment.**

47 (1) There is created the Higher Education Student Success Endowment.

48 (2) The endowment consists of:

49 (a) the proceeds from divestment of the authority's loan portfolio in accordance with

50 Section **53B-12-109**;

51 (b) appropriations made to the endowment by the Legislature, if any;

52 (c) income from the investment of the endowment; and

53 (d) other revenues received from other sources.

54 (3) The board shall account for the receipt and expenditures of endowment money in
55 accordance with the policies and guidance of the Division of Finance.

56 (4) (a) ~~§~~ → **(i)** ← ~~§~~ The state treasurer shall invest the endowment money with the primary

56a goal of

57 providing for stability, income, and growth of the principal.

57a **§ → **(ii) The state treasurer may deduct any administrative costs incurred in managing****
57b **endowment assets from earnings before distributing the earnings.** ← ~~§~~

58 (b) Nothing in this section requires a specific outcome in investing.

59 (c) The state treasurer may employ professional asset managers to assist in the
60 investment of assets of the endowment.

61 (d) The state treasurer may only provide compensation to asset managers from earnings
62 generated by the endowment's investments.

63 (e) The state treasurer shall invest and manage the endowment assets as a prudent
64 investor would, by:

65 (i) considering the purposes, terms, distribution requirements, and other circumstances
66 of the endowment; and

67 (ii) exercising reasonable care, skill, and caution in order to meet the standard of care
68 of a prudent investor.

69 (f) In determining whether or not the state treasurer has met the standard of care of a
70 prudent investor, the judge or finder of fact shall:

71 (i) consider the state treasurer's actions in light of the facts and circumstances existing
72 at the time of the investment decision or action, and not by hindsight; and

73 (ii) evaluate the state treasurer's investment and management decisions respecting
74 individual assets not in isolation, but in context of an endowment portfolio as a whole as a part
75 of an overall investment strategy that has risk and return objectives reasonably suited to the
76 endowment.

77 (5) (a) The endowment shall earn interest.

78 (b) The state treasurer shall deposit the interest or other revenue earned from
79 investment of the endowment into the endowment.

80 (6) The board may expend money from the endowment for programs that advance the
81 system priorities as established in Subsection [53B-1-402\(2\)\(a\)](#).

82 (7) The board shall ensure that:

83 (a) money deposited into the endowment is irrevocable and is expended only for
84 programs that advance the system priorities as established in Subsection [53B-1-402\(2\)\(a\)](#); and

85 (b) creditors of the board of directors may not seize, attach, or otherwise obtain assets
86 of the endowment.

87 Section 3. Section **53B-7-803** is enacted to read:

88 **53B-7-803. Board duties.**

89 (1) The board shall:

- 90 (a) act as trustee of the endowment and exercise the state's fiduciary responsibilities;
91 (b) meet at least twice a year to conduct business on behalf of the endowment;
92 (c) review and approve all endowment policies, projections, rules, criteria, procedures,
93 forms, standards, and performance goals;
94 (d) review and approve the budget and expenditures for the endowment in accordance
95 with Section 53B-7-802;
96 (e) review financial records for the endowment, including endowment receipts,
97 expenditures, and investments; and
98 (f) take any other action necessary to perform the board's fiduciary obligations.
99 (2) The board shall annually submit a budget and expenditures to the Higher Education
100 Appropriations Subcommittee no later than November 1.

101 Section 4. Section **53B-12-101** is amended to read:

102 **53B-12-101. Utah Higher Education Assistance Authority designated -- Powers.**

103 The board is the Utah Higher Education Assistance Authority and, in this capacity,
104 may, subject to Section 53B-12-109, do the following:

- 105 (1) guarantee 100% of the principal of and interest on a loan to or for the benefit of a
106 person attending or accepted to attend an eligible postsecondary educational institution to assist
107 that person in meeting any educational expenses incurred in an academic year;
- 108 (2) take, hold, and administer real or personal property and money, including interest
109 and income, either absolutely or in trust, for any purpose under this chapter;
- 110 (3) acquire property for the purposes indicated in Subsection (2) by purchase or lease
111 and by the acceptance of gifts, grants, bequests, devises, or loans;
- 112 (4) enter into or contract with an eligible lending institution, or with a public or private
113 postsecondary educational institution to provide for the administration by the institution of any
114 loan or loan guarantee made by it, including application and repayment provisions;
- 115 (5) participate in federal programs guaranteeing, reinsuring, or otherwise supporting
116 loans to eligible borrowers for postsecondary educational purposes and agree to, and comply
117 with, the conditions and regulations applicable to those programs;
- 118 (6) adopt, amend, or repeal rules, in accordance with Title 63G, Chapter 3, Utah
119 Administrative Rulemaking Act, to govern the activities authorized by this chapter;
- 120 (7) receive state appropriations for the fund established under Section 53B-12-104 to

121 match deposits and to accept contributions received by it for this purpose;

122 (8) receive funds from the federal government to assist in implementing federally
123 supported programs administered under this chapter;

124 (9) engage, appoint, or contract for the services of officers, agents, employees, and
125 private consultants to render and perform professional and technical duties and provide
126 assistance and advice in carrying out the purposes of this chapter, to describe their duties, and
127 to fix the amount and source of their compensation; and

128 (10) receive employment information from the Workforce Research and Analysis
129 Division in accordance with Section [35A-4-312](#) for the purpose of collecting defaulted student
130 loans made under this chapter. The information obtained under this Subsection (10) shall be
131 limited to the employer's name, address, and telephone number for borrowers who have
132 defaulted on a student loan held by the Utah Higher Education Assistance Authority.

133 Section 5. Section **53B-12-109** is enacted to read:

134 **53B-12-109. Dissolution of authority -- Higher Education Scholarship**

135 **Endowment.**

136 (1) As used in this section:

137 (a) "Authority" means the Utah Higher Education Assistance Authority.

138 (b) "Board" means the board of directors appointed in accordance with Section

139 [53B-12-102](#).

140 (2) The board of directors shall, no later than November 1, 2022, prepare a written
141 analysis and recommendations describing:

142 (a) the most efficient way to discontinue any authority loan servicing and
143 administration;

144 (b) a complete accounting of remaining authority assets, real property, outstanding
145 bonds, and other obligations;

146 (c) recommendations for reorganizing the board of directors for purposes of
147 administering the Utah Educational Savings Plan created in Section [53B-8a-103](#);

148 (d) actions the authority will take to discontinue participation in federal programs
149 guaranteeing, reinsuring, or otherwise supporting loans for postsecondary educational
150 purposes; and

151 (e) efforts the board of directors is taking and will take toward the dissolution of the

152 authority.

153 (3) The board shall divest the authority's loan portfolio and deposit the proceeds into
154 the Higher Education Student Success Endowment, created in Section [53B-7-802](#).

155 Section 6. **Effective date.**

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