

SB0172S01 compared with SB0172

~~text~~ shows text that was in SB0172 but was deleted in SB0172S01.

text shows text that was not in SB0172 but was inserted into SB0172S01.

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Senator Evan J. Vickers proposes the following substitute bill:

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;

SB0172S01 compared with SB0172

- ▶ 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.

Utah Code Sections Affected:

AMENDS:

[51-7-2, as last amended by Laws of Utah 2021, Chapter 33](#)

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

ENACTS:

53B-7-801, Utah Code Annotated 1953

53B-7-802, Utah Code Annotated 1953

53B-7-803, Utah Code Annotated 1953

53B-12-109, Utah Code Annotated 1953

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

[Section 1. Section 51-7-2 is amended to read:](#)

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions, [including funds of the Higher Education Student Success Endowment, created in Section 53B-7-801;](#)

(5) permanent and other land grant trust funds established pursuant to the Utah

SB0172S01 compared with SB0172

Enabling Act and the Utah Constitution;

- (6) the State Post-Retirement Benefits Trust Fund;
- (7) the funds of the Utah Educational Savings Plan;
- (8) funds of the permanent state trust fund created by and operated under Utah

Constitution, Article XXII, Section 4;

- (9) the funds in the Navajo Trust Fund;
- (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- (11) the funds in the Employers' Reinsurance Fund;
- (12) the funds in the Uninsured Employers' Fund;
- (13) the Utah State Developmental Center Long-Term Sustainability Fund, created in

Section 62A-5-206.7; and

- (14) the funds in the Risk Management Fund created in Section 63A-4-201.

Section ~~4~~2. Section **53B-7-801** is enacted to read:

Part 8. Higher Education Student Success Endowment

53B-7-801. Definitions.

As used in this part:

- (1) "Authority" means the Utah Higher Education Assistance Authority.
- (2) "Endowment" means the Higher Education Student Success Endowment created in

Section 53B-7-802.

Section ~~2~~3. Section **53B-7-802** is enacted to read:

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

- (1) There is created the Higher Education Student Success Endowment.
- (2) The endowment consists of:
 - (a) the proceeds from divestment of the authority's loan portfolio in accordance with

Section 53B-12-109;

- (b) appropriations made to the endowment by the Legislature, if any;
- (c) income from the investment of the endowment; and
- (d) other revenues received from other sources.

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

- (4) (a) (i) The state treasurer shall invest the endowment money with the primary goal

SB0172S01 compared with SB0172

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

(ii) The state treasurer may deduct any administrative costs incurred in managing endowment assets from earnings before distributing the earnings.

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

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

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

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

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

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

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

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

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

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

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

(6) The board:

(a) may expend money from the endowment for programs that:

(i) advance the system priorities as established in Subsection 53B-1-402(2)(a); and

(ii) support current and prospective students enrolled at an institution, as described in Section 53B-2-101; and

(b) may not expend money from the endowment for a capital expenditure, including

SB0172S01 compared with SB0172

the construction or lease of a capital facility or operation and maintenance of a capital facility.

(7) The board shall ensure that:

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

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

Section ~~{3}~~4. Section **53B-7-803** is enacted to read:

53B-7-803. Board duties.

(1) The board shall:

(a) act as trustee of the endowment and exercise the state's fiduciary responsibilities;

(b) meet at least twice a year to conduct business on behalf of the endowment;

(c) review and approve all endowment policies, projections, rules, criteria, procedures, forms, standards, and performance goals;

(d) review and approve the budget and expenditures for the endowment in accordance with Section 53B-7-802;

(e) review financial records for the endowment, including endowment receipts, expenditures, and investments; and

(f) take any other action necessary to perform the board's fiduciary obligations.

(2) The board shall annually submit a budget and expenditures to the Higher Education Appropriations Subcommittee no later than November 1.

Section ~~{4}~~5. Section **53B-12-101** is amended to read:

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

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

(1) guarantee 100% of the principal of and interest on a loan to or for the benefit of a person attending or accepted to attend an eligible postsecondary educational institution to assist that person in meeting any educational expenses incurred in an academic year;

(2) take, hold, and administer real or personal property and money, including interest and income, either absolutely or in trust, for any purpose under this chapter;

(3) acquire property for the purposes indicated in Subsection (2) by purchase or lease and by the acceptance of gifts, grants, bequests, devises, or loans;

SB0172S01 compared with SB0172

(4) enter into or contract with an eligible lending institution, or with a public or private postsecondary educational institution to provide for the administration by the institution of any loan or loan guarantee made by it, including application and repayment provisions;

(5) participate in federal programs guaranteeing, reinsuring, or otherwise supporting loans to eligible borrowers for postsecondary educational purposes and agree to, and comply with, the conditions and regulations applicable to those programs;

(6) adopt, amend, or repeal rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the activities authorized by this chapter;

(7) receive state appropriations for the fund established under Section 53B-12-104 to match deposits and to accept contributions received by it for this purpose;

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

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

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

Section ~~5~~6. Section **53B-12-109** is enacted to read:

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

Endowment.

(1) As used in this section:

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

(b) "Board" means the board of directors appointed in accordance with Section 53B-12-102.

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

(a) the most efficient way to discontinue any authority loan servicing and

SB0172S01 compared with SB0172

administration;

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

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

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

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

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

Section ~~6~~7. **Effective date.**

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