

**INMATE EDUCATION AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melissa G. Ballard**

Senate Sponsor: Derrin R. Owens

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to postsecondary education for inmates enrolled in institutions of higher education.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ directs the Higher Education and Corrections Council to facilitate postsecondary education for inmates housed in county jails;
- ▶ directs the Utah Board of Higher Education to assign student success advisors to correctional facilities;
- ▶ removes a provision requiring an inmate to pay 50% of tuition at the time of enrollment;
- ▶ requires an institution of higher education to consider an inmate a state resident for tuition purposes;
- ▶ directs the Department of Corrections to:
  - provide an inmate with certain education during the time the inmate's case action plan is being developed;
  - require an education plan for each inmate's case action plan; and
  - house inmates participating in postsecondary certificate or degree programs in common residential units;



28           ▶ requires a correctional facility to inform an individual sending money to an inmate  
29 that a process exists for the individual to review the inmate's financial records; and

30           ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           None

35 **Utah Code Sections Affected:**

36 AMENDS:

37           **53B-1-402**, as last amended by Laws of Utah 2022, Chapters 166, 177

38           **53B-8-102**, as last amended by Laws of Utah 2020, Chapter 37

39           **53B-35-101**, as enacted by Laws of Utah 2022, Chapter 147

40           **53B-35-202**, as enacted by Laws of Utah 2022, Chapter 147

41           **64-13-6**, as last amended by Laws of Utah 2022, Chapter 187

42           **64-13-23**, as last amended by Laws of Utah 2021, Chapter 260

43           **64-13-30.5**, as enacted by Laws of Utah 2009, Chapter 258

44           **64-13-42**, as last amended by Laws of Utah 2018, Chapter 415

45           **64-13-48**, as enacted by Laws of Utah 2022, Chapter 144

46 ENACTS:

47           **53B-35-301**, Utah Code Annotated 1953



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

50           Section 1. Section **53B-1-402** is amended to read:

51           **53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

52           (1) There is established a State Board of Regents, which:

53           (a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;

54           (b) is the governing board for the institutions of higher education;

55           (c) controls, manages, and supervises the Utah system of higher education; and

56           (d) is a body politic and corporate with perpetual succession and with all rights,

57 immunities, and franchises necessary to function as a body politic and corporate.

58           (2) The board shall:

- 59 (a) establish and promote a state-level vision and goals for higher education that  
60 emphasize system priorities, including:
- 61 (i) quality;
  - 62 (ii) affordability;
  - 63 (iii) access and equity;
  - 64 (iv) completion;
  - 65 (v) workforce alignment and preparation for high-quality jobs; and
  - 66 (vi) economic growth;
- 67 (b) establish policies and practices that advance the vision and goals;
- 68 (c) establish metrics to demonstrate and monitor:
- 69 (i) performance related to the goals; and
  - 70 (ii) performance on measures of operational efficiency;
- 71 (d) collect and analyze data including economic data, demographic data, and data  
72 related to the metrics;
- 73 (e) coordinate data collection across institutions;
- 74 (f) establish, approve, and oversee each institution's mission and role in accordance  
75 with Section 53B-16-101;
- 76 (g) assess an institution's performance in accomplishing the institution's mission and  
77 role;
- 78 (h) participate in the establishment and review of programs of instruction in accordance  
79 with Section 53B-16-102;
- 80 (i) perform duties related to an institution of higher education president, including:
    - 81 (i) appointing an institution of higher education president in accordance with Section  
82 53B-2-102;
    - 83 (ii) providing support and guidance to an institution of higher education president;
    - 84 (iii) evaluating an institution of higher education president based on institution  
85 performance and progress toward systemwide priorities; and
    - 86 (iv) setting the compensation for an institution of higher education president;
  - 87 (j) create and implement a strategic finance plan for higher education, including by:
    - 88 (i) establishing comprehensive budget and finance priorities for academic education  
89 and technical education;

- 90 (ii) allocating statewide resources to institutions;
- 91 (iii) setting tuition for each institution;
- 92 (iv) administering state financial aid programs;
- 93 (v) administering performance funding in accordance with Chapter 7, Part 7,
- 94 Performance Funding; and
- 95 (vi) developing a strategic capital facility plan and prioritization process in accordance
- 96 with Chapter 22, Part 2, Capital Developments, and Sections [53B-2a-117](#) and [53B-2a-118](#);
- 97 (k) create a seamless articulated education system for Utah students that responds to
- 98 changing demographics and workforce, including by:
  - 99 (i) providing for statewide prior learning assessment, in accordance with Section
  - 100 [53B-16-110](#);
  - 101 (ii) establishing and maintaining clear pathways for articulation and transfer, in
  - 102 accordance with Section [53B-16-105](#);
  - 103 (iii) establishing degree program requirement guidelines, including credit hour limits;
  - 104 (iv) aligning general education requirements across degree-granting institutions;
  - 105 (v) coordinating and incentivizing collaboration and partnerships between institutions
  - 106 in delivering programs;
  - 107 (vi) coordinating distance delivery of programs; and
  - 108 (vii) coordinating work-based learning;
  - 109 (l) coordinate with the public education system:
    - 110 (i) regarding public education programs that provide postsecondary credit or
    - 111 certificates; and
    - 112 (ii) to ensure that an institution of higher education providing technical education
    - 113 serves secondary students in the public education system;
    - 114 (m) delegate to an institution board of trustees certain duties related to institution
    - 115 governance including:
      - 116 (i) guidance and support for the institution president;
      - 117 (ii) effective administration;
      - 118 (iii) the institution's responsibility for contributing to progress toward achieving
      - 119 systemwide goals; and
      - 120 (iv) other responsibilities determined by the board;

- 121 (n) delegate to an institution of higher education president management of the
- 122 institution of higher education;
- 123 (o) consult with an institution of higher education board of trustees or institution of
- 124 higher education president before acting on matters pertaining to the institution of higher
- 125 education;
- 126 (p) maximize efficiency throughout the Utah system of higher education by identifying
- 127 and establishing shared administrative services;
- 128 (q) develop strategies for providing higher education, including career and technical
- 129 education, in rural areas;
- 130 (r) manage and facilitate a process for initiating, prioritizing, and implementing
- 131 education reform initiatives; ~~and~~
- 132 (s) provide ongoing quality review of institutions; and
- 133 (t) coordinate with the Department of Corrections to establish educational programs for
- 134 inmates as described in Section 64-13-6.
- 135 (3) The board shall submit an annual report of the board's activities and performance
- 136 against the board's goals and metrics to:
- 137 (a) the Education Interim Committee;
- 138 (b) the Higher Education Appropriations Subcommittee;
- 139 (c) the governor; and
- 140 (d) each institution of higher education.
- 141 (4) The board shall prepare and submit an annual report detailing the board's progress
- 142 and recommendations on workforce related issues, including career and technical education, to
- 143 the governor and to the ~~Legislature's~~ Education Interim Committee by October 31 of each
- 144 year, including information detailing:
- 145 (a) how the career and technical education needs of secondary students are being met
- 146 by institutions of higher education;
- 147 (b) how the emphasis on high demand, high wage, and high skill jobs in business and
- 148 industry is being provided;
- 149 (c) performance outcomes, including:
- 150 (i) entered employment;
- 151 (ii) job retention; and

- 152 (iii) earnings;
- 153 (d) an analysis of workforce needs and efforts to meet workforce needs; and
- 154 (e) student tuition and fees.
- 155 (5) The board may modify the name of an institution of higher education to reflect the
- 156 role and general course of study of the institution.
- 157 (6) The board may not take action relating to merging a technical college with another
- 158 institution of higher education without legislative approval.
- 159 (7) This section does not affect the power and authority vested in the State Board of
- 160 Education to apply for, accept, and manage federal appropriations for the establishment and
- 161 maintenance of career and technical education.
- 162 (8) The board shall ensure that any training or certification that an employee of the
- 163 higher education system is required to complete under this title or by board rule complies with
- 164 Title 63G, Chapter 22, State Training and Certification Requirements.
- 165 (9) The board shall adopt a policy requiring institutions to provide at least three work
- 166 days of paid bereavement leave for an employee:
  - 167 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;
  - 168 or
  - 169 (b) following the end of another individual's pregnancy by way of a miscarriage or
  - 170 stillbirth, if:
    - 171 (i) the employee is the individual's spouse or partner;
    - 172 (ii) (A) the employee is the individual's former spouse or partner; and
    - 173 (B) the employee would have been a biological parent of a child born as a result of the
    - 174 pregnancy;
    - 175 (iii) the employee provides documentation to show that the individual intended for the
    - 176 employee to be an adoptive parent, as that term is defined in Section [78B-6-103](#), of a child born
    - 177 as a result of the pregnancy; or
    - 178 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part
    - 179 8, Gestational Agreement, the employee would have been a parent of a child born as a result of
    - 180 the pregnancy.
- 181 Section 2. Section **53B-8-102** is amended to read:
- 182 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

183 (1) As used in this section:

184 (a) "Eligible person" means an individual who is entitled to post-secondary educational  
185 benefits under Title 38 U.S.C., Veterans' Benefits.

186 (b) "Immediate family member" means an individual's spouse or dependent child.

187 (c) "Inmate" means the same as that term is defined in [Section 64-13-1](#).

188 ~~(c)~~ (d) "Military servicemember" means an individual who:

189 (i) is serving on active duty in the United States Armed Forces within the state of Utah;

190 (ii) is a member of a reserve component of the United States Armed Forces assigned in  
191 Utah;

192 (iii) is a member of the Utah National Guard; or

193 (iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned  
194 outside of Utah pursuant to federal permanent change of station orders.

195 ~~(d)~~ (e) "Military veteran" has the same meaning as veteran in [Section 68-3-12.5](#).

196 ~~(e)~~ (f) "Parent" means a student's biological or adoptive parent.

197 (2) The meaning of "resident student" is determined by reference to the general law on  
198 the subject of domicile, except as provided in this section.

199 (3) (a) Institutions within the state system of higher education may grant resident  
200 student status to any student who has come to Utah and established residency for the purpose of  
201 attending an institution of higher education, and who, prior to registration as a resident student:

202 (i) has maintained continuous Utah residency status for one full year;

203 (ii) has signed a written declaration that the student has relinquished residency in any  
204 other state; and

205 (iii) has submitted objective evidence that the student has taken overt steps to establish  
206 permanent residency in Utah and that the student does not maintain a residence elsewhere.

207 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

208 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah  
209 high school in the past 12 months;

210 (ii) a Utah voter registration dated a reasonable period prior to application;

211 (iii) a Utah driver license or identification card with an original date of issue or a  
212 renewal date several months prior to application;

213 (iv) a Utah vehicle registration dated a reasonable period prior to application;

214 (v) evidence of employment in Utah for a reasonable period prior to application;

215 (vi) proof of payment of Utah resident income taxes for the previous year;

216 (vii) a rental agreement showing the student's name and Utah address for at least 12  
217 months prior to application; and

218 (viii) utility bills showing the student's name and Utah address for at least 12 months  
219 prior to application.

220 (c) A student who is claimed as a dependent on the tax returns of a person who is not a  
221 resident of Utah is not eligible to apply for resident student status.

222 (4) Except as provided in Subsection (8), an institution within the state system of  
223 higher education may establish stricter criteria for determining resident student status.

224 (5) If an institution does not have a minimum credit-hour requirement, that institution  
225 shall honor the decision of another institution within the state system of higher education to  
226 grant a student resident student status, unless:

227 (a) the student obtained resident student status under false pretenses; or

228 (b) the facts existing at the time of the granting of resident student status have changed.

229 (6) Within the limits established in [~~Title 53B, Chapter 8, Tuition Waiver and~~  
230 ~~Scholarships~~] Chapter 8, Tuition Waiver and Scholarships, each institution within the state  
231 system of higher education may, regardless of its policy on obtaining resident student status,  
232 waive nonresident tuition either in whole or in part, but not other fees.

233 (7) In addition to the waivers of nonresident tuition under Subsection (6), each  
234 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to  
235 the maximum number allowed by the appropriate athletic conference as recommended by the  
236 president of each institution.

237 (8) Notwithstanding Subsection (3), an institution within the state system of higher  
238 education shall grant resident student status for tuition purposes to:

239 (a) a military servicemember, if the military servicemember provides:

240 (i) the military servicemember's current United States military identification card; and

241 (ii) (A) a statement from the military servicemember's current commander, or

242 equivalent, stating that the military servicemember is assigned in Utah; or

243 (B) evidence that the military servicemember is domiciled in Utah, as described in  
244 Subsection (9)(a);



245 (b) a military servicemember's immediate family member, if the military  
246 servicemember's immediate family member provides:

247 (i) (A) the military servicemember's current United States military identification card;  
248 or  
249 (B) the immediate family member's current United States military identification card;  
250 and

251 (ii) (A) a statement from the military servicemember's current commander, or  
252 equivalent, stating that the military servicemember is assigned in Utah; or  
253 (B) evidence that the military servicemember is domiciled in Utah, as described in  
254 Subsection (9)(a);

255 (c) a military veteran, regardless of whether the military veteran served in Utah, if the  
256 military veteran provides:

257 (i) evidence of an honorable or general discharge;  
258 (ii) a signed written declaration that the military veteran has relinquished residency in  
259 any other state and does not maintain a residence elsewhere;

260 (iii) objective evidence that the military veteran has demonstrated an intent to establish  
261 residency in Utah, which may include any one of the following:

262 (A) a Utah voter registration card;  
263 (B) a Utah driver license or identification card;  
264 (C) a Utah vehicle registration;  
265 (D) evidence of employment in Utah;  
266 (E) a rental agreement showing the military veteran's name and Utah address; or  
267 (F) utility bills showing the military veteran's name and Utah address;

268 (d) a military veteran's immediate family member, regardless of whether the military  
269 veteran served in Utah, if the military veteran's immediate family member provides:

270 (i) evidence of the military veteran's honorable or general discharge;  
271 (ii) a signed written declaration that the military veteran's immediate family member  
272 has relinquished residency in any other state and does not maintain a residence elsewhere; and  
273 (iii) objective evidence that the military veteran's immediate family member has  
274 demonstrated an intent to establish residency in Utah, which may include any one of the items  
275 described in Subsection (8)(c)(iii); [or]

276 (e) an eligible person who provides:  
277 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;  
278 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;  
279 and  
280 (iii) objective evidence that the eligible person has demonstrated an intent to establish  
281 residency in Utah, which may include [~~any~~] one of the items described in Subsection  
282 (8)(c)(iii)~~[-];~~ or

283 (f) an inmate during:  
284 (i) the time the inmate is enrolled in the course; and  
285 (ii) for one year after the day on which the inmate is released from a correctional  
286 facility as defined in Section [64-13-1](#).

287 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

- 288 (i) a current Utah voter registration card;
- 289 (ii) a valid Utah driver license or identification card;
- 290 (iii) a current Utah vehicle registration;
- 291 (iv) a copy of a Utah income tax return, in the military servicemember's or military  
292 servicemember's spouse's name, filed as a resident in accordance with Section [59-10-502](#); or
- 293 (v) proof that the military servicemember or military servicemember's spouse owns a  
294 home in Utah, including a property tax notice for property owned in Utah.

295 (b) Aliens who are present in the United States on visitor, student, or other visas which  
296 authorize only temporary presence in this country, do not have the capacity to intend to reside  
297 in Utah for an indefinite period and therefore are classified as nonresidents.

298 (c) Aliens who have been granted immigrant or permanent resident status in the United  
299 States are classified for purposes of resident student status according to the same criteria  
300 applicable to citizens.

301 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose  
302 reservation or trust lands lie partly or wholly within Utah or whose border is at any point  
303 contiguous with the border of Utah, and any American Indian who is a member of a federally  
304 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled  
305 to resident student status.

306 (11) A Job Corps student is entitled to resident student status if the student:

307 (a) is admitted as a full-time, part-time, or summer school student in a program of  
308 study leading to a degree or certificate; and

309 (b) submits verification that the student is a current Job Corps student.

310 (12) A person is entitled to resident student status and may immediately apply for  
311 resident student status if the person:

312 (a) marries a Utah resident eligible to be a resident student under this section; and

313 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as  
314 provided in Subsection (3).

315 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one  
316 parent who has been domiciled in Utah for at least 12 months prior to the student's application  
317 is entitled to resident student status.

318 (14) (a) A person who has established domicile in Utah for full-time permanent  
319 employment may rebut the presumption of a nonresident classification by providing substantial  
320 evidence that the reason for the individual's move to Utah was, in good faith, based on an  
321 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable  
322 work-related move for full-time permanent employment in Utah.

323 (b) All relevant evidence concerning the motivation for the move shall be considered,  
324 including:

325 (i) the person's employment and educational history;

326 (ii) the dates when Utah employment was first considered, offered, and accepted;

327 (iii) when the person moved to Utah;

328 (iv) the dates when the person applied for admission, was admitted, and was enrolled  
329 as a postsecondary student;

330 (v) whether the person applied for admission to an institution of higher education  
331 sooner than four months from the date of moving to Utah;

332 (vi) evidence that the person is an independent person who is:

333 (A) at least 24 years ~~[of age]~~ old; or

334 (B) not claimed as a dependent on someone else's tax returns; and

335 (vii) any other factors related to abandonment of a former domicile and establishment  
336 of a new domicile in Utah for purposes other than to attend an institution of higher education.

337 (15) (a) A person who is in residence in Utah to participate in a United States Olympic

338 athlete training program, at a facility in Utah, approved by the governing body for the athlete's  
339 Olympic sport, shall be entitled to resident status for tuition purposes.

340 (b) Upon the termination of the athlete's participation in the training program, the  
341 athlete shall be subject to the same residency standards applicable to other persons under this  
342 section.

343 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah  
344 counts for Utah residency for tuition purposes upon termination of the athlete's participation in  
345 a Utah Olympic athlete training program.

346 (16) (a) A person who has established domicile in Utah for reasons related to divorce,  
347 the death of a spouse, or long-term health care responsibilities for an immediate family  
348 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a  
349 nonresident classification by providing substantial evidence that the reason for the individual's  
350 move to Utah was, in good faith, based on the long-term health care responsibilities.

351 (b) All relevant evidence concerning the motivation for the move shall be considered,  
352 including:

353 (i) the person's employment and educational history;

354 (ii) the dates when the long-term health care responsibilities in Utah were first  
355 considered, offered, and accepted;

356 (iii) when the person moved to Utah;

357 (iv) the dates when the person applied for admission, was admitted, and was enrolled  
358 as a postsecondary student;

359 (v) whether the person applied for admission to an institution of higher education  
360 sooner than four months from the date of moving to Utah;

361 (vi) evidence that the person is an independent person who is:

362 (A) at least 24 years [~~of age~~] old; or

363 (B) not claimed as a dependent on someone else's tax returns; and

364 (vii) any other factors related to abandonment of a former domicile and establishment  
365 of a new domicile in Utah for purposes other than to attend an institution of higher education.

366 (17) The board, after consultation with the institutions, shall make rules not  
367 inconsistent with this section:

368 (a) concerning the definition of resident and nonresident students;

- 369 (b) establishing procedures for classifying and reclassifying students;
- 370 (c) establishing criteria for determining and judging claims of residency or domicile;
- 371 (d) establishing appeals procedures; and
- 372 (e) other matters related to this section.

373 (18) A student shall be exempt from paying the nonresident portion of total tuition if  
 374 the student:

- 375 (a) is a foreign national legally admitted to the United States;
- 376 (b) attended high school in this state for three or more years; and
- 377 (c) graduated from a high school in this state or received the equivalent of a high  
 378 school diploma in this state.

379 Section 3. Section **53B-35-101** is amended to read:

380 **53B-35-101. Definitions.**

381 As used in this chapter[;]:

382 (1) "Correctional facility" means the same as that term is defined in Section 64-13-1.

383 (2) [~~"council"~~] "Council" means the Higher Education and Corrections Council created  
 384 in Section 53B-35-201.

385 (3) "Department" means the Department of Corrections created in Section 64-13-2.

386 (4) "Inmate" means the same as that term is defined in Section 64-13-1.

387 (5) "Institution of higher education" means an institution described in Section  
 388 53B-1-102.

389 Section 4. Section **53B-35-202** is amended to read:

390 **53B-35-202. Council duties -- Reporting.**

391 (1) The council shall:

392 (a) coordinate, facilitate, and support the delivery of higher education in the state's  
 393 correctional facilities, including the county jails under contract with the Department of  
 394 Corrections to house inmates, to prepare incarcerated individuals for integration and productive  
 395 employment upon release;

396 (b) explore and provide recommendations to the board and the [~~Utah~~] Department of  
 397 Corrections for the efficient and effective delivery of higher education programs to incarcerated  
 398 individuals, including:

399 (i) evidence-based practices and technologies;

- 400 (ii) methods of maximizing and facilitating incarcerated individuals' access to  
401 educational programs;
- 402 (iii) methods of supporting and facilitating timely completion of courses, certificates,  
403 and degrees;
- 404 (iv) methods of emphasizing educational programs that:
- 405 (A) align with current and future workforce demands of the state;
- 406 (B) lead to occupations that are accessible to released incarcerated individuals;
- 407 (C) provide sustainable wages following release; and
- 408 (D) maximize accessibility and timely completion during incarceration;
- 409 (v) use of cross-institutional application of coursework toward certificates and degrees;
- 410 (vi) use of coursework that encourages personal and civic development; and
- 411 (vii) methods of leveraging innovative course delivery, including technology resources;
- 412 (c) explore methods and make recommendations for the collection and analysis of  
413 critical data regarding:
- 414 (i) enrollment and completion of postsecondary education courses, certificate  
415 programs, credentials, and degree programs;
- 416 (ii) federal and state student aid awarded to incarcerated individuals;
- 417 (iii) costs of postsecondary education in prison, including any recommendations for  
418 continued improvement; and
- 419 (iv) outcomes of formerly incarcerated individuals who participated in postsecondary  
420 programming during incarceration if the individual is under the supervision of the Department  
421 of Corrections, including recidivism, employment, and post-release postsecondary education  
422 engagement; and
- 423 (d) recommend requests for legislative appropriations to the board to support the  
424 purposes and objectives of the council.
- 425 (2) The council shall annually report regarding the council's plans and programs, the  
426 number of enrollees served, and the number of enrollees receiving degrees and certificates to:
- 427 (a) the board;
- 428 (b) before the committee's November interim committee meeting, the Education  
429 Interim Committee; and
- 430 (c) at least 30 days before the beginning of the annual legislative session, the Higher

431 Education Appropriations Subcommittee.

432 Section 5. Section **53B-35-301** is enacted to read:

433 **Part 3. Student Support**

434 **53B-35-301. Higher education student advisors.**

435 (1) The board shall:

436 (a) direct institutions of higher education capable of providing educational  
437 opportunities to incarcerated individuals to employ student success advisors; and

438 (b) assign:

439 (i) at least two student success advisors to each correctional facility operated by the  
440 department;

441 (ii) at least two student success advisors to assist inmates housed in county jails under  
442 contract with the department; and

443 (iii) a staff member to coordinate higher education in correctional facilities and support  
444 the council.

445 (2) A student success advisor assigned to a correctional facility or county jail shall  
446 provide academic guidance and support to inmates enrolled in accredited postsecondary  
447 education programs, including assistance with applying for financial aid.

448 (3) The commissioner, after consultation with institutions directed to employ a student  
449 success advisor under Subsection (1)(a) shall report annually to the council regarding the  
450 guidance and support provided under Subsection (2).

451 Section 6. Section **64-13-6** is amended to read:

452 **64-13-6. Department duties.**

453 (1) The department shall:

454 (a) protect the public through institutional care and confinement, and supervision in the  
455 community of offenders where appropriate;

456 (b) implement court-ordered punishment of offenders;

457 (c) provide evidence-based and evidence-informed program opportunities for offenders  
458 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,  
459 cognitive, educational, and career-readiness program opportunities;

460 (d) ensure that offender participation in all program opportunities described in  
461 Subsection (1)(c) is voluntary;

- 462 (e) where appropriate, utilize offender volunteers as mentors in the program
- 463 opportunities described in Subsection (1)(c);
- 464 (f) provide treatment for sex offenders who are found to be treatable based upon
- 465 criteria developed by the department;
- 466 (g) provide the results of ongoing clinical assessment of sex offenders and objective
- 467 diagnostic testing to sentencing and release authorities;
- 468 (h) manage programs that take into account the needs and interests of victims, where
- 469 reasonable;
- 470 (i) supervise probationers and parolees as directed by statute and implemented by the
- 471 courts and the Board of Pardons and Parole;
- 472 (j) subject to Subsection (2), investigate criminal conduct involving offenders
- 473 incarcerated in a state correctional facility;
- 474 (k) cooperate and exchange information with other state, local, and federal law
- 475 enforcement agencies to achieve greater success in prevention and detection of crime and
- 476 apprehension of criminals;
- 477 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
- 478 Offender Supervision;
- 479 (m) establish a case action plan based on appropriate validated risk, needs, and
- 480 responsivity assessments for each offender as follows:
- 481 (i) (A) if an offender is to be supervised in the community, the department shall
- 482 establish a case action plan for the offender no later than 60 days after the day on which the
- 483 department's community supervision of the offender begins; and
- 484 (B) if the offender is committed to the custody of the department, the department shall
- 485 establish a case action plan for the offender no later than 90 days after the day on which the
- 486 offender is committed to the custody of the department;
- 487 (ii) each case action plan shall:
- 488 (A) integrate an individualized, evidence-based, and evidence-informed treatment and
- 489 program plan with clearly defined completion requirements; and
- 490 (B) require an education plan for each inmate to be determined after the inmate has met
- 491 with an academic counselor;
- 492 (iii) the department shall share each newly established case action plan with the



493 sentencing and release authority within 30 days after the day on which the case action plan is  
494 established; and

495 (iv) the department shall share any changes to a case action plan, including any change  
496 in an offender's risk assessment, with the sentencing and release authority within 30 days after  
497 the day of the change;

498 (n) ensure that an inmate has reasonable access to legal research; and

499 [~~(n)~~] (o) ensure that any training or certification required of a public official or public  
500 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter  
501 22, State Training and Certification Requirements, if the training or certification is required:

502 (i) under this title;

503 (ii) by the department; or

504 (iii) by an agency or division within the department.

505 (2) The department may in the course of supervising probationers and parolees:

506 (a) respond in accordance with the graduated and evidence-based processes established  
507 by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's  
508 violation of one or more terms of the probation or parole; and

509 (b) upon approval by the court or the Board of Pardons and Parole, impose as a  
510 sanction for an individual's violation of the terms of probation or parole a period of  
511 incarceration of not more than three consecutive days and not more than a total of five days  
512 within a period of 30 days.

513 (3) (a) By following the procedures in Subsection (3)(b), the department may  
514 investigate the following occurrences at state correctional facilities:

515 (i) criminal conduct of departmental employees;

516 (ii) felony crimes resulting in serious bodily injury;

517 (iii) death of any person; or

518 (iv) aggravated kidnaping.

519 (b) Before investigating any occurrence specified in Subsection (3)(a), the department  
520 shall:

521 (i) notify the sheriff or other appropriate law enforcement agency promptly after  
522 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has  
523 occurred; and

524 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to  
525 conduct an investigation involving an occurrence specified in Subsection (3)(a).

526 (4) Upon request, the department shall provide copies of investigative reports of  
527 criminal conduct to the sheriff or other appropriate law enforcement agencies.

528 (5) (a) The executive director of the department, or the executive director's designee if  
529 the designee possesses expertise in correctional programming, shall consult at least annually  
530 with cognitive and career-readiness staff experts from the Utah system of higher education and  
531 the State Board of Education to review the department's evidence-based and evidence-informed  
532 treatment and program opportunities.

533 (b) Beginning in the 2022 interim, the department shall provide an annual report to the  
534 Law Enforcement and Criminal Justice Interim Committee regarding the department's  
535 implementation of and offender participation in evidence-based and evidence-informed  
536 treatment and program opportunities designed to reduce the criminogenic and recidivism risks  
537 of offenders over time.

538 (6) (a) As used in this Subsection (6):

539 (i) "Accounts receivable" means any amount owed by an offender arising from a  
540 criminal judgment that has not been paid.

541 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,  
542 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,  
543 reimbursement of a reward, and damages that an offender is ordered to pay.

544 (b) The department shall collect and disburse, with any interest and any other costs  
545 assessed under Section 64-13-21, an accounts receivable for an offender during:

546 (i) the parole period and any extension of that period in accordance with Subsection  
547 (6)(c); and

548 (ii) the probation period for which the court orders supervised probation and any  
549 extension of that period by the department in accordance with Subsection 77-18-105(7).

550 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the  
551 time that the offender's sentence expires or terminates, the department shall be referred to the  
552 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil  
553 accounts receivable as described in Section 77-18-114.

554 (ii) If the board makes an order for restitution within 60 days from the day on which

555 the offender's sentence expires or terminates, the board shall refer the order for restitution to  
556 the sentencing court to be entered as a civil judgment of restitution as described in Section  
557 77-18-114.

558 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.  
559 Section 7. Section 64-13-23 is amended to read:

560 **64-13-23. Offender's income and finances.**

561 (1) The department may require each offender, while in the custody of the department  
562 or while on probation or parole, to place funds received or earned by the offender from any  
563 source into:

564 (a) an account administered by the department; or

565 (b) a joint account with the department at a federally insured financial institution.

566 (2) The department may require each offender to maintain a minimum balance in an  
567 account under Subsection (1) for the particular offender's use upon:

568 (a) discharge from the custody of the department; or

569 (b) completion of parole or probation.

570 (3) If the funds are placed in a joint account at a federally insured financial institution:

571 (a) any interest accrues to the benefit of the offender account; and

572 (b) the department may require that the signatures of both the offender and a  
573 departmental representative be submitted to the financial institution to withdraw funds from the  
574 account.

575 (4) If the funds are placed in an account administered by the department, the  
576 department may by rule designate:

577 (a) a certain portion of the offender's funds as interest-bearing savings; and

578 (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day  
579 expenses.

580 (5) The department may withhold part of the offender's funds in an account under  
581 Subsection (1) for expenses of:

582 (a) supervision or treatment;

583 (b) restitution, reparation, fines, alimony, support payments, or similar court-ordered  
584 payments;

585 (c) obtaining the offender's DNA specimen, if the offender is required under Section

586 53-10-404 to provide a specimen;

587 (d) department-ordered repayment of a fine that is incurred under Section 64-13-33;

588 and

589 (e) [any] other debt to the state.

590 (6) (a) An offender may not be granted free process in civil actions, including petitions  
591 for a writ of habeas corpus, if, at any time from the date the cause of action arose through the  
592 date the cause of action remains pending, there are any funds in an account under Subsection  
593 (1) that have not been withheld or are not subject to withholding under Subsection (4) or (5).

594 (b) The amount assessed for the filing fee, service of process and other fees and costs  
595 shall not exceed the total amount of funds the offender has in excess of the indigence threshold  
596 established by the department but not less than \$25 including the withholdings under  
597 Subsection (4) or (5) during the identified period of time.

598 (c) The amounts assessed shall not exceed the regular fees and costs provided by law.

599 (7) The department may disclose information on offender accounts to the Office of  
600 Recovery Services and other appropriate state agencies.

601 (8) The department shall notify each individual who deposits money into an offender's  
602 account that under Section 63G-2-202 the individual may review the offender's financial  
603 information in the department's possession.

604 Section 8. Section 64-13-30.5 is amended to read:

605 **64-13-30.5. Payment by inmate for postsecondary educational tuition.**

606 [~~(1) (a) An inmate participating in a postsecondary education program through the~~  
607 ~~department shall pay to the department at the time of enrollment 50% of the costs of the~~  
608 ~~postsecondary education tuition.]~~

609 [(b)] (1) (a) If an inmate desires to participate in [the] a postsecondary education  
610 program but is unable to pay the costs of the education because of inadequate financial  
611 resources, the inmate may participate in a deferred tuition payment program under this section.

612 [(c)] (b) The department and the Office of State Debt Collection shall coordinate a  
613 deferred postsecondary education tuition repayment program to provide inmates a reasonable  
614 payment schedule and payment amount to allow for deferred payment of the postsecondary  
615 educational tuition obligation the inmate incurred while under supervision of the department,  
616 which shall:

617 (i) account for all postsecondary education tuition costs incurred by the inmate while  
618 under the supervision of the department;

619 (ii) establish an appropriate time for the inmate to begin payment of postsecondary  
620 education tuition costs, which shall require that payments start no later than two years after  
621 termination of parole; and

622 (iii) establish a payment schedule and payment amounts, including prevailing interest  
623 rates, commensurate with student loans currently being offered by local financial institutions.

624 ~~[(d)]~~ (c) Neither the department nor the Office of State Debt Collection may relieve an  
625 offender of the postsecondary tuition repayment responsibility.

626 ~~[(e)]~~ (d) The department shall pay costs of postsecondary education not paid by the  
627 offender at the time of participation in the program from the Prison Telephone Surcharge  
628 Account.

629 (2) (a) Of those tuition funds collected by the Office of State Debt Collection under  
630 this section, 10% may be used by the Office of State Debt Collection for operation of the  
631 deferred payment program.

632 (b) All other funds collected as repayment for postsecondary tuition costs shall be  
633 deposited in the Prison Telephone Surcharge Account.

634 (3) Only ~~[inmates]~~ an inmate lawfully present in the United States may participate in  
635 the postsecondary educational program offered through the department.

636 Section 9. Section ~~64-13-42~~ is amended to read:

637 **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**  
638 **education and training programs.**

639 (1) (a) There is created within the General Fund a restricted account known as the  
640 Prison Telephone Surcharge Account.

641 (b) The Prison Telephone Surcharge Account consists of:

642 (i) ~~[beginning July 1, 2006,]~~ revenue generated by the state from pay telephone services  
643 located at any correctional facility as defined in Section ~~64-13-1~~;

644 (ii) interest on account money;

645 (iii) (A) money paid by inmates participating in postsecondary education provided by  
646 the department; and

647 (B) money repaid by former inmates who have a written agreement with the

648 department to pay for a specified portion of the tuition costs under the department's deferred  
649 tuition payment program;

650 (iv) money collected by the Office of State Debt Collection for debt described in  
651 Subsection (1)(b)(iii); and

652 (v) money appropriated by the Legislature.

653 (2) Upon appropriation by the Legislature, the department shall use money from the  
654 Prison Telephone Surcharge Account [~~shall be used by the department~~] for education and  
655 training programs for offenders and inmates, including for employment of a student success  
656 advisor or staff member under Section 53B-35-301 [~~as defined in Section 64-13-1~~].

657 Section 10. Section ~~64-13-48~~ is amended to read:

658 **64-13-48. Educational and career-readiness programs.**

659 (1) The department shall, in accordance with Subsection ~~64-13-6~~(1)(c), ensure that  
660 appropriate evidence-based and evidence-informed educational or career-readiness programs  
661 are made available to an inmate [~~as soon as practicable~~] during and after the creation of the  
662 inmate's case action plan.

663 (2) The department shall provide incarcerated women with substantially equivalent  
664 educational and career-readiness opportunities as incarcerated men.

665 (3) Before an inmate begins an educational or career-readiness program, the  
666 department shall provide reasonable access to resources necessary for an inmate to apply for  
667 grants or other available financial aid that may be available to pay for the inmate's program.

668 (4) (a) The department shall consider an inmate's current participation in an  
669 educational or career-readiness program when the department makes a decision with regard to  
670 an inmate's:

671 (i) transfer to another area or facility; or

672 (ii) appropriate disciplinary sanction.

673 (b) The department shall house inmates enrolled in a postsecondary certificate or  
674 degree program in common residential units closest to the on-site education facilities.

675 [~~(b)~~] (c) When possible, the department shall use best efforts to allow an inmate to  
676 continue the inmate's participation in an educational or career-readiness program while the  
677 facility is under lockdown, quarantine, or a similar status.

678 (5) (a) The department shall maintain records on an inmate's educational progress,

679 including completed life skills, certifications, and credit- and non-credit-bearing courses, made  
680 while the inmate is incarcerated.

681 (b) The department shall facilitate the transfer of information related to the inmate's  
682 educational process upon the inmate's release, including the inmate's post-release contact  
683 information and the records described in Subsection (5)(a), to:

684 (i) the inmate; or

685 (ii) an entity that the inmate has authorized to receive the inmate's records or  
686 post-release contact information, including an institution:

687 (A) from which the inmate received educational instruction while the inmate was  
688 incarcerated; or

689 (B) at which the inmate plans to continue the inmate's post-incarceration education.

690 (6) Beginning May 1, 2023, the department shall provide an annual report to the  
691 Higher Education Appropriations Subcommittee regarding educational and career-readiness  
692 programs for inmates, which shall include:

693 (a) the number of inmates who are participating in an educational or career-readiness  
694 program, including an accredited postsecondary education program;

695 (b) the percentage of inmates who are participating in an educational or  
696 career-readiness program as compared to the total inmate population;

697 (c) inmate program completion and graduation data, including the number of  
698 completions and graduations in each educational or career-readiness program;

699 (d) the potential effect of educational or career-readiness programs on recidivism, as  
700 determined by a comparison of:

701 (i) the total number of inmates who return to incarceration after a previous  
702 incarceration; and

703 (ii) the number of inmates who return to incarceration after a previous incarceration  
704 who participated in or completed an educational or career-readiness program;

705 (e) the number of inmates who were transferred to a different facility while currently  
706 participating in an educational or career-readiness program, including the number of inmates  
707 who were unable to continue a program after a transfer to a different facility; and

708 (f) the department's:

709 (i) recommendation for resources that may increase inmates' access to and participation

710 in an educational or career-readiness program; and

711 (ii) estimate of how many additional inmates would participate in an educational or  
712 career-readiness program if the resources were provided.

713 (7) The department shall:

714 (a) ensure that an inmate enrolled in an educational or career-readiness program has  
715 access to modern technology determined by the provider of the program as necessary for an  
716 inmate to participate in the program;

717 (b) provide a tablet to each inmate that:

718 (i) the inmate may use in the inmate's cell or common area; and

719 (ii) is capable of:

720 (A) communicating with individuals outside the correctional facility through voice and  
721 text message; and

722 (B) assisting the inmate in the inmate's education; and

723 (c) assist an inmate in applying for jobs within 30 days after the day on which the  
724 inmate is released from the department's custody.

725 (8) Within six months after the day on which an inmate arrives at a correctional  
726 facility, the department shall ensure that the inmate completes a computer literacy program if  
727 the inmate's computer literacy is determined not to meet basic computer literacy as described in  
728 Subsection (9)(b)(i).

729 [~~7~~] (9) (a) The department may make rules in accordance with Section 64-13-10 and  
730 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this  
731 section.

732 (b) The State Board of Education:

733 (i) shall determine the meaning of "basic computer literacy";

734 (ii) shall create the standards for the computer literacy program described in Subsection  
735 (8); and

736 (iii) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
737 Rulemaking Act, to carry out the provisions of this Subsection (9).