

Representative Melissa G. Ballard proposes the following substitute bill:

INMATE EDUCATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Derrin R. Owens

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 (department) to establish a pilot program to house inmates participating in a postsecondary certificate or degree programs in common residential units;
- ▶ requires the department to:



- 26 • publish a notice informing an individual depositing money into an inmate's
- 27 account that a process exists for the individual to review the inmate's financial
- 28 records;
- 29 • provide certain assistance to an inmate participating in postsecondary certificate
- 30 or degree program; and
- 31 • provide a tablet to each inmate that is eligible to receive a tablet under
- 32 established security policies;
- 33 ▶ includes reporting requirements;
- 34 ▶ includes a sunset date; and
- 35 ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **53B-1-402**, as last amended by Laws of Utah 2022, Chapters 166, 177

43 **53B-8-102**, as last amended by Laws of Utah 2020, Chapter 37

44 **53B-35-101**, as enacted by Laws of Utah 2022, Chapter 147

45 **53B-35-202**, as enacted by Laws of Utah 2022, Chapter 147

46 **64-13-6**, as last amended by Laws of Utah 2022, Chapter 187

47 **64-13-23**, as last amended by Laws of Utah 2021, Chapter 260

48 **64-13-30.5**, as enacted by Laws of Utah 2009, Chapter 258

49 **64-13-48**, as enacted by Laws of Utah 2022, Chapter 144

50 ENACTS:

51 **53B-35-301**, Utah Code Annotated 1953

52 **63I-1-264**, Utah Code Annotated 1953



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

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

56 **53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

- 57 (1) There is established a State Board of Regents, which:
58 (a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;
59 (b) is the governing board for the institutions of higher education;
60 (c) controls, manages, and supervises the Utah system of higher education; and
61 (d) is a body politic and corporate with perpetual succession and with all rights,
62 immunities, and franchises necessary to function as a body politic and corporate.
- 63 (2) The board shall:
64 (a) establish and promote a state-level vision and goals for higher education that
65 emphasize system priorities, including:
66 (i) quality;
67 (ii) affordability;
68 (iii) access and equity;
69 (iv) completion;
70 (v) workforce alignment and preparation for high-quality jobs; and
71 (vi) economic growth;
72 (b) establish policies and practices that advance the vision and goals;
73 (c) establish metrics to demonstrate and monitor:
74 (i) performance related to the goals; and
75 (ii) performance on measures of operational efficiency;
76 (d) collect and analyze data including economic data, demographic data, and data
77 related to the metrics;
78 (e) coordinate data collection across institutions;
79 (f) establish, approve, and oversee each institution's mission and role in accordance
80 with Section 53B-16-101;
81 (g) assess an institution's performance in accomplishing the institution's mission and
82 role;
83 (h) participate in the establishment and review of programs of instruction in accordance
84 with Section 53B-16-102;
85 (i) perform duties related to an institution of higher education president, including:
86 (i) appointing an institution of higher education president in accordance with Section
87 53B-2-102;

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

- 119 (m) delegate to an institution board of trustees certain duties related to institution
120 governance including:
- 121 (i) guidance and support for the institution president;
122 (ii) effective administration;
123 (iii) the institution's responsibility for contributing to progress toward achieving
124 systemwide goals; and
- 125 (iv) other responsibilities determined by the board;
- 126 (n) delegate to an institution of higher education president management of the
127 institution of higher education;
- 128 (o) consult with an institution of higher education board of trustees or institution of
129 higher education president before acting on matters pertaining to the institution of higher
130 education;
- 131 (p) maximize efficiency throughout the Utah system of higher education by identifying
132 and establishing shared administrative services;
- 133 (q) develop strategies for providing higher education, including career and technical
134 education, in rural areas;
- 135 (r) manage and facilitate a process for initiating, prioritizing, and implementing
136 education reform initiatives; ~~and~~
- 137 (s) provide ongoing quality review of institutions; and
138 (t) coordinate with the Department of Corrections to establish educational programs for
139 inmates as described in Section [64-13-6](#).
- 140 (3) The board shall submit an annual report of the board's activities and performance
141 against the board's goals and metrics to:
- 142 (a) the Education Interim Committee;
143 (b) the Higher Education Appropriations Subcommittee;
144 (c) the governor; and
145 (d) each institution of higher education.
- 146 (4) The board shall prepare and submit an annual report detailing the board's progress
147 and recommendations on workforce related issues, including career and technical education, to
148 the governor and to the ~~Legislature's~~ Education Interim Committee by October 31 of each
149 year, including information detailing:

150 (a) how the career and technical education needs of secondary students are being met
151 by institutions of higher education;

152 (b) how the emphasis on high demand, high wage, and high skill jobs in business and
153 industry is being provided;

154 (c) performance outcomes, including:

155 (i) entered employment;

156 (ii) job retention; and

157 (iii) earnings;

158 (d) an analysis of workforce needs and efforts to meet workforce needs; and

159 (e) student tuition and fees.

160 (5) The board may modify the name of an institution of higher education to reflect the
161 role and general course of study of the institution.

162 (6) The board may not take action relating to merging a technical college with another
163 institution of higher education without legislative approval.

164 (7) This section does not affect the power and authority vested in the State Board of
165 Education to apply for, accept, and manage federal appropriations for the establishment and
166 maintenance of career and technical education.

167 (8) The board shall ensure that any training or certification that an employee of the
168 higher education system is required to complete under this title or by board rule complies with
169 Title 63G, Chapter 22, State Training and Certification Requirements.

170 (9) The board shall adopt a policy requiring institutions to provide at least three work
171 days of paid bereavement leave for an employee:

172 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;

173 or

174 (b) following the end of another individual's pregnancy by way of a miscarriage or
175 stillbirth, if:

176 (i) the employee is the individual's spouse or partner;

177 (ii) (A) the employee is the individual's former spouse or partner; and

178 (B) the employee would have been a biological parent of a child born as a result of the
179 pregnancy;

180 (iii) the employee provides documentation to show that the individual intended for the

181 employee to be an adoptive parent, as that term is defined in Section [78B-6-103](#), of a child born
182 as a result of the pregnancy; or

183 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part
184 8, Gestational Agreement, the employee would have been a parent of a child born as a result of
185 the pregnancy.

186 Section 2. Section **53B-8-102** is amended to read:

187 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

188 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 212 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:
- 213 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
- 214 high school in the past 12 months;
- 215 (ii) a Utah voter registration dated a reasonable period prior to application;
- 216 (iii) a Utah driver license or identification card with an original date of issue or a
- 217 renewal date several months prior to application;
- 218 (iv) a Utah vehicle registration dated a reasonable period prior to application;
- 219 (v) evidence of employment in Utah for a reasonable period prior to application;
- 220 (vi) proof of payment of Utah resident income taxes for the previous year;
- 221 (vii) a rental agreement showing the student's name and Utah address for at least 12
- 222 months prior to application; and
- 223 (viii) utility bills showing the student's name and Utah address for at least 12 months
- 224 prior to application.
- 225 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
- 226 resident of Utah is not eligible to apply for resident student status.
- 227 (4) Except as provided in Subsection (8), an institution within the state system of
- 228 higher education may establish stricter criteria for determining resident student status.
- 229 (5) If an institution does not have a minimum credit-hour requirement, that institution
- 230 shall honor the decision of another institution within the state system of higher education to
- 231 grant a student resident student status, unless:
- 232 (a) the student obtained resident student status under false pretenses; or
- 233 (b) the facts existing at the time of the granting of resident student status have changed.
- 234 (6) Within the limits established in [~~Title 53B, Chapter 8, Tuition Waiver and~~
- 235 ~~Scholarships]~~ Chapter 8, Tuition Waiver and Scholarships, each institution within the state
- 236 system of higher education may, regardless of its policy on obtaining resident student status,
- 237 waive nonresident tuition either in whole or in part, but not other fees.
- 238 (7) In addition to the waivers of nonresident tuition under Subsection (6), each
- 239 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to
- 240 the maximum number allowed by the appropriate athletic conference as recommended by the
- 241 president of each institution.
- 242 (8) Notwithstanding Subsection (3), an institution within the state system of higher

243 education shall grant resident student status for tuition purposes to:

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

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

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

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

248 (B) evidence that the military servicemember is domiciled in Utah, as described in

249 Subsection (9)(a);

250 (b) a military servicemember's immediate family member, if the military

251 servicemember's immediate family member provides:

252 (i) (A) the military servicemember's current United States military identification card;

253 or

254 (B) the immediate family member's current United States military identification card;

255 and

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

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

258 (B) evidence that the military servicemember is domiciled in Utah, as described in

259 Subsection (9)(a);

260 (c) a military veteran, regardless of whether the military veteran served in Utah, if the

261 military veteran provides:

262 (i) evidence of an honorable or general discharge;

263 (ii) a signed written declaration that the military veteran has relinquished residency in

264 any other state and does not maintain a residence elsewhere;

265 (iii) objective evidence that the military veteran has demonstrated an intent to establish

266 residency in Utah, which may include any one of the following:

267 (A) a Utah voter registration card;

268 (B) a Utah driver license or identification card;

269 (C) a Utah vehicle registration;

270 (D) evidence of employment in Utah;

271 (E) a rental agreement showing the military veteran's name and Utah address; or

272 (F) utility bills showing the military veteran's name and Utah address;

273 (d) a military veteran's immediate family member, regardless of whether the military

274 veteran served in Utah, if the military veteran's immediate family member provides:

275 (i) evidence of the military veteran's honorable or general discharge;

276 (ii) a signed written declaration that the military veteran's immediate family member
277 has relinquished residency in any other state and does not maintain a residence elsewhere; and

278 (iii) objective evidence that the military veteran's immediate family member has
279 demonstrated an intent to establish residency in Utah, which may include any one of the items
280 described in Subsection (8)(c)(iii); ~~or~~

281 (e) an eligible person who provides:

282 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

283 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;

284 and

285 (iii) objective evidence that the eligible person has demonstrated an intent to establish
286 residency in Utah, which may include ~~any~~ one of the items described in Subsection
287 (8)(c)(iii)~~[-]; or~~

288 (f) an inmate during:

289 (i) the time the inmate is enrolled in the course; and

290 (ii) for one year after the day on which the inmate is released from a correctional
291 facility as defined in Section [64-13-1](#).

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

293 (i) a current Utah voter registration card;

294 (ii) a valid Utah driver license or identification card;

295 (iii) a current Utah vehicle registration;

296 (iv) a copy of a Utah income tax return, in the military servicemember's or military
297 servicemember's spouse's name, filed as a resident in accordance with Section [59-10-502](#); or

298 (v) proof that the military servicemember or military servicemember's spouse owns a
299 home in Utah, including a property tax notice for property owned in Utah.

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

303 (c) Aliens who have been granted immigrant or permanent resident status in the United
304 States are classified for purposes of resident student status according to the same criteria

305 applicable to citizens.

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

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

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

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

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

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

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

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

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

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

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

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

332 (iii) when the person moved to Utah;

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

335 (v) whether the person applied for admission to an institution of higher education

336 sooner than four months from the date of moving to Utah;

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

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

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

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

342 (15) (a) A person who is in residence in Utah to participate in a United States Olympic
343 athlete training program, at a facility in Utah, approved by the governing body for the athlete's
344 Olympic sport, shall be entitled to resident status for tuition purposes.

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

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

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

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

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

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

361 (iii) when the person moved to Utah;

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

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

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

- 367 (A) at least 24 years [~~of age~~] old; or
- 368 (B) not claimed as a dependent on someone else's tax returns; and
- 369 (vii) any other factors related to abandonment of a former domicile and establishment
- 370 of a new domicile in Utah for purposes other than to attend an institution of higher education.

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

- 373 (a) concerning the definition of resident and nonresident students;
- 374 (b) establishing procedures for classifying and reclassifying students;
- 375 (c) establishing criteria for determining and judging claims of residency or domicile;
- 376 (d) establishing appeals procedures; and
- 377 (e) other matters related to this section.

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

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

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

385 **53B-35-101. Definitions.**

386 As used in this chapter[, "~~council~~"]:

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

388 (2) "Council" means the Higher Education and Corrections Council created in Section
389 [53B-35-201](#).

390 (3) "Department" means the Department of Corrections created in Section [64-13-2](#).

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

392 (5) "Institution of higher education" means an institution described in Section
393 [53B-1-102](#).

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

395 **53B-35-202. Council duties -- Reporting.**

396 (1) The council shall:

- 397 (a) coordinate, facilitate, and support the delivery of higher education in the state's

398 correctional facilities, including the county jails under contract with the Department of
399 Corrections to house inmates, to prepare incarcerated individuals for integration and productive
400 employment upon release;

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

404 (i) evidence-based practices and technologies;

405 (ii) methods of maximizing and facilitating incarcerated individuals' access to
406 educational programs;

407 (iii) methods of supporting and facilitating timely completion of courses, certificates,
408 and degrees;

409 (iv) methods of emphasizing educational programs that:

410 (A) align with current and future workforce demands of the state;

411 (B) lead to occupations that are accessible to released incarcerated individuals;

412 (C) provide sustainable wages following release; and

413 (D) maximize accessibility and timely completion during incarceration;

414 (v) use of cross-institutional application of coursework toward certificates and degrees;

415 (vi) use of coursework that encourages personal and civic development; and

416 (vii) methods of leveraging innovative course delivery, including technology resources;

417 (c) explore methods and make recommendations for the collection and analysis of

418 critical data regarding:

419 (i) enrollment and completion of postsecondary education courses, certificate
420 programs, credentials, and degree programs;

421 (ii) federal and state student aid awarded to incarcerated individuals;

422 (iii) costs of postsecondary education in prison, including any recommendations for
423 continued improvement; and

424 (iv) outcomes of formerly incarcerated individuals who participated in postsecondary
425 programming during incarceration if the individual is under the supervision of the Department
426 of Corrections, including recidivism, employment, and post-release postsecondary education
427 engagement; and

428 (d) recommend requests for legislative appropriations to the board to support the

429 purposes and objectives of the council.

430 (2) The council shall annually report regarding the council's plans and programs, the
431 number of enrollees served, and the number of enrollees receiving degrees and certificates to:

432 (a) the board;

433 (b) before the committee's November interim committee meeting, the Education
434 Interim Committee; and

435 (c) at least 30 days before the beginning of the annual legislative session, the Higher
436 Education Appropriations Subcommittee.

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

438 **Part 3. Student Support**

439 **53B-35-301. Higher education student advisors.**

440 (1) The board shall:

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

443 (b) assign:

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

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

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

450 (2) A student success advisor assigned to a correctional facility or county jail shall
451 provide academic guidance and support to inmates qualified to participate in an accredited
452 postsecondary education program including:

453 (a) meeting with each inmate to establish an individualized education plan for the
454 inmate; and

455 (b) assisting each inmate enrolled in a postsecondary education program with applying
456 for financial aid.

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

460 Section 6. Section **63I-1-264** is enacted to read:

461 **63I-1-264. Repeal dates: Title 64.**

462 Subsection **64-13-48**(4)(b), regarding the housing program for inmates enrolled in a
463 postsecondary certificate or degree program, is repealed July 1, 2025.

464 Section 7. Section **64-13-6** is amended to read:

465 **64-13-6. Department duties.**

466 (1) The department shall:

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

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

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

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

475 (e) where appropriate, utilize offender volunteers as mentors in the program
476 opportunities described in Subsection (1)(c);

477 (f) provide treatment for sex offenders who are found to be treatable based upon
478 criteria developed by the department;

479 (g) provide the results of ongoing clinical assessment of sex offenders and objective
480 diagnostic testing to sentencing and release authorities;

481 (h) manage programs that take into account the needs and interests of victims, where
482 reasonable;

483 (i) supervise probationers and parolees as directed by statute and implemented by the
484 courts and the Board of Pardons and Parole;

485 (j) subject to Subsection (2), investigate criminal conduct involving offenders
486 incarcerated in a state correctional facility;

487 (k) cooperate and exchange information with other state, local, and federal law
488 enforcement agencies to achieve greater success in prevention and detection of crime and
489 apprehension of criminals;

490 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult

491 Offender Supervision;

492 (m) establish a case action plan based on appropriate validated risk, needs, and
493 responsivity assessments for each offender as follows:

494 (i) (A) if an offender is to be supervised in the community, the department shall
495 establish a case action plan for the offender no later than 60 days after the day on which the
496 department's community supervision of the offender begins; and

497 (B) if the offender is committed to the custody of the department, the department shall
498 establish a case action plan for the offender no later than 90 days after the day on which the
499 offender is committed to the custody of the department;

500 (ii) each case action plan shall integrate an individualized, evidence-based, and
501 evidence-informed treatment and program plan with clearly defined completion requirements;

502 (iii) the department shall share each newly established case action plan with the
503 sentencing and release authority within 30 days after the day on which the case action plan is
504 established; and

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

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

509 ~~[(m)]~~ (o) ensure that any training or certification required of a public official or public
510 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
511 22, State Training and Certification Requirements, if the training or certification is required:

512 (i) under this title;

513 (ii) by the department; or

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

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

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

519 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
520 sanction for an individual's violation of the terms of probation or parole a period of
521 incarceration of not more than three consecutive days and not more than a total of five days

522 within a period of 30 days.

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

- 525 (i) criminal conduct of departmental employees;
- 526 (ii) felony crimes resulting in serious bodily injury;
- 527 (iii) death of any person; or
- 528 (iv) aggravated kidnaping.

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

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

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

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

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

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

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

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

551 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
552 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,

553 reimbursement of a reward, and damages that an offender is ordered to pay.

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

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

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

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

564 (ii) If the board makes an order for restitution within 60 days from the day on which
565 the offender's sentence expires or terminates, the board shall refer the order for restitution to
566 the sentencing court to be entered as a civil judgment of restitution as described in Section
567 77-18-114.

568 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

569 Section 8. Section 64-13-23 is amended to read:

570 **64-13-23. Offender's income and finances.**

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

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

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

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

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

579 (b) completion of parole or probation.

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

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

582 (b) the department may require that the signatures of both the offender and a

583 departmental representative be submitted to the financial institution to withdraw funds from the

584 account.

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

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

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

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

592 (a) supervision or treatment;

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

595 (c) obtaining the offender's DNA specimen, if the offender is required under Section
596 53-10-404 to provide a specimen;

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

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

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

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

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

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

611 (8) The department shall publish a notice on the department's website, and any website
612 used by an individual depositing funds into an offender's account, that the individual may
613 request from the department a copy of a statement of the offender's financial account in
614 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

615 Section 9. Section **64-13-30.5** is amended to read:

616 **64-13-30.5. Payment by inmate for postsecondary educational tuition.**

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

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

623 ~~[(c)]~~ (b) The department and the Office of State Debt Collection shall coordinate a
624 deferred postsecondary education tuition repayment program to provide inmates a reasonable
625 payment schedule and payment amount to allow for deferred payment of the postsecondary
626 educational tuition obligation the inmate incurred while under supervision of the department,
627 which shall:

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

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

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

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

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

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

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

645 (3) Only ~~[inmates]~~ an inmate lawfully present in the United States may participate in

646 the postsecondary educational program offered through the department.

647 Section 10. Section **64-13-48** is amended to read:

648 **64-13-48. Educational and career-readiness programs.**

649 (1) The department shall, in accordance with Subsection **64-13-6(1)(c)**, ensure that
650 appropriate evidence-based and evidence-informed educational or career-readiness programs
651 are made available to an inmate as soon as practicable after the creation of the inmate's case
652 action plan.

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

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

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

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

662 (ii) appropriate disciplinary sanction.

663 (b) The department shall:

664 (i) on or before July 1, 2023, and subject to security or medical concerns, establish a
665 pilot program to house inmates incarcerated at a state correctional facility who are enrolled in a
666 postsecondary certificate or degree program in common residential units closest to the on-site
667 education facilities; and

668 (ii) report to the Law Enforcement and Criminal Justice Interim Committee before
669 November 30, 2024, regarding the pilot program.

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

673 (5) (a) The department shall maintain records on an inmate's educational progress,
674 including completed life skills, certifications, and credit- and non-credit-bearing courses, made
675 while the inmate is incarcerated.

676 (b) The department shall facilitate the transfer of information related to the inmate's

677 educational process upon the inmate's release, including the inmate's post-release contact
678 information and the records described in Subsection (5)(a), to:

679 (i) the inmate; or

680 (ii) an entity that the inmate has authorized to receive the inmate's records or

681 post-release contact information, including an institution:

682 (A) from which the inmate received educational instruction while the inmate was
683 incarcerated; or

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

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

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

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

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

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

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

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

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

703 (f) the department's:

704 (i) recommendation for resources that may increase inmates' access to and participation
705 in an educational or career-readiness program; and

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

708 (7) The department shall:

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

712 (b) provide a tablet to each inmate incarcerated at a state correctional facility that is
713 eligible to receive a tablet under established security policies that:

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

715 (ii) is capable of:

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

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

719 (C) providing a digital literacy education; and

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

722 [~~7~~] (8) The department may make rules in accordance with Section 64-13-10 and
723 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this
724 section.