

Senator John D. Johnson proposes the following substitute bill:

STUDY OF DIVERSITY, EQUITY, AND INCLUSION

IN HIGHER EDUCATION

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John D. Johnson

House Sponsor: Michael J. Petersen

LONG TITLE

General Description:

This bill requires the Education Interim Committee to conduct a study of diversity, education, and inclusion in the system of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Education Interim Committee to:
 - conduct a study, directly or through a subcommittee, regarding diversity, equity, and inclusion in the system and institutions of higher education; and
 - consider legislation for introduction regarding diversity, equity, and inclusion;
- and
 - ▶ requires institutions of higher education to provide information regarding the study.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 **53B-1-302**, Utah Code Annotated 1953



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

30 Section 1. Section **53B-1-302** is enacted to read:

31 **53B-1-302. Study on diversity, equity, and inclusion.**

32 (1) As used in this section:

33 (a) "Committee" means the Education Interim Committee.

34 (b) "Diversity, equity, and inclusion" means:

35 (i) endeavors to impact the composition of the faculty or student body with reference to
36 sex, race, color, ethnicity, gender identity, or sexual orientation, apart from ensuring
37 compliance with state and federal anti-discrimination laws;

38 (ii) endeavors to establish initiatives, policies, and procedures designed to address
39 differential treatment of individuals on the basis of sex, race, color, ethnicity, gender identity,
40 or sexual orientation;

41 (iii) endeavors to develop and implement trainings, programming, or activities
42 designed to address differential treatment of individuals on the basis of sex, race, color,
43 ethnicity, gender identity, or sexual orientation; and

44 (iv) endeavors to establish, as the official position of the administration or any
45 associated administrative unit of an institution of higher education, a particular unsettled and
46 widely controversial opinion or unsubstantiated theory regarding sex, race, color, ethnicity,
47 gender identity, sexual orientation, or a related concept.

48 (c) (i) "Diversity, equity, and inclusion office" means any division, office, center, or
49 other associated administrative unit of an institution of higher education that is responsible for
50 creating, establishing, developing, designing, implementing, organizing, planning, or
51 promoting policies, programming, training, practices, activities, or procedures relating to
52 diversity, equity, and inclusion.

53 (ii) "Diversity, equity, and inclusion office" does not include an office that is staffed
54 exclusively by licensed attorneys with paralegal and secretarial support and that the attorney
55 general certifies as operating with the sole and exclusive mission of ensuring legal compliance
56 with the obligations of the institution of higher education under:

57 (A) Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq., as
58 amended;

59 (B) Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq., as
60 amended;

61 (C) the Age Discrimination in Employment Act of 1967, 29 U.S.C.A. 621 et seq., as
62 amended;

63 (D) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d, et seq., as
64 amended;

65 (E) applicable court orders; or

66 (F) other applicable state and federal law.

67 (iii) "Diversity, equity, and inclusion office" does not include:

68 (A) an academic department or unit of an institution of higher education that exists
69 primarily for the purpose of offering courses for degree credit and that does not establish policy
70 or procedures to which other units of the institution are subject;

71 (B) an office solely engaged in new student recruitment; or

72 (C) a registered student organization.

73 (d) (i) "Diversity, equity, and inclusion officer" means an individual:

74 (A) who is a full- or part-time employee of an institution of higher education or a
75 component of an institution of higher education or an independent contractor of an institution
76 of higher education; and

77 (B) whose duties for the institution include coordinating, creating, establishing,
78 developing, designing, implementing, organizing, planning, or promoting policies,
79 programming, training, practices, activities, or procedures relating to diversity, equity, and
80 inclusion.

81 (ii) "Diversity, equity, and inclusion officer" does not include:

82 (A) any full- or part-time employee who is a licensed attorney and whose sole job
83 duties related to diversity, equity, and inclusion are to ensure compliance with the obligations
84 of the institution of higher education described in Subsection (1)(c)(ii);

85 (B) any faculty member while engaged in teaching, research, and the production of
86 creative works, including the dissemination of the faculty member's research and creative
87 works, or while advising a registered student organization; or

88 (C) a guest speaker or performer with a short-term engagement.

89 (2) During the 2023 interim, the committee shall:

90 (a) in consultation with the board, the commissioner, and presidents of institutions of
91 higher education, conduct a study regarding diversity, equity, and inclusion in the system and
92 institutions of higher education, including:

93 (i) the prevalence, size, and scope of diversity, equity, and inclusion offices and
94 officers;

95 (ii) the sources of funding that support diversity, equity, and inclusion offices and
96 officers;

97 (iii) the role, purpose, or objectives of programs or initiatives regarding diversity,
98 equity, and inclusion;

99 (iv) the impacts of programs or initiatives regarding diversity, equity, and inclusion in
100 the system, including the impacts on academic and employment outcomes; and

101 (v) the effect of prohibiting an institution of higher education from expending any
102 public or private funds from any source for a diversity, equity, and inclusion office or officer;
103 and

104 (b) consider legislation for introduction in the 2024 legislative general session to
105 address, to the extent the committee deems prudent, endeavors at institutions of higher
106 education related to diversity, equity, and inclusion.

107 (3) Notwithstanding joint rules regarding the establishment of subcommittees, the
108 chairs of the committee may form a subcommittee to accomplish the study described in
109 Subsection (2).

110 (4) Upon request, each institution shall provide the committee and subcommittee any
111 information relating to the study described in Subsection (2).