

SB0283S01 compared with SB0283

~~{deleted text}~~ shows text that was in SB0283 but was deleted in SB0283S01.

inserted text shows text that was not in SB0283 but was inserted into SB0283S01.

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~~{PROHIBITING}~~ 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 ~~{prohibits}~~ requires the ~~{funding or maintenance}~~ Education Interim Committee to conduct a study of diversity, ~~{equity}~~ education, and inclusion ~~{offices or officers}~~ in the system of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{prohibits the funding or maintenance of}~~ requires the Education Interim Committee to:
 - conduct a study, directly or through a subcommittee, regarding diversity, equity,

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and inclusion ~~{offices or officers }~~in the system and institutions of higher education;~~;~~

~~— prohibits the expenditure of funds in the upcoming fiscal year until an institution's board of trustees files a report regarding compliance with this bill;~~

~~— allows for certain litigation to compel compliance; and~~

~~— provides for severability} 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:

~~{ This bill provides a special effective date. }~~ None

Utah Code Sections Affected:

ENACTS:

~~{53B-2-114}~~53B-1-302, Utah Code Annotated 1953

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

Section 1. Section ~~{53B-2-114}~~53B-1-302 is enacted to read:

~~{53B-2-114}~~53B-1-302.~~{ Prohibition }~~ Study on diversity, equity, and inclusion.

(1) As used in this section:

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

(~~{a}~~b) "Diversity, equity, and inclusion" means:

(i) ~~{any effort}~~endeavors to ~~{manipulate or otherwise influence}~~impact the composition of the faculty or student body with reference to sex, race, color, ethnicity, gender identity, or sexual orientation, apart from ensuring ~~{color-blind and sex-neutral admissions and hiring in accordance}~~compliance with state and federal anti-discrimination laws;

(ii) ~~{any effort to promote}~~endeavors to establish initiatives, policies, and procedures designed to address differential treatment of~~{ or provide special benefits to }~~ individuals on the basis of sex, race, color, ethnicity, gender identity, or sexual orientation;

(iii) ~~{any effort to promote or promulgate policies or procedures designed or~~

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~~implemented with reference to sex, race, color, ethnicity, gender identity, or sexual orientation;~~

~~(iv) any effort to promote or promulgate}~~endeavors to develop and implement
trainings, programming, or activities designed ~~{for implemented with reference to}~~to address
differential treatment of individuals on the basis of sex, race, color, ethnicity, gender identity,
or sexual orientation; and

~~(iv)}~~ ~~{any effort}~~endeavors to ~~{promote}~~establish, as the official position of the
administration or any associated administrative unit of an institution of higher education, a
particular unsettled and widely ~~{contested opinion referencing unconscious or implicit bias,~~
~~cultural appropriation, allyship, transgender ideology, microaggressions, group~~
~~marginalization, anti-racism, systemic oppression, social justice, intersectionality,~~
~~neo-pronouns, heteronormativity, disparate impact, gender theory, racial or sexual privilege, or~~
~~any related formulation of a concept described in this section.~~

~~(b)}~~controversial opinion or unsubstantiated theory regarding sex, race, color, ethnicity,
gender identity, sexual orientation, or a related concept.

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

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

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

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

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

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

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(E) applicable court orders; or

(F) other applicable state and federal law.

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

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

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

(C) a registered student organization.

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

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

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

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

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

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

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

(2) ~~f(a) An~~ During the 2023 interim, the committee shall:

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

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

(ii) the sources of funding that support diversity, equity, and inclusion offices and

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officers:

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

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

(v) the effect of prohibiting an institution of higher education ~~from expending appropriated funds or otherwise expend any funds derived from bequests, charges, deposits, donations, endowments, fees, grants, gifts, income, receipts, tuition, or any other source, to:~~

~~— (i) establish, sustain, support, or staff} from expending any public or private funds from any source for~~ a diversity, equity, and inclusion office~~}; or~~

~~— (ii) contract, employ, engage, or hire an individual to serve as a} or officer; and~~

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

~~— (b) Any funds that would otherwise have been expended as prohibited under Subsection (2)(a) in Fiscal Year 2023 may be reallocated, at the discretion of the board of trustees of the institution of higher education:~~

~~— (i) for merit scholarships for lower- and middle-income students; and~~

~~— (ii) to reduce tuition for in-state students.~~

~~— (c) An institution of higher education may not expend any funding in fiscal year 2024 until the institution's board of trustees files a report with the commissioner that:~~

~~— (i) discloses:~~

~~— (A) the steps the institution, the board of trustees, associated staff, institution administration, and faculty have taken to comply with this section;~~

~~— (B) the number and job titles of the individuals that are required by the obligations of the institution of higher education described in Subsection (1)(b)(ii); and~~

~~— (ii) certifies that the institution of higher education and the board of trustees are fully compliant with this section.~~

~~— (d) Each institution of higher education shall also make the report}.~~

(3) Notwithstanding joint rules regarding the establishment of subcommittees, the chairs of the committee may form a subcommittee to accomplish the study described in

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Subsection (2) ~~(c)~~ available for the public on the institution's website:

~~— (3) (a) Any person may notify the attorney general of a violation or potential violation of this section:~~

~~— (b) The attorney general may file suit for a writ of mandamus compelling the institution of higher education to comply with this section:~~

~~— (4) (a) The following may bring an action against an institution of higher education for a violation of this section:~~

~~— (i) a student enrolled at the institution;~~

~~— (ii) a faculty member of an institution; or~~

~~— (iii) a member of the alumni of the institution:~~

~~— (b) If the claimant:~~

(4) Upon request, each institution shall provide the committee and subcommittee any information relating to the study described in Subsection (~~{4}2~~) ~~(a)~~ shows that the institution of higher education violated this section, the claimant is entitled to injunctive relief:

~~— (5) Notwithstanding any of other provision of law, a claimant may bring a civil action under this section in:~~

~~— (a) the county in which all or a substantial part of the events or omissions giving rise to the claim occurs;~~

~~— (b) the county of residence of any individual defendant at the time the cause of action accrues;~~

~~— (c) the county of the principal office of any defendant that is not an individual; or~~

~~— (d) the county of residence for the claimant if the claimant is a natural person residing in this state:~~

~~— (6) Nothing in this section:~~

~~— (a) affects an institution of higher education's funding of:~~

~~— (i) academic course instruction;~~

~~— (ii) research and creative works by the institution's students, faculty, or other research personnel, including the institution's dissemination of the research and creative works;~~

~~— (iii) activities of registered student organizations;~~

~~— (iv) arrangements for guest speakers and performers with short-term engagements;~~

~~— (v) mental or physical health services provided by licensed professionals; or~~

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~~_____ (b) prohibits the use of bona fide qualifications based on sex which are reasonably necessary to the normal operation of public higher education:~~

~~_____ (7) If a court holds any provision of this section, or the application of any provision of this section to any person or circumstance, to be invalid, the remainder of this section and the application of the section's provisions to any other person or circumstance shall remain in effect.~~

~~_____ Section 2. **Effective date:**~~

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