

Representative Karianne Lisonbee proposes the following substitute bill:

EQUAL OPPORTUNITY INITIATIVES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill prohibits an institution of higher education, the public education system, and a governmental employer from taking certain actions and engaging in discriminatory practices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an institution of higher education, the public education system, and a governmental employer from:

- requiring an individual, before, during, or after admission or employment, to provide certain submissions or attend certain training that promotes differential treatment;

- using an individual's certain characteristics in decisions regarding aspects of employment or education; and

- engaging in certain practices;

- ▶ requires the Utah Board of Higher Education (board), the State Board of Education (state board), and the governor to ensure compliance with certain requirements;

- ▶ prohibits an institution of higher education, the state board, and a governmental



- 26 employer from establishing or maintaining an office that engages in certain practices;
- 27 ▶ requires an institution of higher education to:
- 28 • contract with a third party to conduct campus climate surveys;
- 29 • provide certain training; and
- 30 • collect and send the surveys to the Office of Legislative Research and General
- 31 Counsel (OLRGC);
- 32 ▶ requires OLRGC to provide campus climate survey summaries to the Education
- 33 Interim Committee at certain times;
- 34 ▶ provides for certain measures of legislative oversight;
- 35 ▶ appropriates funding for a certain institution of higher education program;
- 36 ▶ provides that an individual may submit a complaint for noncompliance to:
- 37 • for an institution, the board; or
- 38 • for public education, the state board;
- 39 ▶ provides limited exceptions to the prohibitions in this bill; and
- 40 ▶ makes technical and conforming changes.

41 **Money Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides a special effective date.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **53B-1-301**, as last amended by Laws of Utah 2023, Chapter 374

48 **53E-1-201**, as last amended by Laws of Utah 2023, Chapters 1, 328 and 380

49 ENACTS:

50 **53B-1-116**, Utah Code Annotated 1953

51 **53B-1-117**, Utah Code Annotated 1953

52 **53B-1-118**, Utah Code Annotated 1953

53 **53E-3-1101**, Utah Code Annotated 1953

54 **53G-2-103**, Utah Code Annotated 1953

55 **53G-2-104**, Utah Code Annotated 1953

56 **53G-2-105**, Utah Code Annotated 1953

- 57 [67-1-18](#), Utah Code Annotated 1953
- 58 [67-27-105](#), Utah Code Annotated 1953
- 59 [67-27-106](#), Utah Code Annotated 1953
- 60 [67-27-107](#), Utah Code Annotated 1953



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

63 Section 1. Section **53B-1-116** is enacted to read:

64 **53B-1-116. Prohibition on the use of certain submissions in higher education --**

65 **Exceptions.**

66 (1) As used in this section, "prohibited submission" means the same as that term is
67 defined in Section [67-27-105](#).

68 (2) Except as provided in Subsections (4) and (6), an institution may not require,
69 request, solicit, or compel a prohibited submission as a certification or condition before taking
70 action with respect to:

71 (a) employment, including decisions regarding:

72 (i) hiring;

73 (ii) terms of employment;

74 (iii) benefits;

75 (iv) compensation;

76 (v) seniority status;

77 (vi) tenure or continuing status;

78 (vii) promotion;

79 (viii) performance reviews;

80 (ix) transfer;

81 (x) termination; or

82 (xi) appointment;

83 (b) admission to, advancement in, or graduation from an institution or an academic
84 program;

85 (c) participation in an institution-sponsored program; or

86 (d) qualification for or receipt of state financial aid or other state financial assistance.

87 (3) An institution may not grant any form of preferential consideration to an individual

88 who, with or without solicitation from the institution, provides a prohibited submission for
89 consideration for any action described in Subsection (2).

90 (4) If federal law requires an institution to accept or require a prohibited submission,
91 the institution:

92 (a) may accept the prohibited submission only to the extent required under federal law;
93 and

94 (b) shall limit consideration of the information contained in the prohibited submission
95 to the extent necessary to satisfy the requirement under federal law.

96 (5) For a required prohibited submission under Subsection (4), an institution shall:

97 (a) prepare a report to the institution's governing board detailing the circumstances
98 under which a prohibited submission is required; and

99 (b) publish the report described in Subsection (5)(a) on the institution's governing
100 board website in a conspicuous location.

101 (6) Nothing in this section limits or prohibits an institution's authority to establish
102 policies that:

103 (a) are necessary to comply with state or federal law, including laws relating to
104 prohibited discrimination or harassment;

105 (b) require disclosure of an employee's academic research, classroom teaching, or
106 coursework; or

107 (c) require an applicant for employment, tenure, or promotion to disclose or discuss the
108 applicant's:

109 (i) research;

110 (ii) teaching agenda;

111 (iii) artistic creations; or

112 (iv) pedagogical approaches or experiences with students of all learning abilities.

113 (7) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an
114 institution of higher education's compliance with this section as follows:

115 (i) for 2025, on each institution of higher education; and

116 (ii) for 2026, and every year after, on one-half of the degree granting institutions of
117 higher education and one-half of the technical colleges.

118 (b) If the board identifies a violation of this section, the board shall:

119 (i) on or before 30 days after the day on which the board identifies the violation, work
120 with the institution to create a remediation plan; and

121 (ii) provide the institution 180 days after the day of the creation of the remediation plan
122 to cure the violation.

123 (8) On or before November 1 of each year, the board shall prepare and submit a report
124 to the Higher Education Appropriations Subcommittee on:

125 (a) the review process and each institution's compliance determination; or

126 (b) if a violation is identified, the remediation plan and progress under Subsection
127 (7)(b).

128 (9) The Legislature may withhold future state appropriations to an institution that fails
129 to cure a violation of this section within the time provided under Subsection (7)(b).

130 (10) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
131 Administrative Rulemaking Act, to establish a procedure for accepting and processing an
132 individual's complaint against an institution for an alleged violation of this section.

133 Section 2. Section **53B-1-117** is enacted to read:

134 **53B-1-117. Prohibition on the use of certain training in higher education --**

135 **Exceptions.**

136 (1) As used in this section, "prohibited training" means the same as that term is defined
137 in Section [67-27-106](#).

138 (2) An institution may not require prohibited training.

139 (3) An institution shall annually train the institution's faculty and staff on academic
140 freedom and freedom of speech in accordance with state or federal laws.

141 (4) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an
142 institution of higher education's compliance with this section as follows:

143 (i) for 2025, on each institution of higher education; and

144 (ii) for 2026, and every year after, on one-half of the institutions of higher education
145 and one-half of the technical colleges.

146 (b) If the board identifies a violation of this section, the board shall:

147 (i) on or before 30 days after the day on which the board identifies the violation, work
148 with the institution to create a remediation plan; and

149 (ii) provide the institution 180 days after the day of the creation of the remediation plan

150 to cure the violation.

151 (5) On or before November 1 of each year, the board shall prepare and submit a report
152 to the Higher Education Appropriations Subcommittee on:

153 (a) the review process and each institution's compliance determination; or

154 (b) if a violation is identified, the remediation plan and progress under Subsection
155 (4)(b).

156 (6) The Legislature may withhold future state appropriations to an institution that fails
157 to cure a violation of this section within the time provided under Subsection (4)(b).

158 (7) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
159 Administrative Rulemaking Act, to establish a procedure for accepting and processing an
160 individual's complaint against an institution for an alleged violation of this section.

161 Section 3. Section **53B-1-118** is enacted to read:

162 **53B-1-118. Prohibited discriminatory practices -- Restrictions -- Campus climate**
163 **survey -- Exceptions.**

164 (1) As used in this section:

165 (a) "Personal identity characteristics" means an individual's race, color, ethnicity, sex,
166 sexual orientation, national origin, religion, or gender identity.

167 (b) (i) "Prohibited discriminatory practice" means engaging in or maintaining a policy,
168 procedure, practice, program, office, initiative, or required training that, based on an
169 individual's personal identity characteristics:

170 (A) promotes the differential treatment of an individual;

171 (B) influences the employment decisions of an individual other than through the use of
172 neutral hiring processes with regard to personal identity characteristics and in accordance with
173 federal law;

174 (C) influences an individual's admission to, advancement in, or graduation from an
175 institution, the public education system, or an academic program; or

176 (D) influences an individual's participation in an institution-sponsored or public
177 education system-sponsored program.

178 (ii) "Prohibited discriminatory practice" also means engaging in or maintaining a
179 policy, procedure, practice, program, office, initiative, or required training that:

180 (A) asserts directly or indirectly that one personal identity characteristic is inherently

181 superior or inferior to another personal identity characteristic;

182 (B) asserts directly or indirectly that an individual, by virtue of the individual's
183 personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive,
184 or a victim, whether consciously or unconsciously;

185 (C) asserts directly or indirectly that an individual should be discriminated against in
186 violation of Title VII and Title IX, receive adverse treatment, be advanced, or receive
187 beneficial treatment because of the individual's personal identity characteristics;

188 (D) asserts directly or indirectly that an individual's moral character is determined by
189 the individual's personal identity characteristics;

190 (E) asserts directly or indirectly that an individual, by virtue of the individual's personal
191 identity characteristics, bears responsibility for actions committed in the past by other
192 individuals with the same personal identity characteristics;

193 (F) asserts directly or indirectly that an individual should feel discomfort, guilt,
194 anguish, or other psychological distress solely because of the individual's personal identity
195 characteristics;

196 (G) asserts directly or indirectly that meritocracy is inherently racist or sexist;

197 (H) asserts directly or indirectly that socio-political structures are inherently a series of
198 power relationships and struggles among racial groups;

199 (I) promotes resentment between, or resentment of, individuals by virtue of their
200 personal identity characteristics;

201 (J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual
202 because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or
203 gender identity;

204 (K) considers an individual's personal identity characteristics in determining receipt of
205 state financial aid or other state financial assistance; or

206 (L) is referred to or named diversity, equity, and inclusion.

207 (iii) "Prohibited discriminatory practice" does not include policies or procedures
208 required by state or federal law, including laws related to prohibited discrimination or
209 harassment.

210 (c) "Student success and support" means an office, division, employment position, or
211 other unit of an institution established or maintained to provide support, guidance, and

212 resources that equip all students, including all students at higher risk of not completing a
213 certificate or degree, with experiences and opportunities for success in each student's academic
214 and career goals, and without excluding individuals on the basis of an individual's personal
215 identity characteristics.

216 (d) "Title VII" means Title VII of the Education Amendments of 1972, 20 U.S.C. Sec.
217 1681 et seq.

218 (e) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
219 1681 et seq.

220 (2) An institution may not:

221 (a) take, express, or assert a position or opinion on subjects described in Subsection
222 67-27-105(1)(b)(ii);

223 (b) establish or maintain an office, division, employment position, or other unit of an
224 institution established to implement, develop, plan, or promote campus policies, procedures,
225 practices, programs, or initiatives, regarding prohibited discriminatory practices; or

226 (c) employ or assign an employee or a third-party whose duties for an institution
227 include coordinating, creating, developing, designing, implementing, organizing, planning, or
228 promoting policies, programming, training, practices, activities, and procedures relating to
229 prohibited discriminatory practices.

230 (3) An institution shall:

231 (a) ensure that all students have access to programs providing student success and
232 support;

233 (b) publish the titles and syllabi of all mandatory courses, seminars, classes,
234 workshops, and training sessions on the institution's website in an online database readily
235 searchable by the public;

236 (c) annually train employees on the separation of personal political advocacy from an
237 institution's business and employment activities;

238 (d) develop strategies to promote viewpoint diversity; and

239 (e) establish policies and procedures to include opportunities for education and
240 research on free speech and civic education.

241 (4) Beginning on or before July 1, 2025, the board shall report to the Higher Education
242 Appropriations Subcommittee on the status and allocation of appropriated funds for student

243 success and support.

244 (5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to
245 support an institution's student success and support program in accordance with this section.

246 (6) (a) On or before January 1, 2025, the board shall contract with a third-party
247 contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a
248 campus expression climate survey of each institution:

249 (i) to assess student, faculty, and staff perceptions of and experiences with an
250 institution's campus environment that measures the student's, faculty member's, and staff
251 member's perception of and experience with an institution's campus environment; and

252 (ii) that measures the student's, faculty member's, and staff member's perception of and
253 experience with campus policy and practice regarding freedom of speech and academic
254 freedom at the institution.

255 (b) The board shall collect the results of each campus expression climate survey under
256 Subsection (6) and submit the results to the Office of Legislative Research and General
257 Counsel beginning on or before July 1.

258 (7) (a) The Office of Legislative Research and General Counsel shall provide a
259 summary report on the data collected from the campus expression climate surveys to the
260 Education Interim Committee on or before:

261 (i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

262 (ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

263 (iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

264 (b) On or before November 1, 2035, the Office of Legislative Research and General
265 Counsel shall provide a comprehensive report of the campus expression climate surveys to the
266 Education Interim Committee.

267 (8) Nothing in this section requires an individual to respond to a campus expression
268 climate survey.

269 (9) Nothing in this section limits or prohibits an institution's authority to establish
270 policies that:

271 (a) are necessary to comply with state or federal law, including laws relating to
272 prohibited discrimination or harassment;

273 (b) require disclosure of an employee's academic research, classroom teaching, or

274 coursework; or

275 (c) require for employment, tenure, or promotion to disclose or discuss the applicant's:

276 (i) research;

277 (ii) teaching agenda;

278 (iii) artistic creations; or

279 (iv) pedagogical approaches or experiences with students of all learning abilities.

280 (10) This section does not apply to:

281 (a) requirements necessary for athletic and accreditation compliance;

282 (b) academic research;

283 (c) academic course teaching in the classroom;

284 (d) a grant that would otherwise require:

285 (i) a department, office, division, or other unit of an institution to engage in a

286 prohibited discriminatory practice if the grant has been reviewed and approved by the

287 institution's board of trustees; or

288 (ii) an institution to engage in a prohibited discriminatory practice if the grant has been

289 reviewed and approved by the board; or

290 (e) requirements necessary for an institution to establish or maintain eligibility for any

291 federal program.

292 (11) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an

293 institution of higher education's compliance with this section as follows:

294 (i) for 2025, on each institution of higher education; and

295 (ii) for 2026, and every year after, on one-half of the degree granting institutions of

296 higher education and one-half of the technical colleges.

297 (b) If the board identifies a violation of this section, the board shall:

298 (i) on or before 30 days after the day on which the board identifies the violation, work

299 with the institution to create a remediation plan; and

300 (ii) provide the institution 180 days after the day of the creation of the remediation plan

301 to cure the violation.

302 (12) On or before November 1 of each year, the board shall prepare and submit a report

303 to the Higher Education Appropriations Subcommittee on:

304 (a) the review process and each institution's compliance determination; or

305 (b) if a violation is identified, the remediation plan and progress under Subsection
 306 (11)(b).

307 (13) On or before December 1 of each year, the Higher Education Appropriations
 308 Subcommittee shall:

309 (a) report the findings under Subsections (4) and (12) to the Legislature; and

310 (b) make appropriation recommendations about an institution's compliance with this
 311 section.

312 (14) The Legislature may withhold future state appropriations to an institution that fails
 313 to cure a violation of this section within the time provided under Subsection (11)(b).

314 (15) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
 315 Administrative Rulemaking Act, to establish a procedure for accepting and processing an
 316 individual's complaint against an institution for an alleged violation of this section.

317 Section 4. Section **53B-1-301** is amended to read:

318 **53B-1-301. Reports to and actions of the Higher Education Appropriations**
 319 **Subcommittee.**

320 (1) In accordance with applicable provisions and Section [68-3-14](#), the following
 321 recurring reports are due to the Higher Education Appropriations Subcommittee:

322 (a) the reports described in Sections [53B-1-116](#), [53B-1-117](#), and [53B-1-118](#);

323 (b) the reports described in Sections [34A-2-202.5](#), [53B-30-206](#), and [59-9-102.5](#) by the
 324 Rocky Mountain Center for Occupational and Environmental Health;

325 ~~[(b)]~~ (c) the report described in Section [53B-7-101](#) by the board on recommended
 326 appropriations for higher education institutions, including the report described in Section
 327 [53B-8-104](#) by the board on the effects of offering nonresident partial tuition scholarships;

328 ~~[(e)]~~ (d) the report described in Section [53B-7-704](#) by the Department of Workforce
 329 Services and the Governor's Office of Economic Opportunity on targeted jobs;

330 ~~[(d)]~~ (e) the reports described in Section [53B-7-705](#) by the board on performance;

331 ~~[(e)]~~ (f) the report described in Section [53B-8-201](#) by the board on the Opportunity
 332 Scholarship Program;

333 ~~[(f)]~~ (g) the report described in Section [53B-8d-104](#) by the Division of Child and
 334 Family Services on tuition waivers for wards of the state;

335 ~~[(g)]~~ (h) the report described in Section [53B-13a-103](#) by the board on the Utah Promise

336 Program;

337 ~~[(h)]~~ (i) the report described in Section 53B-17-201 by the University of Utah
338 regarding the Miners' Hospital for Disabled Miners;

339 ~~[(i)]~~ (j) the report described in Section 53B-26-202 by the Medical Education Council
340 on projected demand for nursing professionals;

341 ~~[(j)]~~ (k) the report described in Section 53B-35-202 regarding the Higher Education
342 and Corrections Council; and

343 ~~[(k)]~~ (l) the report described in Section 53E-10-308 by the State Board of Education
344 and board on student participation in the concurrent enrollment program.

345 (2) In accordance with applicable provisions and Section 68-3-14, the following
346 occasional reports are due to the Higher Education Appropriations Subcommittee:

347 (a) upon request, the information described in Section 53B-8a-111 submitted by the
348 Utah Educational Savings Plan;

349 (b) a proposal described in Section 53B-26-202 by an eligible program to respond to
350 projected demand for nursing professionals; and

351 (c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board
352 on the fire and rescue training program described in Section 53B-29-202.

353 (3) In accordance with applicable provisions, the Higher Education Appropriations
354 Subcommittee shall complete the following:

355 (a) an appropriation recommendation described in Section 53B-1-118 regarding
356 compliance with Subsections 53B-1-118(5) and (13);

357 (b) as required by Section 53B-7-703, the review of performance funding described in
358 Section 53B-7-703;

359 ~~[(b)]~~ (c) an appropriation recommendation described in Section 53B-26-202 to fund a
360 proposal responding to projected demand for nursing professionals; and

361 ~~[(c)]~~ (d) review of the report described in Section 63B-10-301 by the University of
362 Utah on the status of a bond and bond payments specified in Section 63B-10-301.

363 Section 5. Section 53E-1-201 is amended to read:

364 **53E-1-201. Reports to and action required of the Education Interim Committee.**

365 (1) In accordance with applicable provisions and Section 68-3-14, the following
366 recurring reports are due to the Education Interim Committee:

- 367 (a) the report described in Section 9-22-109 by the STEM Action Center Board,
368 including the information described in Section 9-22-113 on the status of the computer science
369 initiative and Section 9-22-114 on the Computing Partnerships Grants Program;
- 370 (b) the prioritized list of data research described in Section 53B-33-302 and the report
371 on research and activities described in Section 53B-33-304 by the Utah Data Research Center;
- 372 (c) the report described in Section 35A-15-303 by the State Board of Education on
373 preschool programs;
- 374 (d) the report described in Section 53B-1-402 by the Utah Board of Higher Education
375 on career and technical education issues and addressing workforce needs;
- 376 (e) the annual report of the Utah Board of Higher Education described in Section
377 53B-1-402;
- 378 (f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education
379 regarding activities related to campus safety;
- 380 (g) the State Superintendent's Annual Report by the state board described in Section
381 53E-1-203;
- 382 (h) the annual report described in Section 53E-2-202 by the state board on the strategic
383 plan to improve student outcomes;
- 384 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for
385 the Deaf and the Blind;
- 386 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,
387 Actionable, and Dynamic Education director on research and other activities;
- 388 (k) the report described in Section 53F-2-522 regarding mental health screening
389 programs;
- 390 (l) the report described in Section 53F-4-203 by the state board and the independent
391 evaluator on an evaluation of early interactive reading software;
- 392 (m) the report described in Section 63N-20-107 by the Governor's Office of Economic
393 Opportunity on UPSTART;
- 394 (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board
395 related to grants for professional learning and grants for an elementary teacher preparation
396 assessment;
- 397 (o) upon request, the report described in Section 53F-5-219 by the state board on the

398 Local Innovations Civics Education Pilot Program;

399 (p) the report described in Section [53F-5-405](#) by the State Board of Education
400 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
401 for students who are low income;

402 (q) the report described in Section [53B-35-202](#) regarding the Higher Education and
403 Corrections Council;

404 (r) the report described in Section [53G-7-221](#) by the State Board of Education
405 regarding innovation plans;

406 (s) the annual report described in Section [63A-2-502](#) by the Educational Interpretation
407 and Translation Service Procurement Advisory Council; and

408 (t) the reports described in Section [53F-6-412](#) regarding the Utah Fits All Scholarship
409 Program.

410 (2) In accordance with applicable provisions and Section [68-3-14](#), the following
411 occasional reports are due to the Education Interim Committee:

412 (a) the report described in Section [35A-15-303](#) by the School Readiness Board by
413 November 30, 2020, on benchmarks for certain preschool programs;

414 (b) in 2027, 2030, 2033, and 2035, the reports described in Sections [53B-1-116](#),
415 [53B-1-117](#), and [53B-1-118](#);

416 ~~(b)~~ (c) the report described in Section [53B-28-402](#) by the Utah Board of Higher
417 Education on or before the Education Interim Committee's November 2021 meeting;

418 ~~(c)~~ (d) if required, the report described in Section [53E-4-309](#) by the state board
419 explaining the reasons for changing the grade level specification for the administration of
420 specific assessments;

421 ~~(d)~~ (e) if required, the report described in Section [53E-5-210](#) by the state board of an
422 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

423 ~~(e)~~ (f) in 2022 and in 2023, on or before November 30, the report described in
424 Subsection [53E-10-309\(5\)](#) related to the PRIME pilot program;

425 ~~(f)~~ (g) the report described in Section [53E-10-702](#) by Utah Leading through Effective,
426 Actionable, and Dynamic Education;

427 ~~(g)~~ (h) if required, the report described in Section [53F-2-513](#) by the state board
428 evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in

429 high poverty schools;

430 ~~[(h)]~~ (i) the report described in Section 53F-5-210 by the state board on the Educational
431 Improvement Opportunities Outside of the Regular School Day Grant Program;

432 ~~[(i)]~~ (j) upon request, a report described in Section 53G-7-222 by an LEA regarding
433 expenditure of a percentage of state restricted funds to support an innovative education
434 program;

435 ~~[(j)]~~ (k) the report described in Section 53G-7-503 by the state board regarding fees
436 that LEAs charge during the 2020-2021 school year;

437 ~~[(k)]~~ (l) the reports described in Section 53G-11-304 by the state board regarding
438 proposed rules and results related to educator exit surveys; and

439 ~~[(l)]~~ (m) the report described in Section 26B-5-113 by the Office of Substance Use and
440 Mental Health, the State Board of Education, and the Department of Health and Human
441 Service regarding recommendations related to Medicaid reimbursement for school-based health
442 services.

443 Section 6. Section 53E-3-1101 is enacted to read:

444 **53E-3-1101. Prohibited discriminatory practices -- Restrictions - Reporting.**

445 (1) As used in this section, "prohibited discriminatory practice" means the same as that
446 term is defined in Section 53B-1-118.

447 (2) The state board may not:

448 (a) establish or maintain an office, division, or employment position established to
449 implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives,
450 regarding prohibited discriminatory practices; or

451 (b) employ or assign an employee or a third-party whose duties for the state board
452 include coordinating, creating, developing, designing, implementing, organizing, planning, or
453 promoting policies, programming, training, practices, activities, and procedures relating to
454 prohibited discriminatory practices.

455 (3) Nothing in this section limits or prohibits the state board's authority to establish
456 policies that are necessary to comply with state or federal law, including laws relating to
457 prohibited discrimination or harassment.

458 (4) The state board shall provide an update to the Education Interim Committee and
459 Public Education Appropriations Subcommittee on the state board's compliance with this

460 section at or before:

461 (a) the Education Interim Committee's November interim committee meeting; and

462 (b) the Public Education Appropriations Subcommittee December interim

463 subcommittee meeting.

464 Section 7. Section **53G-2-103** is enacted to read:

465 **53G-2-103. Prohibition on the use of certain submissions in public education --**

466 **Exceptions.**

467 (1) As used in this section, "prohibited submission" means the same as that term is

468 defined in Section [67-27-105](#).

469 (2) Except as provided in Subsections (4) and (6), an LEA or district school may not
470 require, request, solicit, or compel a prohibited submission as a certification or condition before

471 taking action with respect to:

472 (a) employment, including decisions regarding:

473 (i) hiring;

474 (ii) terms of employment;

475 (iii) benefits;

476 (iv) compensation;

477 (v) seniority status;

478 (vi) tenure or continuing status;

479 (vii) promotion;

480 (viii) performance reviews;

481 (ix) transfer;

482 (x) termination; or

483 (xi) appointment;

484 (b) enrollment or graduation from the LEA or district school;

485 (c) participation in LEA- or district school-sponsored programs; or

486 (d) qualification for or receipt of state financial aid or other state financial assistance.

487 (3) An LEA or district school may not grant any form of preferential consideration to
488 an individual who, with or without solicitation from the LEA or district school, provides a
489 prohibited submission for consideration for any action described in Subsection (2).

490 (4) If federal law requires an LEA or district school to accept or require a prohibited

491 submission, the LEA or district school:

492 (a) may accept the prohibited submission only to the extent required under federal law;

493 and

494 (b) shall limit consideration of the information contained in the prohibited submission

495 to the extent necessary to satisfy the requirement under federal law.

496 (5) For a required prohibited submission under Subsection (4), an LEA shall notify the

497 local school board detailing the circumstances under which a prohibited submission under

498 Subsection (4) is required.

499 (6) Nothing in this section limits or prohibits an LEA's or district school's authority to
500 establish policies that:

501 (a) are necessary to comply with state or federal law, including laws relating to
502 prohibited discrimination or harassment; or

503 (b) require an applicant for employment, tenure, continuing status, or promotion to
504 disclose or discuss the applicant's:

505 (i) teaching record;

506 (ii) artistic creations; or

507 (iii) pedagogical approaches or experiences with students of all learning abilities.

508 (7) (a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's or
509 district school's compliance with this section.

510 (b) If the state board identifies a violation of this section, the state board shall:

511 (i) on or before 30 days after the day on which the state board identifies the violation,
512 work with the LEA or district school to create a remediation plan; and

513 (ii) provide the LEA or district school 180 days after the day of the creation of the
514 remediation plan to cure the violation.

515 (8) The state board shall provide an update to the Education Interim Committee on an
516 LEA's and district school's compliance with this section at or before the Education Interim
517 Committee's November interim committee meeting.

518 (9) An individual may bring a violation of this section to the state board in accordance
519 with the process described in Section [53E-3-401](#).

520 Section 8. Section **53G-2-104** is enacted to read:

521 **53G-2-104. Prohibition on the use of certain training in public education --**

522 **Exceptions.**

523 (1) As used in this section, "prohibited training" means the same as that term is defined
524 in Section [67-25-106](#).

525 (2) An LEA or district school may not require prohibited training.

526 (3) (a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's or
527 district school's compliance with this section.

528 (b) If the state board identifies a violation of this section, the state board shall:

529 (i) on or before 30 days after the day on which the state board identifies the violation,
530 work with the LEA or district school to create a remediation plan; and

531 (ii) provide the LEA or district school 180 days after the day of the creation of the
532 remediation plan to cure the violation.

533 (4) The state board shall provide an update to the Education Interim Committee on an
534 LEA's and district school's compliance with this section at or before the Education Interim
535 Committee's November interim committee meeting.

536 (5) An individual may bring a violation of this section to the state board in accordance
537 with the process described in Section [53E-3-401](#).

538 Section 9. Section **53G-2-105** is enacted to read:

539 **53G-2-105. Prohibited discriminatory practices -- Restrictions - Reporting.**

540 (1) As used in this section, "prohibited discriminatory practice" means the same as that
541 term is defined in Section [53B-1-118](#).

542 (2) An LEA or district school may not engage in prohibited discriminatory practices.

543 (3) Nothing in this section limits or prohibits an LEA or district school from
544 establishing policies that are necessary to comply with state or federal law, including laws
545 relating to prohibited discrimination or harassment.

546 (4) (a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's or
547 district school's compliance with this section.

548 (b) If the state board identifies a violation of this section, the state board shall:

549 (i) on or before 30 days after the day on which the state board identifies the violation,
550 work with the LEA or district school to create a remediation plan; and

551 (ii) provide the LEA or district school 180 days after the day of the creation of the
552 remediation plan to cure the violation.

553 (5) The state board shall provide an update to the Education Interim Committee and the
554 Public Education Appropriations Subcommittee on an LEA's and district school's compliance
555 with this section at or before the Education Interim Committee's November interim committee
556 meeting.

557 (6) An individual may bring a violation of this section to the state board in accordance
558 with the process described in Section [53E-3-401](#).

559 Section 10. Section **67-1-18** is enacted to read:

560 **67-1-18. Oversight of governmental employer compliance.**

561 (1) As used in this section, "governmental employer" means the same as that term is
562 defined in Section [67-27-105](#).

563 (2) The governor shall ensure that a governmental employer complies with the
564 provisions of Sections [67-27-105](#), [67-27-106](#), and [67-27-107](#).

565 Section 11. Section **67-27-105** is enacted to read:

566 **67-27-105. Prohibition on the use of certain submissions by governmental**
567 **employers -- Exceptions.**

568 (1) As used in this section:

569 (a) (i) "Governmental employer" means any department, division, agency, commission,
570 board, council, committee, authority, municipalities, counties, political subdivisions, or any
571 other institution of the state.

572 (ii) "Government employer" does not mean a local education agency, district school, or
573 institution of higher education.

574 (b) (i) "Prohibited submission" means a submission, statement, or document that
575 requires an individual to articulate the individual's position, view, contribution, effort, or
576 experience regarding a policy, program, or initiative that promotes differential treatment based
577 on an individual's personal identity characteristics, as that term is defined in Section
578 [53B-1-118](#).

579 (ii) "Prohibited submission" includes a submission, statement, or document that relates
580 to a policy, program, or initiative regarding:

581 (A) anti-racism;

582 (B) bias;

583 (C) critical race theory;

584 (D) implicit bias;
585 (E) intersectionality;
586 (F) prohibited discriminatory practice, as that term is defined in Section [53B-1-118](#); or
587 (G) racial privilege.

588 (iii) "Prohibited submission" does not include a submission, statement, or document
589 for an employment position if the submission, statement, or document relates to a bona fide
590 occupational qualification for the position.

591 (2) Except as provided in Subsection (4), a governmental employer may not require,
592 request, solicit, or compel a prohibited submission as a certification or condition before taking
593 action with respect to:

594 (a) employment, including decisions regarding:

595 (i) hiring;

596 (ii) terms of employment;

597 (iii) benefits;

598 (iv) compensation;

599 (v) seniority status;

600 (vi) tenure or continuing status;

601 (vii) promotion;

602 (viii) performance reviews;

603 (ix) transfer;

604 (x) termination; or

605 (xi) appointment; or

606 (b) admissions and aid, including:

607 (i) admission to any state program or course;

608 (ii) financial or other forms of state-administered aid or assistance; and

609 (iii) other benefits from the governmental employer for which an individual is eligible.

610 (3) A governmental employer may not grant any form of preferential consideration to
611 an individual who, with or without solicitation from the governmental employer, provides a
612 prohibited submission for any action described in Subsection (2).

613 (4) If federal law requires a governmental employer to accept or require a prohibited
614 submission, the governmental employer:

615 (a) may accept the prohibited submission only to the extent required under federal law;
616 and

617 (b) shall limit consideration of the information contained in the prohibited submission
618 to the extent necessary to satisfy the requirement under federal law.

619 (5) Nothing in this section prohibits a governmental employer from:

620 (a) requiring compliance with state or federal law, including laws relating to prohibited
621 discrimination or harassment; or

622 (b) enforcing state law, including state or federal laws relating to prohibited
623 discrimination or harassment.

624 Section 12. Section **67-27-106** is enacted to read:

625 **67-27-106. Prohibition on the use of certain training by governmental employers**

626 **-- Exceptions.**

627 (1) As used in this section:

628 (a) "Prohibited training" means a mandatory instructional program and related
629 materials that a governmental employer requires the governmental employer's current or
630 prospective employees to attend that promote prohibited discriminatory practices as that term is
631 defined in Section [53B-1-118](#).

632 (b) "Prohibited training" includes an in-person or online seminar, discussion group,
633 workshop, other program, or related materials.

634 (c) "Prohibited training" does not include human resource training for employees that
635 is necessary to comply with state law or federal law.

636 (2) A governmental employer may not require prohibited training.

637 Section 13. Section **67-27-107** is enacted to read:

638 **67-27-107. Prohibited discriminatory practices -- Restrictions -- Reporting.**

639 (1) As used in this section, "prohibited discriminatory practice" means the same as that
640 term is defined in Section [53B-1-118](#).

641 (2) A governmental employer may not:

642 (a) establish or maintain an office, division, or employment position to implement,
643 develop, plan, or promote prohibited discriminatory practices; or

644 (b) employ or assign an employee or a third-party whose duties include coordinating,
645 creating, developing, designing, implementing, organizing, planning, or promoting prohibited

646 discriminatory practices.

647 (3) Nothing in this section limits or prohibits a governmental employer's authority to
648 establish policies that are necessary to comply with state or federal law, including laws relating
649 to prohibited discrimination or harassment.

650 Section 14. **Effective date.**

651 This bill takes effect on July 1, 2024.