

HB0261S04 compared with HB0261S03

~~{deleted text}~~ shows text that was in HB0261S03 but was deleted in HB0261S04.

inserted text shows text that was not in HB0261S03 but was inserted into HB0261S04.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Karianne Lisonbee}~~Senator Keith Grover 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

HB0261S04 compared with HB0261S03

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~~ state auditor to ensure compliance with certain requirements;
- ▶ prohibits an institution of higher education, the state board, and a governmental employer from establishing or maintaining an office that engages in certain practices;
- ▶ requires an institution of higher education to:
 - contract with a third party to conduct campus climate surveys;
 - provide certain training; and
 - collect and send the surveys to the Office of Legislative Research and General Counsel (OLRGC);
- ▶ requires OLRGC to provide campus climate survey summaries to the Education Interim Committee at certain times;
- ▶ provides for certain measures of legislative oversight;
- ▶ appropriates funding for a certain institution of higher education program;
- ▶ provides that an individual may submit a complaint for noncompliance to:
 - for an institution, the board; or
 - for public education, the state board;
- ▶ provides limited exceptions to the prohibitions in this bill; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

HB0261S04 compared with HB0261S03

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

67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

ENACTS:

53B-1-116, Utah Code Annotated 1953

53B-1-117, Utah Code Annotated 1953

53B-1-118, Utah Code Annotated 1953

53E-3-1101, Utah Code Annotated 1953

53G-2-103, Utah Code Annotated 1953

53G-2-104, Utah Code Annotated 1953

53G-2-105, Utah Code Annotated 1953

67-27-105, Utah Code Annotated 1953

67-27-106, Utah Code Annotated 1953

67-27-107, Utah Code Annotated 1953

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

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

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

Exceptions.

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

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

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

HB0261S04 compared with HB0261S03

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) research;

HB0261S04 compared with HB0261S03

(ii) teaching agenda;

(iii) artistic creations; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exceptions.

(1) As used in this section ~~f, i~~:

(a) "~~prohibited~~ Prohibited training" means ~~the same~~ a mandatory instructional program and related materials that an institution requires the institution's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory practices as that term is defined in Section ~~{67-27-106}~~ 53B-1-118.

HB0261S04 compared with HB0261S03

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

(2) An institution may not require prohibited training.

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

(4) Nothing in this section limits or prohibits an institution's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

~~(4)5~~ (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

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

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

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

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

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

~~(5)6~~ On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

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

(b) if a violation is identified, the remediation plan and progress under Subsection ~~(4)5~~(b).

~~(6)7~~ The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection ~~(4)5~~(b).

~~(7)8~~ The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

~~The following section is affected by a coordination clause at the end of this bill.~~

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

53B-1-118. Prohibited discriminatory practices -- Restrictions -- Campus climate

HB0261S04 compared with HB0261S03

survey -- Exceptions.

(1) As used in this section:

(a) "Important government interest" means a governmental purpose relating to athletic competition or athletic safety in public education or privacy.

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

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

(A) promotes the differential treatment of an individual without f)a}an important {governmental}government interest;

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

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

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

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

(A) asserts {directly or indirectly }that one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;

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

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

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

(E) asserts {directly or indirectly }that an individual, by virtue of the individual's

HB0261S04 compared with HB0261S03

personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

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

(G) asserts ~~{directly or indirectly}~~ that meritocracy is inherently racist or sexist;

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

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

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

(K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance, including a scholarship award or tuition waiver; or

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

(iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws ~~{related}~~ relating to prohibited discrimination or harassment.

~~{c}~~d) "Student success and support" means an office, division, employment position, or other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.

~~{d}~~e) "Title VII" means Title VII of the ~~{Education Amendments}~~ Civil Rights Act of 1972, 1964, ~~{20}~~42 U.S.C. Sec. ~~{1681}~~2000e et seq.

~~{e}~~f) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) An institution may not:

HB0261S04 compared with HB0261S03

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

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

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

(3) An institution shall:

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

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

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

(d) develop strategies, **including inviting speakers**, to promote viewpoint diversity; and

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

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

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

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

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

HB0261S04 compared with HB0261S03

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

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

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

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

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

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

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

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

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

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

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

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

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

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

(10) This section does not apply to:

(a) requirements necessary for athletic and accreditation compliance;

(b) academic research;

HB0261S04 compared with HB0261S03

(c) academic course teaching in the classroom;

(d) a grant that would otherwise require:

(i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or

(ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board; or

(e) requirements necessary for an institution to establish or maintain eligibility for any federal program.

(11) Notwithstanding any other provision of this part, the University of Utah may take any action required for the University of Utah to comply with the terms of an agreement entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.

(~~11~~12) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

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

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

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

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

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

(~~12~~13) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

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

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

(11)(b).

(~~13~~14) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:

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

(b) make appropriation recommendations about an institution's compliance with this

HB0261S04 compared with HB0261S03

section.

~~(14)~~15) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (11)(b).

~~(15)~~16) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

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

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

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

(a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;
(b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

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

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

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

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

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

~~(g)~~ (h) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

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

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

~~(j)~~ (k) the report described in Section 53B-35-202 regarding the Higher Education

HB0261S04 compared with HB0261S03

and Corrections Council; and

~~[(*)]~~ (1) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

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

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

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

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

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

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

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

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

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

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

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

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

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on

HB0261S04 compared with HB0261S03

preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

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

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

HB0261S04 compared with HB0261S03

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

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

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

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

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

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

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

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

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

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

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

~~(g)~~ (h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

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

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

HB0261S04 compared with HB0261S03

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

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

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

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

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

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

(2) The state board may not:

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

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

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

(4) The state board shall provide an update to the Education Interim Committee and Public Education Appropriations Subcommittee on the state board's compliance with this section at or before:

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

(b) the Public Education Appropriations Subcommittee December interim subcommittee meeting.

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

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

HB0261S04 compared with HB0261S03

Exceptions.

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

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

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment;

(b) enrollment or graduation from the LEA;

(c) participation in LEA-sponsored programs; or

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

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

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

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

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

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

HB0261S04 compared with HB0261S03

state board detailing the circumstances under which a prohibited submission under Subsection (4) is required.

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

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

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

(i) teaching record;

(ii) artistic creations; or

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

(7) ~~{(a) Beginning on July 1, 2025, the state board shall conduct a review of an LEA's compliance with this section.~~

~~—— (b) } If the state board identifies a **reported** violation of this section, the ~~{state board shall:~~~~

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

~~—— (ii) provide the LEA 180 days after the day of the creation of the remediation plan to cure the violation.~~

~~—— (8) The } state board shall provide an update to the Education Interim Committee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.~~

~~{9}8) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.~~

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

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

Exceptions.

(1) As used in this section ~~{, }:~~

(a) "~~{prohibited}~~ **Prohibited** training" means ~~{the same}~~ **a mandatory instructional program and related materials that an LEA requires the LEA's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory**

HB0261S04 compared with HB0261S03

practices as that term is defined in Section ~~{67-27-106}~~53B-1-118.

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

(2) An LEA may not require prohibited training.

~~(3) {a} Beginning on July 1, 2025, the state board shall conduct a review of an LEA's compliance with this section.~~

~~(b) Nothing in this section limits or prohibits an LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.~~

~~(4) If the state board identifies a reported violation of this section, the ~~{state board shall:~~~~

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

~~(ii) provide the LEA 180 days after the day of the creation of the remediation plan to cure the violation.~~

~~(4) The }state board shall provide an update to the Education Interim Committee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.~~

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

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

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

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

(2) An LEA may not:

(a) engage in prohibited discriminatory practices;

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

(c) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or

HB0261S04 compared with HB0261S03

promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An LEA shall ensure that all students have access to programs providing student success and support, as that term is defined in Section 53B-1-118.

~~(3)4~~ Nothing in this section limits or prohibits an ~~LEA from establishing~~ LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

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

~~(b)5~~ If the state board identifies a reported violation of this section, the ~~state board shall:~~

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

~~(ii) provide the LEA 180 days after the day of the creation of the remediation plan to cure the violation.~~

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

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

Section 10. Section **67-3-1** is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

- (a) the condition of the state's finances;
- (b) the revenues received or accrued;
- (c) expenditures paid or accrued;

HB0261S04 compared with HB0261S03

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

HB0261S04 compared with HB0261S03

(ii) whether the entity's administrators have faithfully complied with legislative intent;
(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

HB0261S04 compared with HB0261S03

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds;
or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

HB0261S04 compared with HB0261S03

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may

HB0261S04 compared with HB0261S03

prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

HB0261S04 compared with HB0261S03

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

HB0261S04 compared with HB0261S03

- (i) designate how that work shall be audited; and
- (ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal

HB0261S04 compared with HB0261S03

misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record

HB0261S04 compared with HB0261S03

that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

HB0261S04 compared with HB0261S03

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall ensure compliance with Sections 67-27-105, 67-27-106, and 67-27-107 by:

(a) establishing a process to receive and investigate each alleged ~~violations~~ violation;
and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's enforcement under this Subsection (1).

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

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

(1) As used in this section:

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

(ii) "Governmental employer" does not mean a local education agency or institution of higher education.

(b) (i) "Prohibited submission" means a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based

HB0261S04 compared with HB0261S03

on an individual's personal identity characteristics, as that term is defined in Section 53B-1-118.

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

(A) anti-racism;

(B) bias;

(C) critical race theory;

(D) implicit bias;

(E) intersectionality;

(F) prohibited discriminatory practice, as that term is defined in Section 53B-1-118; or

(G) racial privilege.

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

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

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment; or

(b) admissions and aid, including:

(i) admission to any state program or course;

HB0261S04 compared with HB0261S03

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

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

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

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

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

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

(5) Nothing in this section ~~limits or~~ prohibits a governmental ~~employer from:~~

~~(a) requiring compliance;~~ ~~employer's authority to establish policies that are necessary to~~ ~~comply~~ with state or federal law, including ~~{ laws relating to prohibited discrimination or harassment; or~~

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

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

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

-- **Exceptions.**

(1) As used in this section:

(a) "Governmental employer" means the same as that term is defined in ~~{Subsection}~~ Section 67-27-105.

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

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

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

HB0261S04 compared with HB0261S03

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

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

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

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

(1) As used in this section:

(a) "Governmental employer" means the same as that term is defined in

~~{Subsection}~~ Section 67-27-105.

(b) "~~{Prohibited discriminatory practice}~~ Personal identity characteristics" means the same as that term is defined in Section 53B-1-118.

~~(2) A governmental employer may not:~~

~~(a) establish or maintain an office, division, or employment position to implement, develop, plan, or promote prohibited~~ c) "Prohibited discriminatory ~~{practices; or~~

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

~~(3) practice~~ " means the same as that term is defined in Section 53B-1-118.

(2) (a) This section does not apply to a federal grant or program that would otherwise require a governmental employer to engage in a prohibited discriminatory practice if the grant or program has been reviewed and approved by the governmental employer's executive director, legislative body, or governing body, as that term is defined in Section 10-1-104.

(b) A governmental employer's executive director, legislative body, or governing body shall report the reviewed and approved federal grant or program under Subsection (2)(a) to the Executive Appropriations Committee.

(3) A governmental employer may not engage in prohibited discriminatory practices.

~~(4) Nothing in this section limits or prohibits a governmental {employer's authority to establish}~~ employer from:

(a) as required or permitted by state law:

(i) establishing or maintaining an office, division, or employment position to implement, develop, plan, or promote practices relating to personal identity characteristics if

HB0261S04 compared with HB0261S03

the office, division, or employment position is not engaging in prohibited discriminatory practices; or

(ii) employing or assigning an employee or a third-party whose duties for governmental employer include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to personal identity characteristics if the employee or the third-party is not engaging in prohibited discriminatory practices; or

(b) establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 14. **Effective date.**

This bill takes effect on July 1, 2024.