

INMATE EDUCATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill enacts provisions relating to postsecondary education for inmates enrolled in institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Higher Education and Corrections Council to facilitate postsecondary education for inmates housed in county jails;
- ▶ directs the Utah Board of Higher Education to assign student success advisors to correctional facilities;
- ▶ requires an institution of higher education to consider an inmate a state resident for tuition purposes;
- ▶ requires the Department of Corrections to:
 - publish a notice informing an individual depositing money into an inmate's account that a process exists for the individual to review the inmate's financial records; and
 - provide certain assistance to an inmate participating in postsecondary certificate or degree program;
- ▶ includes reporting requirements; and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53B-1-402**, as last amended by Laws of Utah 2023, Chapter 254

35 **53B-8-102**, as last amended by Laws of Utah 2023, Chapters 44, 50

36 **53B-35-101**, as enacted by Laws of Utah 2022, Chapter 147

37 **53B-35-202**, as enacted by Laws of Utah 2022, Chapter 147

38 **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177

39 **64-13-23**, as last amended by Laws of Utah 2021, Chapter 260

40 **64-13-42**, as last amended by Laws of Utah 2018, Chapter 415

41 **64-13-48**, as enacted by Laws of Utah 2022, Chapter 144

42 ENACTS:

43 **53B-35-301**, Utah Code Annotated 1953



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

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

47 **53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

48 (1) (a) There is established the Utah Board of Higher Education, which:

49 (i) is the governing board for the institutions of higher education;

50 (ii) controls, oversees, and regulates the Utah system of higher education in a manner
51 consistent with the purpose of this title and the specific powers and responsibilities granted to
52 the board; and

53 (b) (i) The University of Utah shall provide administrative support for the board.

54 (ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's
55 independence, including in relation to the powers and responsibilities granted to the board.

56 (2) The board shall:

57 (a) establish and promote a state-level vision and goals for higher education that
58 emphasize data-driven retrospective and prospective system priorities, including:

- 59 (i) quality;
- 60 (ii) affordability;
- 61 (iii) access and equity;
- 62 (iv) completion;
- 63 (v) workforce alignment and preparation for high-quality jobs; and
- 64 (vi) economic growth;
- 65 (b) establish system policies and practices that advance the vision and goals;
- 66 (c) establish metrics to demonstrate and monitor:
- 67 (i) performance related to the goals; and
- 68 (ii) performance on measures of operational efficiency;
- 69 (d) collect and analyze data including economic data, demographic data, and data
- 70 related to the metrics;
- 71 (e) govern data quality and collection across institutions;
- 72 (f) establish, approve, and oversee each institution's mission and role in accordance
- 73 with Section [53B-16-101](#);
- 74 (g) assess an institution's performance in accomplishing the institution's mission and
- 75 role;
- 76 (h) participate in the establishment and review of programs of instruction in accordance
- 77 with Section [53B-16-102](#);
- 78 (i) perform the following duties related to an institution of higher education president,
- 79 including:
- 80 (i) appointing an institution of higher education president in accordance with Section
- 81 [53B-2-102](#);
- 82 (ii) through the commissioner and the board's executive committee:
- 83 (A) providing support and guidance to an institution of higher education president; and
- 84 (B) evaluating an institution of higher education president based on institution
- 85 performance and progress toward systemwide priorities;
- 86 (iii) setting the terms of employment for an institution of higher education president,
- 87 including performance-based compensation, through an employment contract or another
- 88 method of establishing employment; and
- 89 (iv) establishing, through a public process, a statewide succession plan to develop

90 potential institution presidents from within the system;

91 (j) create and implement a strategic finance plan for higher education, including by:

92 (i) establishing comprehensive budget and finance priorities for academic education
93 and technical education;

94 (ii) allocating statewide resources to institutions;

95 (iii) setting tuition for each institution;

96 (iv) administering state financial aid programs;

97 (v) administering performance funding in accordance with Chapter 7, Part 7,

98 Performance Funding; and

99 (vi) developing a strategic capital facility plan and prioritization process in accordance
100 with Chapter 22, Part 2, Capital Developments, and Sections [53B-2a-117](#) and [53B-2a-118](#);

101 (k) create and annually report to the Higher Education Appropriations Subcommittee
102 on a seamless articulated education system for Utah students that responds to changing
103 demographics and workforce, including by:

104 (i) providing for statewide prior learning assessment, in accordance with Section
105 [53B-16-110](#);

106 (ii) establishing and maintaining clear pathways for articulation and transfer, in
107 accordance with Section [53B-16-105](#);

108 (iii) establishing degree program requirement guidelines, including credit hour limits;

109 (iv) aligning general education requirements across degree-granting institutions;

110 (v) coordinating and incentivizing collaboration and partnerships between institutions
111 in delivering programs;

112 (vi) coordinating distance delivery of programs;

113 (vii) coordinating work-based learning; and

114 (viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and
115 (c);

116 (l) coordinate with the public education system:

117 (i) regarding public education programs that provide postsecondary credit or
118 certificates; and

119 (ii) to ensure that an institution of higher education providing technical education
120 serves secondary students in the public education system;

- 121 (m) delegate to an institution board of trustees certain duties related to institution
122 governance including:
- 123 (i) guidance and support for the institution president;
124 (ii) effective administration;
125 (iii) the institution's responsibility for contributing to progress toward achieving
126 systemwide goals; and
127 (iv) other responsibilities determined by the board;
- 128 (n) delegate to an institution of higher education president management of the
129 institution of higher education;
- 130 (o) consult with an institution of higher education board of trustees or institution of
131 higher education president before acting on matters pertaining to the institution of higher
132 education;
- 133 (p) maximize efficiency throughout the Utah system of higher education by identifying
134 and establishing shared administrative services, beginning with:
- 135 (i) commercialization;
136 (ii) services for compliance with Title IX of the Education Amendments of 1972, 20
137 U.S.C. Sec. 1681 et seq.;
- 138 (iii) information technology services; and
139 (iv) human resources, payroll, and benefits administration;
- 140 (q) develop strategies for providing higher education, including career and technical
141 education, in rural areas;
- 142 (r) manage and facilitate a process for initiating, prioritizing, and implementing
143 education reform initiatives, beginning with common applications and direct admissions;
- 144 (s) provide ongoing quality review of programs~~[-and]~~;
- 145 (t) before each annual legislative general session, provide to the Higher Education
146 Appropriations Subcommittee a prioritization of all projects and proposals for which the board
147 or an institution of higher education seeks an appropriation~~[-]~~; and
- 148 (u) coordinate with the Department of Corrections to establish educational programs
149 for inmates as described in Section [64-13-6](#).
- 150 (3) The board shall submit an annual report of the board's activities and performance
151 against the board's goals and metrics to:

- 152 (a) the Education Interim Committee;
- 153 (b) the Higher Education Appropriations Subcommittee;
- 154 (c) the governor; and
- 155 (d) each institution of higher education.
- 156 (4) The board shall prepare and submit an annual report detailing the board's progress
- 157 and recommendations on workforce related issues, including career and technical education, to
- 158 the governor and to the [~~Legislature's~~] Education Interim Committee by October 31 of each
- 159 year, including information detailing:
 - 160 (a) how institutions of higher education are meeting the career and technical education
 - 161 needs of secondary students;
 - 162 (b) how the system emphasized high demand, high wage, and high skill jobs in
 - 163 business and industry;
 - 164 (c) performance outcomes, including:
 - 165 (i) entered employment;
 - 166 (ii) job retention; and
 - 167 (iii) earnings;
 - 168 (d) an analysis of workforce needs and efforts to meet workforce needs; and
 - 169 (e) student tuition and fees.
- 170 (5) The board may modify the name of an institution of higher education to reflect the
- 171 role and general course of study of the institution.
- 172 (6) The board may not take action relating to merging a technical college with another
- 173 institution of higher education without legislative approval.
- 174 (7) This section does not affect the power and authority vested in the State Board of
- 175 Education to apply for, accept, and manage federal appropriations for the establishment and
- 176 maintenance of career and technical education.
- 177 (8) The board shall ensure that any training or certification that an employee of the
- 178 higher education system is required to complete under this title or by board rule complies with
- 179 Title 63G, Chapter 22, State Training and Certification Requirements.
- 180 (9) The board shall adopt a policy requiring institutions to provide at least three work
- 181 days of paid bereavement leave for an employee:
 - 182 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;

183 or

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

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

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

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

190 (iii) the employee provides documentation to show that the individual intended for the
191 employee to be an adoptive parent, as that term is defined in Section [78B-6-103](#), of a child born
192 as a result of the pregnancy; or

193 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part
194 8, Gestational Agreement, the employee would have been a parent of a child born as a result of
195 the pregnancy.

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

197 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

198 (1) As used in this section:

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

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

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

203 [~~(c)~~] (d) "Military service member" means an individual who:

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

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

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

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

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

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

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

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

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

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

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

222 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

223 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
224 high school in the past 12 months;

225 (ii) a Utah voter registration dated a reasonable period prior to application;

226 (iii) a Utah driver license or identification card with an original date of issue or a
227 renewal date several months prior to application;

228 (iv) a Utah vehicle registration dated a reasonable period prior to application;

229 (v) evidence of employment in Utah for a reasonable period prior to application;

230 (vi) proof of payment of Utah resident income taxes for the previous year;

231 (vii) a rental agreement showing the student's name and Utah address for at least 12
232 months prior to application; and

233 (viii) utility bills showing the student's name and Utah address for at least 12 months
234 prior to application.

235 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
236 resident of Utah is not eligible to apply for resident student status.

237 (4) Except as provided in Subsection (8), an institution within the state system of
238 higher education may establish stricter criteria for determining resident student status.

239 (5) If an institution does not have a minimum credit-hour requirement, that institution
240 shall honor the decision of another institution within the state system of higher education to
241 grant a student resident student status, unless:

242 (a) the student obtained resident student status under false pretenses; or

243 (b) the facts existing at the time of the granting of resident student status have changed.

244 (6) Within the limits established in [~~Title 53B, Chapter 8, Tuition Waiver and~~

245 ~~Scholarships]~~ Chapter 8, Tuition Waiver and Scholarships, each institution within the state
246 system of higher education may, regardless of its policy on obtaining resident student status,
247 waive nonresident tuition either in whole or in part, but not other fees.

248 (7) In addition to the waivers of nonresident tuition under Subsection (6), each
249 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to
250 the maximum number allowed by the appropriate athletic conference as recommended by the
251 president of each institution.

252 (8) Notwithstanding Subsection (3), an institution within the state system of higher
253 education shall grant resident student status for tuition purposes to:

254 (a) a military service member, if the military service member provides:

255 (i) the military service member's current United States military identification card; and

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

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

258 (B) evidence that the military service member is domiciled in Utah, as described in
259 Subsection (9)(a);

260 (b) a military service member's immediate family member, if the military service
261 member's immediate family member provides:

262 (i) (A) the military service member's current United States military identification card;

263 or

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

265 and

266 (ii) (A) a statement from the military service member's current commander, or

267 equivalent, stating that the military service member is assigned in Utah; or

268 (B) evidence that the military service member is domiciled in Utah, as described in
269 Subsection (9)(a);

270 (c) a military veteran, regardless of whether the military veteran served in Utah, if the
271 military veteran provides:

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

273 (ii) a signed written declaration that the military veteran has relinquished residency in
274 any other state and does not maintain a residence elsewhere;

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

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

277 (A) a Utah voter registration card;

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

279 (C) a Utah vehicle registration;

280 (D) evidence of employment in Utah;

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

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

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

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

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

286 (ii) a signed written declaration that the military veteran's immediate family member

287 has relinquished residency in any other state and does not maintain a residence elsewhere; and

288 (iii) objective evidence that the military veteran's immediate family member has

289 demonstrated an intent to establish residency in Utah, which may include ~~any~~ one of the items

290 described in Subsection (8)(c)(iii); ~~or~~

291 (e) an eligible person who provides:

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

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

294 and

295 (iii) objective evidence that the eligible person has demonstrated an intent to establish

296 residency in Utah, which may include ~~any~~ one of the items described in Subsection

297 (8)(c)(iii)~~[-]~~;

298 (f) an alien who provides:

299 (i) evidence that the alien is a special immigrant visa recipient;

300 (ii) evidence that the alien has been granted refugee status, humanitarian parole,

301 temporary protected status, or asylum; or

302 (iii) evidence that the alien has submitted in good faith an application for refugee

303 status, humanitarian parole, temporary protected status, or asylum under United States

304 immigration law~~[-]~~; or

305 (g) an inmate:

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

307 (ii) for one year after the day on which the inmate is released from a correctional
308 facility as defined in Section 64-13-1.

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

310 (i) a current Utah voter registration card;

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

312 (iii) a current Utah vehicle registration;

313 (iv) a copy of a Utah income tax return, in the military service member's or military
314 service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or

315 (v) proof that the military service member or military service member's spouse owns a
316 home in Utah, including a property tax notice for property owned in Utah.

317 (b) Aliens who are present in the United States on visitor, student, or other visas not
318 listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country,
319 do not have the capacity to intend to reside in Utah for an indefinite period and therefore are
320 classified as nonresidents.

321 (c) Aliens who have been granted or have applied for permanent resident status in the
322 United States are classified for purposes of resident student status according to the same
323 criteria applicable to citizens.

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

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

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

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

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

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

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

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

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

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

- 348 (i) the person's employment and educational history;
- 349 (ii) the dates when Utah employment was first considered, offered, and accepted;
- 350 (iii) when the person moved to Utah;
- 351 (iv) the dates when the person applied for admission, was admitted, and was enrolled
352 as a postsecondary student;

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

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

- 356 (A) at least 24 years old; or
- 357 (B) not claimed as a dependent on someone else's tax returns; and

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

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

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

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

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

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

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

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

379 (iii) when the person moved to Utah;

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

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

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

385 (A) at least 24 years old; or

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

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

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

391 (a) concerning the definition of resident and nonresident students;

392 (b) establishing procedures for classifying and reclassifying students;

393 (c) establishing criteria for determining and judging claims of residency or domicile;

394 (d) establishing appeals procedures; and

395 (e) other matters related to this section.

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

398 (a) is a foreign national legally admitted to the United States;

399 (b) attended high school in this state for three or more years; and

400 (c) graduated from a high school in this state or received the equivalent of a high
401 school diploma in this state.

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

403 **53B-35-101. Definitions.**

404 As used in this chapter~~["council"]~~:

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

406 (2) "Council" means the Higher Education and Corrections Council created in Section
407 53B-35-201.

408 (3) "Department" means the Department of Corrections created in Section 64-13-2.

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

410 (5) "Institution of higher education" means an institution described in Section
411 53B-1-102.

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

413 **53B-35-202. Council duties -- Reporting.**

414 (1) The council shall:

415 (a) coordinate, facilitate, and support ~~[the delivery of]~~ higher education delivered in the
416 state's correctional facilities, including the county jails under contract with the Department of
417 Corrections to house inmates, to prepare incarcerated individuals for integration and productive
418 employment upon release;

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

422 (i) evidence-based practices and technologies;

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

425 (iii) methods of supporting and facilitating timely completion of courses, certificates,
426 and degrees;

427 (iv) methods of emphasizing educational programs that:

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

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

430 (C) provide sustainable wages following release; and

- 431 (D) maximize accessibility and timely completion during incarceration;
- 432 (v) use of cross-institutional application of coursework toward certificates and degrees;
- 433 (vi) use of coursework that encourages personal and civic development; and
- 434 (vii) methods of leveraging innovative course delivery, including technology resources;
- 435 (c) explore methods and make recommendations for the collection and analysis of
- 436 critical data regarding:
- 437 (i) enrollment and completion of postsecondary education courses, certificate
- 438 programs, credentials, and degree programs;
- 439 (ii) federal and state student aid awarded to incarcerated individuals;
- 440 (iii) costs of postsecondary education in prison, including any recommendations for
- 441 continued improvement; and
- 442 (iv) outcomes of formerly incarcerated individuals who participated in postsecondary
- 443 programming during incarceration if the individual is under the supervision of the Department
- 444 of Corrections, including recidivism, employment, and post-release postsecondary education
- 445 engagement; and
- 446 (d) recommend requests for legislative appropriations to the board to support the
- 447 purposes and objectives of the council.
- 448 (2) The council shall annually report regarding the council's plans and programs, the
- 449 number of enrollees served, and the number of enrollees receiving degrees and certificates to:
- 450 (a) the board;
- 451 (b) before the committee's November interim committee meeting, the Education
- 452 Interim Committee; and
- 453 (c) at least 30 days before the beginning of the annual legislative session, the Higher
- 454 Education Appropriations Subcommittee.

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

456 **Part 3. Student Support**

457 **53B-35-301. Higher education student advisors.**

- 458 (1) An institution of higher education providing education to inmates in a correctional
- 459 facility shall provide relevant academic and career advising services that are substantially
- 460 similar to services provided to a student who is not a confined or incarcerated individual.
- 461 (2) Each participating institution of higher education described in Subsection (1) shall

462 report annually to the council regarding the guidance and support provided.

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

464 **64-13-6. Department duties.**

465 (1) The department shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

499 (ii) each case action plan shall:

500 (A) integrate an individualized, evidence-based, and evidence-informed treatment and
501 program plan with clearly defined completion requirements; and

502 (B) require that a case manager will:

503 (I) ensure that an assessment of the education level, occupational interests, and
504 aptitudes of the inmate has been completed;

505 (II) refer the inmate to a higher education student advisor at an institution offering
506 programs consistent with the inmate's interests and aptitudes for advisement on educational
507 preferences and plans;

508 (III) incorporate the inmate's interests, aptitudes, and student advisement into an
509 education plan consistent with the guidance provided by the Higher Education and Corrections
510 Council created in Section 53B-35-201; and

511 (IV) refer the inmate to the student advisor at the institution called for in the case
512 action plan for guidance and assistance with the education process;

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

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

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

520 ~~(m)~~ (o) ensure that any training or certification required of a public official or public
521 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
522 22, State Training and Certification Requirements, if the training or certification is required:

523 (i) under this title;

524 (ii) by the department; or
525 (iii) by an agency or division within the department; and
526 ~~(v)~~ (p) when reporting on statewide recidivism, include the metrics and requirements
527 described in Section 63M-7-102.

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

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

532 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
533 sanction for an individual's violation of the terms of probation or parole a period of
534 incarceration of not more than three consecutive days and not more than a total of five days
535 within a period of 30 days.

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

- 538 (i) criminal conduct of departmental employees;
- 539 (ii) felony crimes resulting in serious bodily injury;
- 540 (iii) death of any person; or
- 541 (iv) aggravated kidnaping.

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

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

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

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

551 (5) (a) The executive director of the department, or the executive director's designee if
552 the designee possesses expertise in correctional programming, shall consult at least annually
553 with cognitive and career-readiness staff experts from the Utah system of higher education and
554 the State Board of Education to review the department's evidence-based and evidence-informed

555 treatment and program opportunities.

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

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

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

564 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
565 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
566 reimbursement of a reward, and damages that an offender is ordered to pay.

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

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

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

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

577 (ii) If the board makes an order for restitution within 60 days from the day on which
578 the offender's sentence expires or terminates, the board shall refer the order for restitution to
579 the sentencing court to be entered as a civil judgment of restitution as described in Section
580 77-18-114.

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

582 Section 7. Section 64-13-23 is amended to read:

583 **64-13-23. Offender's income and finances.**

584 (1) The department may require each offender, while in the custody of the department
585 or while on probation or parole, to place funds received or earned by the offender from any

586 source into:

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

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

589 (2) The department may require each offender to maintain a minimum balance in an

590 account under Subsection (1) for the particular offender's use upon:

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

592 (b) completion of parole or probation.

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

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

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

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

597 account.

598 (4) If the funds are placed in an account administered by the department, the

599 department may by rule designate:

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

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

602 expenses.

603 (5) The department may withhold part of the offender's funds in an account under

604 Subsection (1) for expenses of:

605 (a) supervision or treatment;

606 (b) restitution, reparation, fines, alimony, support payments, or similar court-ordered

607 payments;

608 (c) obtaining the offender's DNA specimen, if the offender is required under Section

609 53-10-404 to provide a specimen;

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

611 and

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

613 (6) (a) An offender may not be granted free process in civil actions, including petitions

614 for a writ of habeas corpus, if, at any time from the date the cause of action arose through the

615 date the cause of action remains pending, there are any funds in an account under Subsection

616 (1) that have not been withheld or are not subject to withholding under Subsection (4) or (5).

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

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

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

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

628 Section 8. Section **64-13-42** is amended to read:

629 **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**
630 **education and training programs.**

631 (1) (a) There is created within the General Fund a restricted account known as the
632 Prison Telephone Surcharge Account.

633 (b) The Prison Telephone Surcharge Account consists of:

634 (i) [~~beginning July 1, 2006,~~] revenue generated by the state from pay telephone services
635 located at any correctional facility as defined in Section 64-13-1;

636 (ii) interest on account money;

637 (iii) (A) money paid by inmates participating in postsecondary education provided by
638 the department; and

639 (B) money repaid by former inmates who have a written agreement with the
640 department to pay for a specified portion of the tuition costs under the department's deferred
641 tuition payment program;

642 (iv) money collected by the Office of State Debt Collection for debt described in
643 Subsection (1)(b)(iii); and

644 (v) money appropriated by the Legislature.

645 (2) Upon appropriation by the Legislature, money from the Prison Telephone
646 Surcharge Account shall be used by the department for education and training programs for
647 offenders and inmates as defined in Section 64-13-1.

648 Section 9. Section ~~64-13-48~~ is amended to read:

649 **64-13-48. Educational and career-readiness programs.**

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

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

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

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

- 662 (i) transfer to another area or facility; or
- 663 (ii) appropriate disciplinary sanction.

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

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

670 (b) The department shall facilitate the transfer of information related to the inmate's
671 educational process upon the inmate's release, including the inmate's post-release contact
672 information and the records described in Subsection (5)(a), to:

- 673 (i) the inmate; or
- 674 (ii) an entity that the inmate has authorized to receive the inmate's records or
675 post-release contact information, including an institution:

676 (A) from which the inmate received educational instruction while the inmate was
677 incarcerated; or

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

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

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

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

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

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

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

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

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

697 (f) the department's:

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

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

702 (7) The department shall:

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

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

708 [~~7~~] (8) The department may make rules in accordance with Section 64-13-10 and
709 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this

710 section.

711 Section 10. **Effective date.**

712 This bill takes effect on May 1, 2024.