

**Senator Evan J. Vickers** proposes the following substitute bill:

**HIGHER EDUCATION REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen M. Peterson**

Senate Sponsor: Evan J. Vickers

6	Cosponsors:	Matthew H. Gwynn	Michael J. Petersen
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15	James A. Dunnigan	Matt MacPherson	Douglas R. Welton
16	Joseph Elison	Jefferson Moss	
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**LONG TITLE**

**General Description:**

This bill modifies the responsibilities of a president of a degree-granting institution.

**Highlighted Provisions:**

This bill:

- ▶ requires a president of a degree-granting institution to make policies regarding



- 24 tenure and post-tenure review;
- 25       ▶ describes certain minimum requirements for tenure and post-tenure review; and
- 26       ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28       None

29 **Other Special Clauses:**

30       None

31 **Utah Code Sections Affected:**

32 AMENDS:

33       **53B-2-106**, as last amended by Laws of Utah 2021, Chapter 187

34 ENACTS:

35       **53B-2-106.1**, Utah Code Annotated 1953



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

38       Section 1. Section **53B-2-106** is amended to read:

39       **53B-2-106. Duties and responsibilities of the president of a degree-granting**  
40 **institution of higher education -- Approval by board of trustees.**

41       (1) As used in this section, "president" means the president of a degree-granting  
42 institution.

43       (2) (a) The president of each degree-granting institution may exercise grants of power  
44 and authority as delegated by the board, as well as the necessary and proper exercise of powers  
45 and authority not specifically denied to the degree-granting institution or the degree-granting  
46 institution's administration, faculty, or students by the board or by law, to ensure the effective  
47 and efficient administration and operation of the degree-granting institution consistent with the  
48 statewide strategic plan for higher education.

49       (b) A president may, after consultation with the degree-granting institution's board of  
50 trustees, exercise powers relating to the degree-granting institution's employees, including  
51 faculty and persons under contract with the degree-granting institution, by implementing:

- 52       (i) furloughs;
- 53       (ii) reductions in force;
- 54       (iii) benefit adjustments;

55 (iv) program reductions or discontinuance;  
56 (v) early retirement incentives that provide cost savings to the degree-granting  
57 institution; or  
58 (vi) other measures that provide cost savings to the degree-granting institution.  
59 (3) A president may:  
60 (a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members,  
61 and other professional personnel;  
62 (ii) prescribe duties for a position described in Subsection (3)(a)(i);  
63 (iii) appoint support personnel;  
64 (iv) prescribe duties for support personnel;  
65 (v) determine salaries for support personnel from the degree-granting institution's  
66 position classification plan, which may:  
67 (A) be based upon similarity of duties and responsibilities within the institution of  
68 higher education; and  
69 (B) as funds permit, provide salary and benefits comparable with private enterprise;  
70 (vi) adopt policies for:  
71 (A) employee sick leave use and accrual; and  
72 (B) service recognition for employees with more than 15 years of employment with the  
73 degree-granting institution; and  
74 (vii) subject to the authority of, the policy established by, and the approval of the  
75 board, and recognizing the status of the institutions within the Utah system of higher education  
76 as bodies politic and corporate, appoint attorneys to:  
77 (A) provide legal advice to the degree-granting institution's administration; and  
78 (B) coordinate legal affairs within the degree-granting institution;  
79 (b) subject to [Section 53B-2-106.1](#) and the approval of the degree-granting institution's  
80 board of trustees, provide for the constitution, government, and organization of the faculty and  
81 administration, and enact implementing rules, including the establishment of a prescribed  
82 system of tenure;  
83 (c) subject to the approval of the degree-granting institution's board of trustees,  
84 authorize the faculty to determine the general initiation and direction of instruction and of the  
85 examination, admission, and classification of students; and

86 (d) enact rules for administration and operation of the degree-granting institution that:

87 (i) are consistent with the degree-granting institution's role established by the board,  
88 rules enacted by the board, or the laws of the state; and

89 (ii) may provide for:

90 (A) administrative, faculty, student, and joint committees with jurisdiction over  
91 specified institutional matters;

92 (B) student government and student affairs organization;

93 (C) the establishment of institutional standards in furtherance of the ideals of higher  
94 education fostered and subscribed to by the degree-granting institution and the degree-granting  
95 institution's administration, faculty, and students; and

96 (D) the holding of classes on legal holidays, other than Sunday.

97 (4) A president shall manage the president's degree-granting institution as a part of the  
98 Utah system of higher education.

99 (5) (a) Compensation costs and related office expenses for an attorney described in  
100 Subsection (3)(a)(vii) shall be funded within existing budgets.

101 (b) The board shall coordinate the activities of attorneys described in Subsection  
102 (3)(a)(vii).

103 (c) An attorney described in Subsection (3)(a)(vii):

104 (i) may not:

105 (A) conduct litigation;

106 (B) settle a claim covered by the State Risk Management Fund; or

107 (C) issue a formal legal opinion; and

108 (ii) shall cooperate with the Office of the Attorney General in providing legal  
109 representation to a degree-granting institution.

110 (d) A degree-granting institution shall submit an annual report to the board on the  
111 activities of appointed attorneys.

112 (6) The board shall establish guidelines relating to the roles and relationships between  
113 presidents and boards of trustees, including those matters which must be approved by a board  
114 of trustees before implementation by the president.

115 (7) A president is subject to regular review and evaluation administered by the board,  
116 in consultation with the degree-granting institution's board of trustees, through a process

117 approved by the board.

118 Section 2. Section **53B-2-106.1** is enacted to read:

119 **53B-2-106.1. Tenure -- Reporting.**

120 (1) A president of a degree-granting institution, in consultation with the  
121 degree-granting institution's board of trustees, shall make policies:

122 (a) related to tenure and post-tenure review; and

123 (b) ensuring that the terms and conditions of tenured employment are stated in writing  
124 and provided to a faculty member.

125 (2) Tenure and post-tenure policies shall:

126 (a) protect academic freedom in teaching, research, and in an individual's personal life;

127 (b) require that a final award of tenure be approved by the president of the  
128 degree-granting institution offering the award of tenure, in consultation with the board of  
129 trustees of the degree-granting institution; and

130 (c) comply with this section.

131 (3) Beginning July 1, 2024, a tenured faculty member may be dismissed from  
132 employment at a degree-granting institution:

133 (a) for cause, including:

134 (i) professional incompetence;

135 (ii) serious misconduct or unethical behavior;

136 (iii) legal misconduct substantially related to the performance of duties;

137 (iv) serious violations of board or institution rules;

138 (v) the conviction of a crime affecting the fitness of the tenured faculty member to  
139 engage in teaching, research, service, outreach, administration, or other assigned duties;

140 (vi) falsified credentials or plagiarism; or

141 (vii) inability or unwillingness to meet institutional expectations, including failure to  
142 address deficiencies outlined in a remediation plan following post-tenure review;

143 (b) if the program in which the tenured faculty member works is discontinued by the  
144 degree-granting institution or modified to such a degree that the tenured faculty member's  
145 position is no longer needed; and

146 (c) in the event of financial exigency of the degree-granting institution.

147 (4) Policies governing dismissal of a tenured faculty member for cause shall include, at

148 a minimum:

149 (a) notice to the tenured faculty member of the alleged cause, including any evidence  
150 supporting the allegation;

151 (b) providing reasonable time and opportunity for the tenured faculty member to  
152 respond;

153 (c) a hearing before an independent board of tenured faculty peers;

154 (d) a written determination on the issue, including a determination of termination or  
155 continued employment; and

156 (e) an appeals process ending with the final decision of the president of the  
157 degree-granting institution in consultation with the board of trustees of the degree-granting  
158 institution.

159 (5) A tenured faculty member who is being dismissed because the program in which  
160 the tenured faculty member works is discontinued or modified, as described in Subsection  
161 (3)(b), or in the event of financial exigency of the degree-granting institution, as described in  
162 Subsection (3)(c), shall receive severance in accordance with the terms of the tenured faculty  
163 member's employment contract.

164 (6) Nothing in this section prohibits a president of a degree granting institution from  
165 creating additional policies and processes regarding discipline of a tenured faculty member.

166 (7) Beginning July 1, 2024, a degree-granting institution shall conduct, and a tenured  
167 faculty member shall receive:

168 (a) an annual performance review of the tenured faculty member's performance; and

169 (b) a post-tenure review, as described in Subsection (9).

170 (8) A president of a degree-granting institution shall ensure that each program or  
171 department at the degree-granting institution has policies describing the minimum performance  
172 of a tenured faculty member for use in a post-tenure review.

173 (9) A post-tenure review shall:

174 (a) be conducted by a committee of:

175 (i) tenured faculty member peers, appointed by the appropriate vice president at the  
176 degree-granting institution in consultation with the faculty member's department chair,  
177 including at least two individuals appointed from either a different department than the tenured  
178 faculty member going through post-tenure review, a different degree-granting institution than

179 the tenured faculty member going through post-tenure review, or both; and

180 (ii) the provost or the provost's designee; and

181 (b) consist of a comprehensive review of the tenured faculty member's performance

182 over the previous five years, including:

183 (i) teaching assessment, including student evaluations, for all courses taught;

184 (ii) the quality of the tenured faculty member's scholarly research;

185 (iii) service to the profession, school, or community;

186 (iv) annual performance reviews;

187 (v) intellectual property owned wholly or partly by, or commercialization efforts

188 attributed to, the tenured faculty member;

189 (vi) the tenured faculty member's compliance with the degree granting institution's

190 policies regarding the responsibilities and ethical obligations of faculty members; and

191 (vii) any improvement plans for underperformance.

192 (10) (a) If, following a post-tenure review, a tenured faculty member is found to not

193 meet the standards established by the degree-granting institution, the degree-granting

194 institution shall create a remediation plan to address deficiencies and a timeline by which the

195 tenured faculty member is expected to address the deficiencies.

196 (b) A tenured faculty member who fails to address deficiencies as described in

197 Subsection (9)(a) may be subject to disciplinary action from the degree-granting institution,

198 including dismissal for cause, subject to the appeals process described in Subsection (4)(e).

199 (c) In consultation with the board of trustees, a president of a degree-granting

200 institution who does not dismiss a tenured faculty member who fails to address deficiencies as

201 described in Subsection (9)(a) shall justify in writing to the board why the tenured faculty

202 member is not being dismissed.

203 (11) A president of a degree-granting institution shall provide an annual report to the

204 board, no later than October 1 of each year, with the following information:

205 (a) the number of post-tenure reviews that took place at the degree-granting institution

206 in the previous year;

207 (b) an analysis of scores from post-tenure reviews that took place in the previous year

208 with personal information redacted;

209 (c) the number of post-tenure reviews from the previous year that resulted in a

210 remediation plan;

211 (d) a qualitative summary of the types of remediation plans created in the previous  
212 year, including an average timeline by which tenured faculty members are expected to address  
213 deficiencies; and

214 (e) a summary of written justifications described in Subsection (9)(c), if any, with  
215 personal information redacted.

216 Section 3. **Effective date.**

217 This bill takes effect on May 1, 2024.