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INMATE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill concerns inmates.

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 (department) to:
 - create a reentry division that focuses on the successful reentry of inmates into the community;
 - coordinate with the Board of Pardons and Parole (board) regarding inmate records and ensure that inmate records are complete and, when applicable, shared with the board;
 - report on the department's inmate program implementation progress;
 - 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;
 - provide certain assistance to an inmate participating in a postsecondary certificate or degree program;
 - use an inmate's board hearing when determining the timing of an inmate's programs;
 - create an incentive program to encourage an inmate to complete the inmate's programs by the inmate's board hearing;

- 28 • ensure that an inmate may continue participating in programs under certain
 29 circumstances;
- 30 • under certain circumstances, start an inmate in at least two of the inmate's programs
 31 as soon as the inmate's case action plan is created;
- 32 • allow an inmate to participate in more than one program at a time throughout the
 33 inmate's time within the correctional facility under certain circumstances;
- 34 • prioritize placement of inmates in county correctional facilities that meet specified
 35 requirements regarding inmate programs;
- 36 • periodically confer with an inmate to determine whether the inmate is on track to
 37 complete the inmate's programs by the inmate's board hearing;
- 38 • include in an inmate's record the reason why certain program requirements were not
 39 met, if the department is unable to meet specified program requirements; and
- 40 • provide an annual report on the department's public website concerning inmate
 41 program data;
- 42 ▸ requires the board to use certain factors when setting an inmate's board hearing; and
 43 ▸ makes technical and conforming changes.

44 **Money Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 None

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **53B-1-402**, as last amended by Laws of Utah 2023, Chapter 254

51 **53B-8-102**, as last amended by Laws of Utah 2023, Chapters 44, 50

52 **53B-35-101**, as enacted by Laws of Utah 2022, Chapter 147

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

54 **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177

55 **64-13-23**, as last amended by Laws of Utah 2021, Chapter 260

56 **64-13-42**, as last amended by Laws of Utah 2018, Chapter 415

57 **64-13-48**, as enacted by Laws of Utah 2022, Chapter 144

58 **77-27-7**, as last amended by Laws of Utah 2022, Chapter 430

59 ENACTS:

60 **53B-35-301**, Utah Code Annotated 1953

61 **64-13-50**, Utah Code Annotated 1953

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

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

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

- (1) (a) There is established the Utah Board of Higher Education, which:
- (i) is the governing board for the institutions of higher education;
 - (ii) controls, oversees, and regulates the Utah system of higher education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board; and
- (b) (i) The University of Utah shall provide administrative support for the board.
- (ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.
- (2) The board shall:
- (a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:
 - (i) quality;
 - (ii) affordability;
 - (iii) access and equity;
 - (iv) completion;
 - (v) workforce alignment and preparation for high-quality jobs; and
 - (vi) economic growth;
 - (b) establish system policies and practices that advance the vision and goals;
 - (c) establish metrics to demonstrate and monitor:
 - (i) performance related to the goals; and
 - (ii) performance on measures of operational efficiency;
 - (d) collect and analyze data including economic data, demographic data, and data related to the metrics;
 - (e) govern data quality and collection across institutions;
 - (f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;
 - (g) assess an institution's performance in accomplishing the institution's mission and role;
 - (h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

- 96 (i) perform the following duties related to an institution of higher education president,
97 including:
- 98 (i) appointing an institution of higher education president in accordance with Section
99 53B-2-102;
- 100 (ii) through the commissioner and the board's executive committee:
- 101 (A) providing support and guidance to an institution of higher education president;
102 and
- 103 (B) evaluating an institution of higher education president based on institution
104 performance and progress toward systemwide priorities;
- 105 (iii) setting the terms of employment for an institution of higher education president,
106 including performance-based compensation, through an employment contract or
107 another method of establishing employment; and
- 108 (iv) establishing, through a public process, a statewide succession plan to develop
109 potential institution presidents from within the system;
- 110 (j) create and implement a strategic finance plan for higher education, including by:
- 111 (i) establishing comprehensive budget and finance priorities for academic education
112 and technical education;
- 113 (ii) allocating statewide resources to institutions;
- 114 (iii) setting tuition for each institution;
- 115 (iv) administering state financial aid programs;
- 116 (v) administering performance funding in accordance with Chapter 7, Part 7,
117 Performance Funding; and
- 118 (vi) developing a strategic capital facility plan and prioritization process in
119 accordance with Chapter 22, Part 2, Capital Developments, and Sections
120 53B-2a-117 and 53B-2a-118;
- 121 (k) create and annually report to the Higher Education Appropriations Subcommittee on
122 a seamless articulated education system for Utah students that responds to changing
123 demographics and workforce, including by:
- 124 (i) providing for statewide prior learning assessment, in accordance with Section
125 53B-16-110;
- 126 (ii) establishing and maintaining clear pathways for articulation and transfer, in
127 accordance with Section 53B-16-105;
- 128 (iii) establishing degree program requirement guidelines, including credit hour limits;
- 129 (iv) aligning general education requirements across degree-granting institutions;

- 130 (v) coordinating and incentivizing collaboration and partnerships between institutions
131 in delivering programs;
- 132 (vi) coordinating distance delivery of programs;
- 133 (vii) coordinating work-based learning; and
- 134 (viii) emphasizing the system priorities and metrics described in Subsections (2)(a)
135 and (c);
- 136 (l) coordinate with the public education system:
- 137 (i) regarding public education programs that provide postsecondary credit or
138 certificates; and
- 139 (ii) to ensure that an institution of higher education providing technical education
140 serves secondary students in the public education system;
- 141 (m) delegate to an institution board of trustees certain duties related to institution
142 governance including:
- 143 (i) guidance and support for the institution president;
- 144 (ii) effective administration;
- 145 (iii) the institution's responsibility for contributing to progress toward achieving
146 systemwide goals; and
- 147 (iv) other responsibilities determined by the board;
- 148 (n) delegate to an institution of higher education president management of the institution
149 of higher education;
- 150 (o) consult with an institution of higher education board of trustees or institution of
151 higher education president before acting on matters pertaining to the institution of
152 higher education;
- 153 (p) maximize efficiency throughout the Utah system of higher education by identifying
154 and establishing shared administrative services, beginning with:
- 155 (i) commercialization;
- 156 (ii) services for compliance with Title IX of the Education Amendments of 1972, 20
157 U.S.C. Sec. 1681 et seq.;
- 158 (iii) information technology services; and
- 159 (iv) human resources, payroll, and benefits administration;
- 160 (q) develop strategies for providing higher education, including career and technical
161 education, in rural areas;
- 162 (r) manage and facilitate a process for initiating, prioritizing, and implementing
163 education reform initiatives, beginning with common applications and direct

- 164 admissions;
- 165 (s) provide ongoing quality review of programs[~~;~~ and] ;
- 166 (t) before each annual legislative general session, provide to the Higher Education
- 167 Appropriations Subcommittee a prioritization of all projects and proposals for which
- 168 the board or an institution of higher education seeks an appropriation[-] ; and
- 169 (u) coordinate with the Department of Corrections to establish educational programs for
- 170 inmates as described in Section 64-13-6.
- 171 (3) The board shall submit an annual report of the board's activities and performance
- 172 against the board's goals and metrics to:
- 173 (a) the Education Interim Committee;
- 174 (b) the Higher Education Appropriations Subcommittee;
- 175 (c) the governor; and
- 176 (d) each institution of higher education.
- 177 (4) The board shall prepare and submit an annual report detailing the board's progress and
- 178 recommendations on workforce related issues, including career and technical education,
- 179 to the governor and to the[-Legislature's] Education Interim Committee by October 31
- 180 of each year, including information detailing:
- 181 (a) how institutions of higher education are meeting the career and technical education
- 182 needs of secondary students;
- 183 (b) how the system emphasized high demand, high wage, and high skill jobs in business
- 184 and industry;
- 185 (c) performance outcomes, including:
- 186 (i) entered employment;
- 187 (ii) job retention; and
- 188 (iii) earnings;
- 189 (d) an analysis of workforce needs and efforts to meet workforce needs; and
- 190 (e) student tuition and fees.
- 191 (5) The board may modify the name of an institution of higher education to reflect the role
- 192 and general course of study of the institution.
- 193 (6) The board may not take action relating to merging a technical college with another
- 194 institution of higher education without legislative approval.
- 195 (7) This section does not affect the power and authority vested in the State Board of
- 196 Education to apply for, accept, and manage federal appropriations for the establishment
- 197 and maintenance of career and technical education.

- 198 (8) The board shall ensure that any training or certification that an employee of the higher
 199 education system is required to complete under this title or by board rule complies with
 200 Title 63G, Chapter 22, State Training and Certification Requirements.
- 201 (9) The board shall adopt a policy requiring institutions to provide at least three work days
 202 of paid bereavement leave for an employee:
- 203 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or
 204 (b) following the end of another individual's pregnancy by way of a miscarriage or
 205 stillbirth, if:
- 206 (i) the employee is the individual's spouse or partner;
 207 (ii) (A) the employee is the individual's former spouse or partner; and
 208 (B) the employee would have been a biological parent of a child born as a result of
 209 the pregnancy;
 210 (iii) the employee provides documentation to show that the individual intended for
 211 the employee to be an adoptive parent, as that term is defined in Section
 212 78B-6-103, of a child born as a result of the pregnancy; or
 213 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15,
 214 Part 8, Gestational Agreement, the employee would have been a parent of a child
 215 born as a result of the pregnancy.

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

217 **53B-8-102 . Definitions -- Resident student status -- Exceptions.**

- 218 (1) As used in this section:
- 219 (a) "Eligible person" means an individual who is entitled to post-secondary educational
 220 benefits under Title 38 U.S.C., Veterans' Benefits.
- 221 (b) "Immediate family member" means an individual's spouse or dependent child.
- 222 (c) "Inmate" means the same as that term is defined in Section 64-13-1.
- 223 ~~(d)~~ (d) "Military service member" means an individual who:
- 224 (i) is serving on active duty in the United States Armed Forces within the state of
 225 Utah;
- 226 (ii) is a member of a reserve component of the United States Armed Forces assigned
 227 in Utah;
- 228 (iii) is a member of the Utah National Guard; or
- 229 (iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned
 230 outside of Utah pursuant to federal permanent change of station orders.
- 231 ~~(e)~~ (e) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

- 232 [~~e~~] (f) "Parent" means a student's biological or adoptive parent.
- 233 (2) The meaning of "resident student" is determined by reference to the general law on the
234 subject of domicile, except as provided in this section.
- 235 (3) (a) Institutions within the state system of higher education may grant resident student
236 status to any student who has come to Utah and established residency for the purpose
237 of attending an institution of higher education, and who, prior to registration as a
238 resident student:
- 239 (i) has maintained continuous Utah residency status for one full year;
- 240 (ii) has signed a written declaration that the student has relinquished residency in any
241 other state; and
- 242 (iii) has submitted objective evidence that the student has taken overt steps to
243 establish permanent residency in Utah and that the student does not maintain a
244 residence elsewhere.
- 245 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:
- 246 (i) a Utah high school transcript issued in the past year confirming attendance at a
247 Utah high school in the past 12 months;
- 248 (ii) a Utah voter registration dated a reasonable period prior to application;
- 249 (iii) a Utah driver license or identification card with an original date of issue or a
250 renewal date several months prior to application;
- 251 (iv) a Utah vehicle registration dated a reasonable period prior to application;
- 252 (v) evidence of employment in Utah for a reasonable period prior to application;
- 253 (vi) proof of payment of Utah resident income taxes for the previous year;
- 254 (vii) a rental agreement showing the student's name and Utah address for at least 12
255 months prior to application; and
- 256 (viii) utility bills showing the student's name and Utah address for at least 12 months
257 prior to application.
- 258 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
259 resident of Utah is not eligible to apply for resident student status.
- 260 (4) Except as provided in Subsection (8), an institution within the state system of higher
261 education may establish stricter criteria for determining resident student status.
- 262 (5) If an institution does not have a minimum credit-hour requirement, that institution shall
263 honor the decision of another institution within the state system of higher education to
264 grant a student resident student status, unless:
- 265 (a) the student obtained resident student status under false pretenses; or

- 266 (b) the facts existing at the time of the granting of resident student status have changed.
- 267 (6) Within the limits established in [~~Title 53B, Chapter 8, Tuition Waiver and Scholarships~~]
268 Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of
269 higher education may, regardless of its policy on obtaining resident student status, waive
270 nonresident tuition either in whole or in part, but not other fees.
- 271 (7) In addition to the waivers of nonresident tuition under Subsection (6), each institution
272 may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the
273 maximum number allowed by the appropriate athletic conference as recommended by
274 the president of each institution.
- 275 (8) Notwithstanding Subsection (3), an institution within the state system of higher
276 education shall grant resident student status for tuition purposes to:
- 277 (a) a military service member, if the military service member provides:
- 278 (i) the military service member's current United States military identification card;
279 and
- 280 (ii) (A) a statement from the military service member's current commander, or
281 equivalent, stating that the military service member is assigned in Utah; or
282 (B) evidence that the military service member is domiciled in Utah, as described
283 in Subsection (9)(a);
- 284 (b) a military service member's immediate family member, if the military service
285 member's immediate family member provides:
- 286 (i) (A) the military service member's current United States military identification
287 card; or
288 (B) the immediate family member's current United States military identification
289 card; and
- 290 (ii) (A) a statement from the military service member's current commander, or
291 equivalent, stating that the military service member is assigned in Utah; or
292 (B) evidence that the military service member is domiciled in Utah, as described
293 in Subsection (9)(a);
- 294 (c) a military veteran, regardless of whether the military veteran served in Utah, if the
295 military veteran provides:
- 296 (i) evidence of an honorable or general discharge;
- 297 (ii) a signed written declaration that the military veteran has relinquished residency in
298 any other state and does not maintain a residence elsewhere;
- 299 (iii) objective evidence that the military veteran has demonstrated an intent to

- 300 establish residency in Utah, which may include any one of the following:
- 301 (A) a Utah voter registration card;
- 302 (B) a Utah driver license or identification card;
- 303 (C) a Utah vehicle registration;
- 304 (D) evidence of employment in Utah;
- 305 (E) a rental agreement showing the military veteran's name and Utah address; or
- 306 (F) utility bills showing the military veteran's name and Utah address;
- 307 (d) a military veteran's immediate family member, regardless of whether the military
- 308 veteran served in Utah, if the military veteran's immediate family member provides:
- 309 (i) evidence of the military veteran's honorable or general discharge;
- 310 (ii) a signed written declaration that the military veteran's immediate family member
- 311 has relinquished residency in any other state and does not maintain a residence
- 312 elsewhere; and
- 313 (iii) objective evidence that the military veteran's immediate family member has
- 314 demonstrated an intent to establish residency in Utah, which may include ~~[any]~~
- 315 one of the items described in Subsection (8)(c)(iii); ~~[or]~~
- 316 (e) an eligible person who provides:
- 317 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;
- 318 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;
- 319 and
- 320 (iii) objective evidence that the eligible person has demonstrated an intent to establish
- 321 residency in Utah, which may include ~~[any]~~one of the items described in
- 322 Subsection (8)(c)(iii)~~[-]~~ ;
- 323 (f) an alien who provides:
- 324 (i) evidence that the alien is a special immigrant visa recipient;
- 325 (ii) evidence that the alien has been granted refugee status, humanitarian parole,
- 326 temporary protected status, or asylum; or
- 327 (iii) evidence that the alien has submitted in good faith an application for refugee
- 328 status, humanitarian parole, temporary protected status, or asylum under United
- 329 States immigration law~~[-]~~ ; or
- 330 (g) an inmate:
- 331 (i) during the time the inmate is enrolled in the course; and
- 332 (ii) for one year after the day on which the inmate is released from a correctional
- 333 facility as defined in Section 64-13-1.

- 334 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:
- 335 (i) a current Utah voter registration card;
- 336 (ii) a valid Utah driver license or identification card;
- 337 (iii) a current Utah vehicle registration;
- 338 (iv) a copy of a Utah income tax return, in the military service member's or military
- 339 service member's spouse's name, filed as a resident in accordance with Section
- 340 59-10-502; or
- 341 (v) proof that the military service member or military service member's spouse owns
- 342 a home in Utah, including a property tax notice for property owned in Utah.
- 343 (b) Aliens who are present in the United States on visitor, student, or other visas not
- 344 listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this
- 345 country, do not have the capacity to intend to reside in Utah for an indefinite period
- 346 and therefore are classified as nonresidents.
- 347 (c) Aliens who have been granted or have applied for permanent resident status in the
- 348 United States are classified for purposes of resident student status according to the
- 349 same criteria applicable to citizens.
- 350 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or
- 351 trust lands lie partly or wholly within Utah or whose border is at any point contiguous
- 352 with the border of Utah, and any American Indian who is a member of a federally
- 353 recognized or known Utah tribe and who has graduated from a high school in Utah, is
- 354 entitled to resident student status.
- 355 (11) A Job Corps student is entitled to resident student status if the student:
- 356 (a) is admitted as a full-time, part-time, or summer school student in a program of study
- 357 leading to a degree or certificate; and
- 358 (b) submits verification that the student is a current Job Corps student.
- 359 (12) A person is entitled to resident student status and may immediately apply for resident
- 360 student status if the person:
- 361 (a) marries a Utah resident eligible to be a resident student under this section; and
- 362 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as
- 363 provided in Subsection (3).
- 364 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent
- 365 who has been domiciled in Utah for at least 12 months prior to the student's application
- 366 is entitled to resident student status.
- 367 (14) (a) A person who has established domicile in Utah for full-time permanent

368 employment may rebut the presumption of a nonresident classification by providing
369 substantial evidence that the reason for the individual's move to Utah was, in good
370 faith, based on an employer requested transfer to Utah, recruitment by a Utah
371 employer, or a comparable work-related move for full-time permanent employment
372 in Utah.

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

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

376 (ii) the dates when Utah employment was first considered, offered, and accepted;

377 (iii) when the person moved to Utah;

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

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

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

383 (A) at least 24 years old; or

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

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

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

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

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

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

- 402 health care responsibilities.
- 403 (b) All relevant evidence concerning the motivation for the move shall be considered,
404 including:
- 405 (i) the person's employment and educational history;
- 406 (ii) the dates when the long-term health care responsibilities in Utah were first
407 considered, offered, and accepted;
- 408 (iii) when the person moved to Utah;
- 409 (iv) the dates when the person applied for admission, was admitted, and was enrolled
410 as a postsecondary student;
- 411 (v) whether the person applied for admission to an institution of higher education
412 sooner than four months from the date of moving to Utah;
- 413 (vi) evidence that the person is an independent person who is:
- 414 (A) at least 24 years old; or
- 415 (B) not claimed as a dependent on someone else's tax returns; and
- 416 (vii) any other factors related to abandonment of a former domicile and establishment
417 of a new domicile in Utah for purposes other than to attend an institution of higher
418 education.
- 419 (17) The board, after consultation with the institutions, shall make rules not inconsistent
420 with this section:
- 421 (a) concerning the definition of resident and nonresident students;
- 422 (b) establishing procedures for classifying and reclassifying students;
- 423 (c) establishing criteria for determining and judging claims of residency or domicile;
- 424 (d) establishing appeals procedures; and
- 425 (e) other matters related to this section.
- 426 (18) A student shall be exempt from paying the nonresident portion of total tuition if the
427 student:
- 428 (a) is a foreign national legally admitted to the United States;
- 429 (b) attended high school in this state for three or more years; and
- 430 (c) graduated from a high school in this state or received the equivalent of a high school
431 diploma in this state.
- 432 Section 3. Section **53B-35-101** is amended to read:
- 433 **53B-35-101 . Definitions.**
- 434 As used in this chapter[~~,"council"~~] :
- 435 (1) "Correctional facility" means the same as that term is defined in Section 64-13-1.

436 (2) "Council" means the Higher Education and Corrections Council created in Section
437 53B-35-201.

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

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

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

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

442 **53B-35-202 . Council duties -- Reporting.**

443 (1) The council shall:

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

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

451 (i) evidence-based practices and technologies;

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

454 (iii) methods of supporting and facilitating timely completion of courses, certificates,
455 and degrees;

456 (iv) methods of emphasizing educational programs that:

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

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

459 (C) provide sustainable wages following release; and

460 (D) maximize accessibility and timely completion during incarceration;

461 (v) use of cross-institutional application of coursework toward certificates and
462 degrees;

463 (vi) use of coursework that encourages personal and civic development; and

464 (vii) methods of leveraging innovative course delivery, including technology
465 resources;

466 (c) explore methods and make recommendations for the collection and analysis of
467 critical data regarding:

468 (i) enrollment and completion of postsecondary education courses, certificate
469 programs, credentials, and degree programs;

- 470 (ii) federal and state student aid awarded to incarcerated individuals;
- 471 (iii) costs of postsecondary education in prison, including any recommendations for
472 continued improvement; and
- 473 (iv) outcomes of formerly incarcerated individuals who participated in postsecondary
474 programming during incarceration if the individual is under the supervision of the
475 Department of Corrections, including recidivism, employment, and post-release
476 postsecondary education engagement; and
- 477 (d) recommend requests for legislative appropriations to the board to support the
478 purposes and objectives of the council.
- 479 (2) The council shall annually report regarding the council's plans and programs, the
480 number of enrollees served, and the number of enrollees receiving degrees and
481 certificates to:
- 482 (a) the board;
- 483 (b) before the committee's November interim committee meeting, the Education Interim
484 Committee; and
- 485 (c) at least 30 days before the beginning of the annual legislative session, the Higher
486 Education Appropriations Subcommittee.
- 487 Section 5. Section **53B-35-301** is enacted to read:

488 **Part 3. Student Support**

489 **53B-35-301 . Higher education student advisors.**

- 490 (1) A degree-granting institution of higher education providing education to inmates in a
491 correctional facility shall provide relevant academic and career advising services that are
492 substantially similar to services provided to a student who is not a confined or
493 incarcerated individual.
- 494 (2) Each participating institution of higher education described in Subsection (1) shall
495 report annually to the council regarding the guidance and support provided.

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

497 **64-13-6 . Department duties.**

- 498 (1) The department shall:
- 499 (a) protect the public through institutional care and confinement, and supervision in the
500 community of offenders where appropriate;
- 501 (b) implement court-ordered punishment of offenders;
- 502 (c) provide evidence-based and evidence-informed program opportunities for offenders

- 503 designed to reduce offenders' criminogenic and recidivism risks, including
504 behavioral, cognitive, educational, and career-readiness program opportunities;
- 505 (d) ensure that offender participation in all program opportunities described in
506 Subsection (1)(c) is voluntary;
- 507 (e) where appropriate, utilize offender volunteers as mentors in the program
508 opportunities described in Subsection (1)(c);
- 509 (f) provide treatment for sex offenders who are found to be treatable based upon criteria
510 developed by the department;
- 511 (g) provide the results of ongoing clinical assessment of sex offenders and objective
512 diagnostic testing to sentencing and release authorities;
- 513 (h) manage programs that take into account the needs and interests of victims, where
514 reasonable;
- 515 (i) supervise probationers and parolees as directed by statute and implemented by the
516 courts and the Board of Pardons and Parole;
- 517 (j) subject to Subsection (2), investigate criminal conduct involving offenders
518 incarcerated in a state correctional facility;
- 519 (k) cooperate and exchange information with other state, local, and federal law
520 enforcement agencies to achieve greater success in prevention and detection of crime
521 and apprehension of criminals;
- 522 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
523 Offender Supervision;
- 524 (m) establish a case action plan based on appropriate validated risk, needs, and
525 responsivity assessments for each offender as follows:
- 526 (i) (A) if an offender is to be supervised in the community, the department shall
527 establish a case action plan for the offender no later than 60 days after the day
528 on which the department's community supervision of the offender begins; and
529 (B) if the offender is committed to the custody of the department, the department
530 shall establish a case action plan for the offender no later than 90 days after the
531 day on which the offender is committed to the custody of the department;
- 532 (ii) each case action plan shall[-] :
- 533 (A) integrate an individualized, evidence-based, and evidence-informed treatment
534 and program plan with clearly defined completion requirements; and
- 535 (B) require that a case manager will:
- 536 (I) ensure that an assessment of the education level, occupational interests, and

- 537 aptitudes of the inmate has been completed;
- 538 (II) refer the inmate to a higher education student advisor at an institution
- 539 offering programs consistent with the inmate's interests and aptitudes for
- 540 advisement on educational preferences and plans;
- 541 (III) incorporate the inmate's interests, aptitudes, and student advisement into
- 542 an education plan consistent with the guidance provided by the Higher
- 543 Education and Corrections Council created in Section 53B-35-201; and
- 544 (IV) refer the inmate to the student advisor at the institution called for in the
- 545 case action plan for guidance and assistance with the education process;
- 546 (iii) the department shall share each newly established case action plan with the
- 547 sentencing and release authority within 30 days after the day on which the case
- 548 action plan is established; and
- 549 (iv) the department shall share any changes to a case action plan, including any
- 550 change in an offender's risk assessment, with the sentencing and release authority
- 551 within 30 days after the day of the change;
- 552 (n) ensure that an inmate has reasonable access to legal research;
- 553 (o) ensure that any training or certification required of a public official or public
- 554 employee, as those terms are defined in Section 63G-22-102, complies with Title
- 555 63G, Chapter 22, State Training and Certification Requirements, if the training or
- 556 certification is required:
- 557 (i) under this title;
- 558 (ii) by the department; or
- 559 (iii) by an agency or division within the department; [~~and~~]
- 560 [~~(p)~~] (p) when reporting on statewide recidivism, include the metrics and requirements
- 561 described in Section 63M-7-102;
- 562 (q) create a reentry division that focuses on the successful reentry of inmates into the
- 563 community;
- 564 (r) coordinate with the Board of Pardons and Parole regarding inmate records that are
- 565 necessary for the Board of Pardons and Parole to make necessary determinations
- 566 regarding an inmate; and
- 567 (s) ensure that inmate records regarding discipline, programs, and other relevant metrics
- 568 are:
- 569 (i) complete and updated in a timely manner; and
- 570 (ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

- 571 (2) The department may in the course of supervising probationers and parolees:
- 572 (a) respond in accordance with the graduated and evidence-based processes established
- 573 by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an
- 574 individual's violation of one or more terms of the probation or parole; and
- 575 (b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction
- 576 for an individual's violation of the terms of probation or parole a period of
- 577 incarceration of not more than three consecutive days and not more than a total of
- 578 five days within a period of 30 days.
- 579 (3) (a) By following the procedures in Subsection (3)(b), the department may investigate
- 580 the following occurrences at state correctional facilities:
- 581 (i) criminal conduct of departmental employees;
- 582 (ii) felony crimes resulting in serious bodily injury;
- 583 (iii) death of any person; or
- 584 (iv) aggravated kidnaping.
- 585 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
- 586 shall:
- 587 (i) notify the sheriff or other appropriate law enforcement agency promptly after
- 588 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a)
- 589 has occurred; and
- 590 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
- 591 conduct an investigation involving an occurrence specified in Subsection (3)(a).
- 592 (4) Upon request, the department shall provide copies of investigative reports of criminal
- 593 conduct to the sheriff or other appropriate law enforcement agencies.
- 594 (5) (a) The executive director of the department, or the executive director's designee if
- 595 the designee possesses expertise in correctional programming, shall consult at least
- 596 annually with cognitive and career-readiness staff experts from the Utah system of
- 597 higher education and the State Board of Education to review the department's
- 598 evidence-based and evidence-informed treatment and program opportunities.
- 599 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
- 600 Law Enforcement and Criminal Justice Interim Committee regarding[-] :
- 601 (i) the department's implementation of and offender participation in evidence-based
- 602 and evidence-informed treatment and program opportunities designed to reduce
- 603 the criminogenic and recidivism risks of offenders over time[-] ; and
- 604 (ii) the progress of the department's implementation of the inmate program

605 requirements described in Section 64-13-50.

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

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

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

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

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

617 (ii) the probation period for which the court orders supervised probation and any
618 extension of that period by the department in accordance with Subsection
619 77-18-105(7).

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

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

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

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

630 **64-13-23 . Offender's income and finances.**

631 (1) The department may require each offender, while in the custody of the department or
632 while on probation or parole, to place funds received or earned by the offender from any
633 source into:

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

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

636 (2) The department may require each offender to maintain a minimum balance in an
637 account under Subsection (1) for the particular offender's use upon:

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

- 639 (b) completion of parole or probation.
- 640 (3) If the funds are placed in a joint account at a federally insured financial institution:
- 641 (a) any interest accrues to the benefit of the offender account; and
- 642 (b) the department may require that the signatures of both the offender and a
- 643 departmental representative be submitted to the financial institution to withdraw
- 644 funds from the account.
- 645 (4) If the funds are placed in an account administered by the department, the department
- 646 may by rule designate:
- 647 (a) a certain portion of the offender's funds as interest-bearing savings; and
- 648 (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day
- 649 expenses.
- 650 (5) The department may withhold part of the offender's funds in an account under
- 651 Subsection (1) for expenses of:
- 652 (a) supervision or treatment;
- 653 (b) restitution, reparation, fines, alimony, support payments, or similar court-ordered
- 654 payments;
- 655 (c) obtaining the offender's DNA specimen, if the offender is required under Section
- 656 53-10-404 to provide a specimen;
- 657 (d) department-ordered repayment of a fine that is incurred under Section 64-13-33; and
- 658 (e) ~~any~~ other debt to the state.
- 659 (6) (a) An offender may not be granted free process in civil actions, including petitions
- 660 for a writ of habeas corpus, if, at any time from the date the cause of action arose
- 661 through the date the cause of action remains pending, there are any funds in an
- 662 account under Subsection (1) that have not been withheld or are not subject to
- 663 withholding under Subsection (4) or (5).
- 664 (b) The amount assessed for the filing fee, service of process and other fees and costs
- 665 shall not exceed the total amount of funds the offender has in excess of the indigence
- 666 threshold established by the department but not less than \$25 including the
- 667 withholdings under Subsection (4) or (5) during the identified period of time.
- 668 (c) The amounts assessed shall not exceed the regular fees and costs provided by law.
- 669 (7) The department may disclose information on offender accounts to the Office of
- 670 Recovery Services and other appropriate state agencies.
- 671 (8) The department shall publish a notice on the department's website, and any website used
- 672 by an individual depositing funds into an offender's account, that the individual may

673 request from the department a copy of a statement of the offender's financial account in
674 accordance with Title 63G, Chapter 2, Government Records Access and Management
675 Act.

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

677 **64-13-42 . Prison Telephone Surcharge Account -- Funding inmate and offender**
678 **education and training programs.**

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

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

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

684 (ii) interest on account money;

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

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

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

692 (v) money appropriated by the Legislature.

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

696 Section 9. Section **64-13-48** is amended to read:

697 **64-13-48 . Educational and career-readiness programs.**

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

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

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

- 707 (4) (a) The department shall consider an inmate's current participation in an educational
708 or career-readiness program when the department makes a decision with regard to an
709 inmate's:
- 710 (i) transfer to another area or facility; or
 - 711 (ii) appropriate disciplinary sanction.
- 712 (b) When possible, the department shall use best efforts to allow an inmate to continue
713 the inmate's participation in an educational or career-readiness program while the
714 facility is under lockdown, quarantine, or a similar status.
- 715 (5) (a) The department shall maintain records on an inmate's educational progress,
716 including completed life skills, certifications, and credit- and non-credit-bearing
717 courses, made while the inmate is incarcerated.
- 718 (b) The department shall facilitate the transfer of information related to the inmate's
719 educational process upon the inmate's release, including the inmate's post-release
720 contact information and the records described in Subsection (5)(a), to:
- 721 (i) the inmate; or
 - 722 (ii) an entity that the inmate has authorized to receive the inmate's records or
723 post-release contact information, including an institution:
 - 724 (A) from which the inmate received educational instruction while the inmate was
725 incarcerated; or
 - 726 (B) at which the inmate plans to continue the inmate's post-incarceration
727 education.
- 728 (6) Beginning May 1, 2023, the department shall provide an annual report to the Higher
729 Education Appropriations Subcommittee regarding educational and career-readiness
730 programs for inmates, which shall include:
- 731 (a) the number of inmates who are participating in an educational or career-readiness
732 program, including an accredited postsecondary education program;
 - 733 (b) the percentage of inmates who are participating in an educational or career-readiness
734 program as compared to the total inmate population;
 - 735 (c) inmate program completion and graduation data, including the number of
736 completions and graduations in each educational or career-readiness program;
 - 737 (d) the potential effect of educational or career-readiness programs on recidivism, as
738 determined by a comparison of:
 - 739 (i) the total number of inmates who return to incarceration after a previous
740 incarceration; and

- 741 (ii) the number of inmates who return to incarceration after a previous incarceration
 742 who participated in or completed an educational or career-readiness program;
 743 (e) the number of inmates who were transferred to a different facility while currently
 744 participating in an educational or career-readiness program, including the number of
 745 inmates who were unable to continue a program after a transfer to a different facility;
 746 and
 747 (f) the department's:
 748 (i) recommendation for resources that may increase inmates' access to and
 749 participation in an educational or career-readiness program; and
 750 (ii) estimate of how many additional inmates would participate in an educational or
 751 career-readiness program if the resources were provided.

752 (7) The department shall:

- 753 (a) ensure that an inmate enrolled in an educational or career-readiness program has
 754 access to modern technology determined by the provider of the program as necessary
 755 for an inmate to participate in the program; and
 756 (b) assist an inmate in applying for jobs within 30 days before the day on which the
 757 inmate is released from the department's custody.

758 [~~7~~] (8) The department may make rules in accordance with Section 64-13-10 and Title
 759 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this
 760 section.

761 Section 10. Section **64-13-50** is enacted to read:

762 **64-13-50 . Inmate program requirements -- Records -- Reporting.**

763 (1) As used in this section:

- 764 (a) "Board" means the Board of Pardons and Parole.
 765 (b) "Board hearing" means a hearing established under Subsection 77-27-7(1), which is
 766 the earliest possible point at which the board may consider an inmate's release from a
 767 correctional facility.
 768 (c) (i) "Program" means a part of an inmate's case action plan that is required or
 769 optional and includes:
 770 (A) sex offender treatment;
 771 (B) substance use treatment;
 772 (C) educational programs, including literacy programs;
 773 (D) career-readiness programs;
 774 (E) life-skills training; and

- 775 (F) transition programs meant to prepare an inmate who is about to leave a
776 correctional facility in accordance with Section 64-13-10.6.
- 777 (ii) "Program" includes online and in-person programs.
- 778 (2) On or before January 1, 2026, the department shall:
- 779 (a) use an inmate's board hearing when determining the timing of an inmate's programs
780 to ensure that an inmate will have the ability to complete all of the inmate's programs
781 by the inmate's board hearing;
- 782 (b) create an incentive plan to encourage an inmate to complete the inmate's programs
783 by the inmate's board hearing;
- 784 (c) in accordance with Subsection 64-13-48(4) and Subsection (3), use the department's
785 best efforts to ensure that when an inmate is transferred within a correctional facility
786 or to a different correctional facility, the inmate is able to continue all programs that
787 the inmate has already started and has not yet completed, without requiring the
788 inmate to restart a program from the beginning or wait on a waiting list for the
789 program, unless the program's continuation would be impossible due to the inmate's
790 transfer to a more restrictive setting due to a behavioral or disciplinary violation;
- 791 (d) in accordance with Subsection (3), use the department's best efforts to ensure that if
792 an inmate opts out of an optional program, the inmate is able to rejoin the program
793 within six months without being required to restart the program from the beginning
794 or wait on a waiting list;
- 795 (e) in accordance with Subsection (3), as soon as an inmate's case action plan is created
796 in accordance with Subsection 64-13-6(1)(m), use the department's best efforts to
797 start the inmate in at least two of the inmate's programs;
- 798 (f) in accordance with Subsection (3), use the department's best efforts to allow an
799 inmate to participate in more than one program at a time throughout the inmate's time
800 within the correctional facility, including, if applicable, providing technological
801 methods for an inmate to participate in an online program;
- 802 (g) in accordance with Section 64-13e-103, prioritize the placement of inmates within
803 county correctional facilities that:
- 804 (i) offer, allow, or facilitate department-specified programs for inmates; and
805 (ii) collect and provide inmate program completion data to the department; and
- 806 (h) periodically confer with an inmate and, if necessary, the board, to determine whether
807 the inmate is on track to complete all of the inmate's programs by the inmate's board
808 hearing.

- 809 (3) If the department is unable to meet a requirement described in Subsection (2)(c), (2)(d),
810 (2)(e), or (2)(f), the department shall:
811 (a) include in the inmate's records the reason why the requirement was not met; and
812 (b) ensure the information described in Subsection (3)(a) is made available to the board.
813 (4) The department shall provide an annual report on the department's public website that
814 states how many inmates:
815 (a) are currently participating in one or more programs; and
816 (b) have successfully completed one or more programs during the prior year.

817 Section 11. Section 77-27-7 is amended to read:

818 **77-27-7 . Parole or hearing dates -- Interview -- Hearings -- Report of alienists --**
819 **Mental competency.**

- 820 (1) (a) The Board of Pardons and Parole shall determine within six months after the date
821 of an offender's commitment to the custody of the Department of Corrections, for
822 serving a sentence upon conviction of a felony or class A misdemeanor offense, a
823 date upon which the offender shall be afforded a hearing to establish a date of release
824 or a date for a rehearing, and shall promptly notify the offender of the date.
825 (b) When determining the hearing date under Subsection (1)(a), the board shall consider:
826 (i) the type and severity of offenses;
827 (ii) prior criminal history;
828 (iii) criminogenic risk factors; and
829 (iv) evidence-based assessments.
830 (2) Before reaching a final decision to release any offender under this chapter, the chair
831 shall cause the offender to appear before the board, its panel, or any appointed hearing
832 officer, who shall personally interview the offender to consider the offender's fitness for
833 release and verify as far as possible information furnished from other sources. Any
834 offender may waive a personal appearance before the board. Any offender outside of
835 the state shall, if ordered by the board, submit to a courtesy hearing to be held by the
836 appropriate authority in the jurisdiction in which the offender is housed in lieu of an
837 appearance before the board. The offender shall be promptly notified in writing of the
838 board's decision.
839 (3) (a) In the case of an offender convicted of violating or attempting to violate any of
840 the provisions of Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section
841 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404,
842 76-5-404.1, 76-5-404.3, or 76-5-405, the chair may appoint one or more alienists who

- 843 shall examine the offender within six months prior to a hearing at which an original
844 parole date is granted on any offense listed in this Subsection (3).
- 845 (b) The alienists shall report in writing the results of the examination to the board prior
846 to the hearing. The report of the appointed alienists shall specifically address the
847 question of the offender's current mental condition and attitudes as they relate to any
848 danger the offender may pose to children or others if the offender is released on
849 parole.
- 850 (4) A parolee may petition the board for termination of lifetime parole as provided in
851 Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or
852 convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi),
853 Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1,
854 76-5-404.3, or 76-5-405, and released on parole before January 1, 2019.
- 855 (5) In any case where an offender's mental competency is questioned by the board, the chair
856 may appoint one or more alienists to examine the offender and report in writing to the
857 board, specifically addressing the issue of competency.
- 858 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
859 board shall make rules governing:
- 860 (a) the hearing process;
- 861 (b) alienist examination; and
- 862 (c) parolee petitions for termination of parole.

863 Section 12. **Effective date.**

864 This bill takes effect on May 1, 2024.