

Representative Candice B. Pierucci proposes the following substitute bill:

**FUNDING INDEPENDENCE IN FOREIGN LANGUAGE
EDUCATION**

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the funding of foreign language education.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits an institution of higher education from seeking or accepting funding support from a restricted foreign entity;
- requires Southern Utah University to establish the Helen Foster Snow Cultural Center, subject to legislative appropriations;
- requires the Executive Appropriations Committee to provide for annual appropriations increases for certain concurrent enrollment foreign language courses in preparing higher education budgets;
- includes the state's dual language immersion program in the list of programs for which the Legislature determines the cost of annual enrollment growth and inflation increases;
- prohibits a local education agency that provides foreign language instruction from seeking or accepting funding support from a restricted foreign entity; and



- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 This bill appropriates in fiscal year 2023:

- 29 ▶ to the Minimum School Program - Related to Basic School Programs:
- 30 • from the Uniform School Fund, \$1,500,000;
- 31 ▶ to the State Board of Education - MSP Categorical Program Administration, as a
- 32 one-time appropriation:
- 33 • from the Education Fund, One-time, \$320,000; and
- 34 ▶ to Southern Utah University - Education and General, as a one-time appropriation:
- 35 • from the Education Fund, One-time, \$600,000.

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **53B-1-201**, as enacted by Laws of Utah 2010, Chapter 243
- 41 **53B-1-202**, as last amended by Laws of Utah 2016, Chapter 188
- 42 **53E-10-307**, as last amended by Laws of Utah 2020, Chapter 365
- 43 **53F-2-208**, as last amended by Laws of Utah 2021, Chapters 319 and 382
- 44 **53F-2-502**, as last amended by Laws of Utah 2021, Chapter 251

45 ENACTS:

- 46 **53B-33-101**, Utah Code Annotated 1953
- 47 **53B-33-201**, Utah Code Annotated 1953

48

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

50 Section 1. Section **53B-1-201** is amended to read:

51 **53B-1-201. Definitions.**

52 As used in this part:

- 53 (1) "Conditional gift" means a gift as defined in Subsection (4) that is subject to
- 54 conditions:
- 55 (a) imposed, requested, or provided by a foreign government or foreign person; and
- 56 (b) that relate to:

- 57 (i) what kinds of teachers or students may benefit from the gift; or
58 (ii) a description of the subject matter to be taught with the support of the gift.
- 59 (2) "Foreign government" means a government other than the government of:
60 (a) the United States;
61 (b) a state within the United States;
62 (c) a territory or possession of the United States; or
63 (d) a political subdivision of the United States.
- 64 (3) "Foreign person" means:
65 (a) a foreign government defined in Subsection (2);
66 (b) an individual who is not a citizen or national of the United States or of a territory or
67 protectorate of the United States;
68 (c) a corporation, partnership, joint venture, proprietorship, trust, association, or other
69 entity that is created or organized under the laws of a foreign government or that has its
70 principal place of business located outside the United States;
71 (d) if known by the higher education institution, a corporation, partnership, joint
72 venture, proprietorship, trust, association, or other entity that is created or organized pursuant
73 to the laws of the United States or a state within the United States, if a majority of the stock or
74 other equity interest is directly or indirectly owned by, or which derives a majority of its
75 funding from:
76 (i) a foreign government;
77 (ii) an individual described in Subsection (3)(b); or
78 (iii) an entity described in Subsection (3)(c) or (d); or
79 (e) if known by the higher education institution, a committee or other group in which a
80 majority of the membership is composed of:
81 (i) a foreign government;
82 (ii) an individual described in Subsection (3)(b); or
83 (iii) an entity described in Subsection (3)(c) or (d).
- 84 (4) "Gift" means an endowment, scholarship, gift, donation, or grant of money or
85 property of any kind.
- 86 (5) "Higher education institution" means an institution in the state system of higher
87 education as defined in Section [53B-1-102](#).

(6) "Restricted foreign entity means:

(a) a company that the United States Secretary of Defense is required to list as a military company under the requirements of federal national defense authorization acts;

(b) any affiliate of a company described in Subsection (6)(a);

(c) the country with a commercial or defense industrial base of which a company described in Subsection (6)(a) is a part; or

(d) any subsidiary of a company described in Subsection (6)(a) or a country described in Subsection (6)(c).

Section 2. Section **53B-1-202** is amended to read:

**53B-1-202. Disclosure of foreign gifts to higher education institutions --
Prohibition on restricted foreign entity funds.**

(1) (a) Except as provided in Subsection (1)(c), on or before July 31 of each year, a higher education institution shall disclose to the board, by filing a disclosure report described in Subsection (2), a gift received by the higher education institution of \$50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person, during the period beginning July 1 and ending on June 30 immediately preceding the July 31 deadline.

(b) A higher education institution may rely on the following address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown:

(i) for a foreign person that is an individual, the principal residence; and

(ii) for a foreign person that is not an individual, the principal place of business.

(c) The \$50,000 amount described in Subsection (1)(a) is increased to \$250,000 if the gift, considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a foreign person:

(i) with a principal residence or principal place of business located in the United States; and

(ii) with a permanent resident status:

(A) under Section 245 of the Immigration and Nationality Act; and

(B) for 10 years or more.

(2) A disclosure report regarding all gifts described in Subsection (1) shall include:

- 119 (a) the amount of each gift described in Subsection (1);
120 (b) the date on which each gift described in Subsection (1) was received by the higher
121 education institution;
122 (c) the name of the foreign person making each gift described in Subsection (1);
123 (d) the aggregate amount of all gifts described in Subsection (1) from a foreign person
124 during the prior fiscal year of the higher education institution;
125 (e) for a conditional gift, a description of the conditions or restrictions related to the
126 conditional gift;
127 (f) for a conditional gift:
128 (i) for a foreign person that is an individual, if known, the country of citizenship or
129 principal residence of the individual; or
130 (ii) for a foreign person that is not an individual, if known, the country of incorporation
131 or place of business of the foreign person; and
132 (g) for a conditional gift that is a contract entered into between a higher education
133 institution and a foreign person:
134 (i) the amount;
135 (ii) the date;
136 (iii) a description of all conditions or restrictions; and
137 (iv) the name of the foreign person.
138 (3) A disclosure report required by this section is a public record open to inspection
139 and review during the higher education institution's business hours.
140 (4) At the request of the board, the attorney general may file a civil action to compel a
141 higher education institution to comply with the requirements of this section.
142 (5) The board shall make rules for the administration of this section in accordance with
143 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
144 (6) Beginning July 1, 2023, a higher education institution may not seek or accept
145 funding support from a restricted foreign entity or an entity that passes on funding support from
146 a restricted foreign entity.

147 Section 3. Section **53B-33-101** is enacted to read:

148 **CHAPTER 33. SOUTHERN UTAH UNIVERSITY**

149 **Part 1. General Provisions**

53B-33-101. Definitions.

Reserved

Section 4. Section **53B-33-201** is enacted to read:

Part 2. Helen Foster Snow Cultural Center

53B-33-201. Helen Foster Snow Cultural Center.

Subject to legislative appropriations, Southern Utah University shall establish the Helen Foster Snow Cultural Center to provide language support and cultural opportunities to students studying the Mandarin Chinese language.

Section 5. Section **53E-10-307** is amended to read:

53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) "Accelerated foreign language student" means an eligible student who has passed a world language advanced placement exam.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor described in Subsection **53E-10-302(6)(a)**.

(3) (a) Before December 1 of each year, the University of Utah shall report to the

Executive Appropriations Committee:

(i) the number of students enrolled in a concurrent enrollment course described in Subsection (2); and

(ii) the cost to the university of providing the concurrent enrollment courses described in Subsection (2).

(b) The Executive Appropriations Committee shall:

(i) annually determine the estimated cost of:

(A) adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, the cost of providing the concurrent enrollment courses described in Subsection (2) on a per-student basis; and

(B) adjusting for enrollment growth, in the next fiscal year, in the concurrent enrollment courses described in Subsection (2); and

(ii) in preparing higher education budgets for a given fiscal year, shall ensure that appropriations to the University of Utah include an increase at least equal to the estimated cost described in Subsection (3)(b)(i).

Section 6. Section **53F-2-208** is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section [53E-3-503](#);

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section [53F-2-401](#);

(iv) state support of pupil transportation, described in Section [53F-2-402](#);

(v) the Concurrent Enrollment Program, described in Section [53F-2-409](#); ~~and~~

(vi) the Enhancement for At-Risk Students Program, described in Section [53F-2-410](#);

and

(vii) dual language immersion, described in Section [53F-2-502](#); and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year,

the current fiscal year's ongoing state tax fund appropriations to the following programs:

- (i) a program described in Subsection (1)(a);
- (ii) educator salary adjustments, described in Section 53F-2-405;
- (iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;
- (iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and
- (v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

- (i) the cost of the inflation adjustment described in Subsection (1)(a); and
 - (ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).
- (b) The Executive Appropriations Committee shall make the determinations described

in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

Section 7. Section 53F-2-502 is amended to read:

53F-2-502. Dual language immersion.

(1) As used in this section:

(a) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.

(b) "Local education agency" or "LEA" means a school district or a charter school.

(c) "Participating LEA" means an LEA selected by the state board to receive a grant described in this section.

(d) "Partner language" means a language other than English in which instruction is provided in dual language immersion.

(e) "Restricted foreign entity means the same as that term is defined in Section 53B-1-201.

(2) The state board shall:

- (a) establish a dual language immersion program;
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

make rules that establish:

- (i) a grant program for an LEA to receive funding for dual language immersion;
- (ii) the required qualifications for an LEA to be a participating LEA;
- (iii) subject to this section, requirements of a participating LEA;
- (iv) a proficiency assessment for each partner language; and
- (v) a progression of how a school in a participating LEA adds grade levels in which the

school offers dual language immersion; and

- (c) subject to legislative appropriations:

- (i) select participating LEAs; and
- (ii) award to a participating LEA a grant to support dual language immersion in the

LEA.

- (3) A participating LEA shall:

- (a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;

- (b) in accordance with the state board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and

- (c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).

- (4) The state board shall:

- (a) provide support to a participating LEA, including by:

- (i) offering professional learning for dual language immersion educators;
- (ii) developing curriculum related to dual language immersion; or
- (iii) providing instructional support for a partner language;

- (b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and

- (c) on or before November 1, 2019, report to the Education Interim Committee and the Public Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

- (5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

(6) Regardless of whether an LEA is a participating LEA or provides language instruction through another method, beginning July 1, 2023, an LEA may not seek or accept funding support from a restricted foreign entity or an entity that passes on funding support from a restricted foreign entity.

Section 8. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Minimum School Program - Related to Basic School Programs

<u>From Uniform School Fund</u>	<u>1,500,000</u>
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Schedule of Programs:

<u>Dual Immersion</u>	<u>1,500,000</u>
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ITEM 2

To State Board of Education - MSP Categorical Program Administration

<u>From Education Fund, One-time</u>	<u>320,000</u>
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Schedule of Programs:

<u>Dual Immersion</u>	<u>320,000</u>
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The Legislature intends that the State Board of Education expend appropriations provided under this item:

(1) to bridge the funding that an LEA previously received from a foreign government before Subsection [53F-2-502](#)(6) prohibited restricted foreign entity funding; and

(2) in fiscal years 2023 and 2024, in an amount not to exceed \$160,000 in fiscal year 2023, and \$160,000 in fiscal year 2024.

ITEM 3

To Southern Utah University - Education and General

<u>From Education Fund, One-time</u>	<u>600,000</u>
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Schedule of Programs:

<u>Education and General</u>	<u>600,000</u>
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305 The Legislature intends that:
306 (1) appropriations provided under this Item 3 be used for the establishment of the
307 Helen Foster Snow Cultural Center in accordance with Section [53B-33-201](#); and
308 (2) under Section [63J-1-603](#), appropriations provided under this Item 3 not lapse at the
309 close of fiscal year 2023 or 2024, and the use of any nonlapsing funds is limited to the
310 establishment of the Helen Foster Snow Cultural center in accordance with Section
311 [53B-33-201](#).