

HB0131S03 compared with HB0131S02

~~text~~ shows text that was in HB0131S02 but was deleted in HB0131S03.

text shows text that was not in HB0131S02 but was inserted into HB0131S03.

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Representative Francis D. Gibson proposes the following substitute bill:

PUBLIC EDUCATION MODERNIZATION ACT

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Public Education Modernization Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Initiative to ~~modernize~~Modernize the ~~delivery~~Delivery of ~~public education~~Public Education in Utah ~~advisory committee~~Advisory Committee;
- ▶ requires the State Board of Education to develop and implement an Initiative to modernize the delivery of public education in Utah by:
 - designing a master plan; and
 - issuing requests for proposals for education consulting and education technology providers;

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- ▶ establishes requirements for the Initiative to modernize the delivery of public education in Utah master plan and individual local education agency plans;
- ▶ establishes requirements for a local education agency to participate in a grant program related to the Initiative to modernize the delivery of public education in Utah;
- ▶ requires a local education agency that participates in the Initiative to modernize the delivery of public education in Utah grant program to report annually to the State Board of Education;
- ▶ requires a local education agency that constructs a school building after July 1, 2015, to meet certain technology infrastructure requirements;
- ▶ establishes requirements for the State Board of Education and other certain entities related to the collection, usage, and storage of student data; and
- ▶ repeals the Smart School Technology Program.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Related to Basic School Program - Public Education Modernization Program, as an ongoing appropriation:
 - from the General Fund, \$150,000,000; and
- ▶ to the Related to Basic School Program - Public Education Modernization Program, as a one-time appropriation:
 - from the Education Fund, \$50,000,000.

Other Special Clauses:

This bill provides an effective date.

This bill coordinates with H.B. 92, Utah Telehealth and Education Network Amendments, by providing technical amendments.

This bill coordinates with H.B. 320, Educators' Professional Learning, by providing substantive and technical amendments.

Utah Code Sections Affected:

AMENDS:

63M-1-906, as last amended by Laws of Utah 2012, Chapter 208

ENACTS:

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53A-1-1201, Utah Code Annotated 1953

53A-1-1202, Utah Code Annotated 1953

53A-1-1203, Utah Code Annotated 1953

53A-1-1204, Utah Code Annotated 1953

53A-1-1205, Utah Code Annotated 1953

53A-1-1206, Utah Code Annotated 1953

53A-13-303, Utah Code Annotated 1953

REPEALS:

53A-1-709, as last amended by Laws of Utah 2013, Chapter 173

63M-1-909.5, as last amended by Laws of Utah 2013, Chapter 173

Utah Code Sections Affected by Coordination Clause:

53A-1-1202, Utah Code Annotated 1953

53A-1-1203, Utah Code Annotated 1953

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

Section 1. Section 53A-1-1201 is enacted to read:

Part 12. Public Education Modernization Act

53A-1-1201. Title.

This part is known as the "Public Education Modernization Act."

Section 2. Section 53A-1-1202 is enacted to read:

53A-1-1202. Definitions.

As used in this part:

- (1) "Advisory committee" means the Initiative to ~~modernize~~ Modernize the ~~delivery~~ Delivery of ~~public education~~ Public Education in Utah ~~advisory committee~~ Advisory Committee created in Subsection 53A-1-1203(2)(a).
- (2) "Board" means the State Board of Education.
- (3) "Education consultant" includes an organization.
- (4) "Educator" means an individual who holds or is required to hold a license under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.
- (5) "High quality professional learning" means a comprehensive, sustained, and intensive approach to improving ~~teachers' and principals'~~ educator effectiveness in raising

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student achievement and improving the school level outcomes described in Subsection 53A-1-1203(1)(b)(iii) that meets the high quality professional learning standards established by the board.

(6) "Initiative" means the Initiative to modernize the delivery of public education in Utah described in this part.

(7) "LEA plan" means an LEA's plan to implement the initiative.

(8) "Local education agency" or "LEA" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(9) "Technical support person" means an individual employed by an LEA who installs technology, maintains technology, or provides technology assistance.

Section 3. Section **53A-1-1203** is enacted to read:

53A-1-1203. Initiative to modernize the delivery of public education in Utah -- Advisory committee -- Request for proposals for education consultant -- Master plan.

(1) (a) In accordance with this part, the board shall oversee the development and implementation of an Initiative to modernize the delivery of public education in Utah for public school students in kindergarten through grade 12.

(b) Through the initiative, the board and participating LEAs shall:

(i) modernize the LEA classroom environment statewide by using one-to-one mobile device technology to fundamentally change the teaching and learning experience;

(ii) focus on preparing and empowering educators as those who will fully realize the potential of the initiative; and

(iii) improve school level outcomes, including:

(A) student achievement on statewide tests;

(B) rate of student learning;

(C) attendance;

(D) discipline incidents;

(E) parental involvement;

(F) citizen involvement;

(G) graduation rates;

(H) student enrollment in higher education;

(I) dropout rates;

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(J) student technology proficiency for college and career readiness;

(K) teacher satisfaction and engagement; and

(L) cost savings and improved efficiency relating to instructional materials, facilities, or maintenance.

(2) (a) There is created until ~~June 30~~December 31, 2015, the Initiative to ~~modernize~~Modernize the ~~delivery~~Delivery of ~~public education~~Public Education in Utah ~~advisory committee~~Advisory Committee to:

(i) assist the board with developing selection criteria for and selecting the education consultant described in Subsection (3); and

(ii) give input and feedback on the development of the master plan described in Subsection (4).

(b) The advisory committee shall be composed of:

(i) the following members appointed by the speaker of the House of Representatives and the president of the Senate:

(A) one member who has extensive digital content experience;

(B) one member who is a current or former school district superintendent who has extensive experience with leading a technology initiative;

(C) one member who is an LEA principal and has extensive experience with a technology initiative or an assistant superintendent for curriculum and instruction and has extensive experience with a technology initiative;

(D) one member who has extensive experience with mobile device infrastructure;

(E) one member who is a nationally recognized change leadership or change management expert;

(F) one member who is a teacher who works in a school where a technology initiative has been implemented; and

(G) one member who has extensive experience in independent program evaluation of technology initiatives;

(ii) the executive director of Utah Education Network; and

(iii) the executive director of the STEM Action Center appointed under Section 63M-1-3203.

(c) Board staff shall staff the advisory committee.

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(3) On or before ~~June 15~~ August 31, 2014, the board shall select, through a request for proposals process, a single education consultant with integrated whole-school learning and teaching with technology deployment experience.

(4) In consultation with the education consultant described in Subsection (3), the board shall develop a master plan for the initiative to ~~incorporate~~ integrate the initiative into the state's public education system.

(5) The master plan described in Subsection (4) shall include:

(a) a statement of purpose that describes the objectives or goals the board will accomplish by implementing the initiative;

(b) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(c) standards for ~~educator~~ high quality professional learning related to implementing and maintaining the initiative that ~~at a minimum~~ require an LEA to provide at least:

(A) 40 hours a year of high quality professional learning per educator each year; outside of regular school hours for an educator, including an administrator; and

(B) 16 hours a year of high quality professional learning for a technical support person;

(d) a detailed definition of the type or types of personal mobile learning devices to be used by LEAs and distributed to:

(i) educators; and

(ii) public school students in kindergarten through grade 12;

(e) a statewide technical support plan for:

~~(i) implementation of the initiative; and~~

~~(ii) maintenance of the initiative~~ that includes standards and competency requirements for technical support personnel;

(f) a grant program for participating LEAs developed in accordance with Section 53A-1-1205;

(g) specifications for an LEA plan that include:

(i) format and submission requirements;

(ii) a statement of purpose that describes the learning objectives, goals, and measurable outcomes the LEA will accomplish by implementing the initiative;

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(iii) other LEA plan requirements, including the requirements described in Subsection 53A-1-1204(5);

(iv) a schedule that coordinates grant program requirements with the requirements described in Subsection (5)(g)(iii); and

(v) a disclosure by the LEA of the LEA's current technology expenditures;

(h) an ongoing evaluation process that is monitored by the board, performed by an independent contractor under contract with the board, and based on:

(i) the school level outcomes described in Subsection (1)(b)(iii); and

(ii) technology system functionality;

(i) metrics of improved growth in the rate of student learning that will serve as a benchmark for LEA initiative implementation outcomes;

(j) proposed rules and policies that incorporate the principles of the master plan into the state's public education system as a whole; and

(k) a plan to ensure long term sustainability that:

(i) accounts for the financial impacts of the initiative; and

(ii) facilitates the repurposing of all LEA savings that arise from implementing the initiative.

(6) An evaluation report prepared under Subsection (5)(h) may not include student data that is not aggregated.

(7) The board shall integrate into the master plan the requirements of:

(a) Section 53A-13-303; and

(b) policies and procedures developed by the board under Section 53A-13-303.

(8) The education consultant selected under Subsection (3) shall comply with policies and procedures developed by the board under Section 53A-13-303.

Section 4. Section **53A-1-1204** is enacted to read:

53A-1-1204. Request for proposals for education technology providers --

Preparation of local education agency plans.

~~1~~ (1) In consultation with the education consultant described in Section 53A-1-1203, the board shall, through a request for proposals process, select three or more education technology providers.

(2) An education technology provider that responds to the request for proposals

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described in Subsection (1) shall submit a proposed generic LEA plan that ensures a reliable, scalable, and effective implementation of the initiative across a wide range of students and LEAs.

(3) In evaluating a proposal submitted under Subsection (1), the board's evaluation criteria shall weigh heavily the education technology provider's ability to prepare and customize an LEA plan.

(4) (a) To participate in the grant program described in Section 53A-1-1205, an LEA shall select one of the education technology providers chosen by the board under Subsection (1) to work with the LEA to prepare and implement a customized LEA plan.

(b) In preparing a customized plan under Subsection (4)(a), an LEA and the LEA's technology provider shall encourage participation and input from parents, ~~teachers~~educators, technology support personnel, and school community councils.

(5) An LEA plan created by the LEA in collaboration with an education technology provider under Subsection (4) shall describe:

(a) design criteria that enables the LEA to achieve the improved outcomes described in Subsection 53A-1-1203(1)(b)(iii);

(b) each task and its related dependencies required for a successful, scalable implementation of the initiative that yields significantly positive results;

(c) an organizational development process structured to yield the desired outcomes;

(d) infrastructure acquisition;

(e) high quality, digital instructional materials aligned with board standards;

(f) ~~educator~~how the LEA will provide the high quality professional learning ~~that includes superintendent and principal learning, and, at a minimum, requires 40 hours of high quality professional learning per educator each year;~~

~~described in Subsection 53A-1-1203(5)(c);~~

(g) procurement and distribution of:

(i) devices;

(ii) digital content;

(iii) software; and

(iv) support service;

(h) technical support for implementation and maintenance of the initiative that:

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(i) provides for significant uptime of the entire technology environment, including devices, printers, and Internet access; and

(ii) removes technical support burdens from the classroom teacher;

(i) security policies, including security audits and remediation of identified lapses;

(j) how the LEA will address the needs of students affected by intergenerational poverty, as defined in Section 35A-9-102, in implementing the initiative;

(k) how the LEA will provide special education students with appropriate software, including special education students in self-contained classrooms;

(l) how the LEA will put the cost savings and increased efficiency gained by implementing the initiative toward maintaining the initiative;

(m) how the LEA will accommodate a student who opts out of receiving a personal mobile device;

(n) a detailed plan for student engagement in personalized learning;

~~(n)o~~ ongoing periodic coaching of ~~the superintendent~~educators, ~~school principals, and teachers~~;including administrators; and

~~(o)p~~ other criteria required by the master plan developed under Section 53A-1-1203.

(6) An LEA may subject an LEA plan to a peer review.

(7) An education technology provider selected under Subsection (1) shall comply with policies and procedures developed by the board under Section 53A-13-303.

Section 5. Section **53A-1-1205** is enacted to read:

53A-1-1205. Grant program -- Board approval of local education agency plans.

(1) In consultation with the education consultant described in Section 53A-1-1203, the board shall develop a grant program in accordance with this section to assist an LEA to implement the initiative.

(2) To be eligible for a grant payment, an LEA:

(a) shall comply with the master plan;

(b) shall, before receiving a grant payment, complete each master plan component conditioned on receiving the grant payment;

(c) may not supplant funds previously used for the LEA's current technology program to fund nontechnology programs;

(d) shall have an LEA plan approved by the board in accordance with Subsection (3);

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and

(e) shall consistently meet defined LEA plan goals.

(3) (a) An LEA that applies to the board for a grant to implement the initiative shall, as part of the application, submit an LEA plan to the board for approval.

(b) The board shall work with the education consultant to review and approve each submitted LEA plan.

(c) The board may not approve an LEA plan unless the LEA plan meets:

(i) the requirements described in Subsection 53A-1-1204(5); and

(ii) the applicable standards, criteria, and timelines established in the master plan.

(4) The board shall award grants on the basis of available funding, giving priority to LEA plans that are timely, well developed, and board approved.

(5) (a) An LEA that is currently participating in the grant program shall prepare and submit to the board an annual progress report that:

(i) gives a detailed summary of the LEA's LEA plan; and

(ii) describes the effect of the LEA plan in addressing the outcomes described in Subsections 53A-1-1203(1)(b)(iii) and (5)(g)(ii).

(b) The progress report described in Subsection (5)(a) is due by August 1 of each year.

Section 6. Section **53A-1-1206** is enacted to read:

53A-1-1206. Initiative compliance for construction of new schools.

An LEA shall ensure that a school building constructed by the LEA on or after July 1, 2015, meets the infrastructure requirements for the initiative as established by the board in accordance with Section 53A-1-1203.

Section 7. Section ~~{63M-1-906}~~ **53A-13-303** is ~~{amended to read:~~
~~}~~ **enacted to read:**

53A-13-303. Security requirements related to the collection, usage, and storage of student data.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Education entity" means:

(i) the board;

(ii) a local school board or charter school governing board;

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(iii) a school district;

(iv) a public school; or

(v) the Utah Schools for the Deaf and the Blind.

(c) "Student data" means information about a student collected or reported at the individual student level.

(d) "Student data system" means the State Board of Education's system for collecting, storing, and using student data.

(e) "Third party contractor" means a person, other than an education entity, that receives student data from an education entity pursuant to a contract or written agreement.

(2) The board shall:

(a) maintain, secure, and safeguard all student data with an equivalent PCI DSS, third party verified compliant certification;

(b) develop, publish, and make publicly available policies and procedures to comply with this part and other relevant privacy laws, including ensuring that a contract entered into between an education entity and a third party contractor, which allows the third party contractor to have access to student data, includes:

(i) provisions requiring specific restrictions on the use of student data;

(ii) specific dates governing the destruction of student data given to a third party contractor;

(iii) provisions that prohibit a third party contractor from using student data for a secondary use, including sales, marketing, or advertising; and

(iv) provisions limiting a third party contractor's use of student data strictly for the purpose of providing the contracted services to the education entity;

(c) develop a detailed security plan for education entities that includes:

(i) guidelines for authorizing sharing and access to student data, including guidelines for authentication of authorized access;

(ii) guidelines for administrative safeguards providing for the security of electronic and physical student data, including provisions related to data encryption;

(iii) guidelines for education entity employees to better ensure the safety and security of student data;

(iv) privacy compliance standards;

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(vi) privacy and annual security audits;

(vii) breach planning, notification, and procedures; and

(viii) data retention and disposition policies; and

(d) develop a model governance policy for education entities regarding the collection, access, security, and use of student data.

(3) The following shall comply with the security plan described in Subsection (2)(c) and adopt the model governance policy described in Subsection (2)(d):

(a) a local school board;

(b) a charter school; and

(c) the Utah Schools for the Deaf and the Blind.

(4) (a) A third party contractor shall maintain, secure, and safeguard all student data with an equivalent PCI DSS, third party verified compliant certification.

(b) A third party contractor shall:

(i) use student data received under a contract with an education entity strictly for the purpose of providing the contracted services to the education entity; and

(ii) may not use student data received under a contract with an education entity for a use not described in the contract.

Section 8. Section 63M-1-906 is amended to read:

63M-1-906. Qualification for assistance.

(1) Except as provided in Section 63M-1-908[;] or 63M-1-909, [~~or 63M-1-909.5;~~] the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account. Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:

(a) demonstrate to the satisfaction of the administrator that the applicant will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

(b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

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(c) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:

(i) the financial assistance is provided to an applicant for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area;

(ii) the applicant is part of a targeted industry;

(iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

(iv) the applicant is an entity offering an economic opportunity under Section 63M-1-909.

(b) The administrator may not exempt the applicant from the requirement under Subsection 63M-1-905(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63M-1-907; and

(d) make funding decisions based upon appropriate findings and compliance.

Section ~~8~~9. **Repealer.**

This bill repeals:

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Section 53A-1-709, Smart School Technology Program.

Section 63M-1-909.5, Selection of educational technology provider to implement whole-school one-to-one mobile device technology deployment plan for schools.

Section ~~9~~10. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Related to Basic School Program

From General Fund \$150,000,000

From Education Fund, one-time \$50,000,000

Schedule of Programs:

Public Education Modernization Program \$200,000,000

Under Section 63J-1-603, the Legislature intends that the appropriation for the Public Education Modernization Act is:

(1) to be used as provided in Title 53A, Chapter 1, Part 12, Public Education Modernization Act; and

(2) nonlapsing.

Section ~~10~~11. **Effective date.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Uncodified Section 9, Appropriation, takes effect on July 1, 2014.

Section ~~11~~12. **Coordinating H.B. 131 with H.B. 92 -- Technical amendments.**

If this H.B. 131 and H.B. 92, Utah Telehealth and Education Network Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication, modify Subsection 53A-1-1203(2)(b)(ii) to read:

"(ii) the executive director of Utah Education and Telehealth Network; and".

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Section ~~{12}~~13. **Coordinating H.B. 131 with H.B. 320 -- Substantive and technical amendments.**

If this H.B. 131 and H.B. 320, Educators' Professional Learning, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication, modify Subsection 53A-1-1202(5) to read:

"(5) "High quality professional learning" means professional learning:

(a) as defined in Section 53A-3-701(1);

(b) that meets the standards described in Section 53A-3-701(2); and

(c) that improves the school level outcomes described in Subsection 53A-1-1203(1)(b)(iii)."