



30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **26-6-33**, Utah Code Annotated 1953

34 **53B-16-111**, Utah Code Annotated 1953

35 **53G-9-210**, Utah Code Annotated 1953



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

38 Section 1. Section **26-6-33** is enacted to read:

39 **26-6-33. Department support for local education agency test to stay programs --**

40 **Department guidance for local education agencies.**

41 (1) As used in this section:

42 (a) "Case threshold" means the same as that term is defined in Section [53G-9-210](#).

43 (b) "COVID-19" means the same as that term is defined in Section [53G-9-210](#).

44 (c) "Local education agency" or "LEA" means the same as that term is defined in

45 Section [53G-9-210](#).

46 (d) "Test to stay program" means the same as that term is defined in Section

47 [53G-9-210](#).

48 (2) At the request of an LEA, the department shall provide support for the LEA's test to  
49 stay program if a school in the LEA reaches the case threshold, including by providing:

50 (a) COVID-19 testing supplies;

51 (b) a mobile testing unit; and

52 (c) other support requested by the LEA related to the LEA's test to stay program.

53 (3) The department shall ensure that guidance the department provides to LEAs related  
54 to test to stay programs complies with Section [53G-9-210](#), including the determination of  
55 whether a school meets a case threshold described in Subsection [53G-9-210\(3\)](#).

56 Section 2. Section **53B-16-111** is enacted to read:

57 **53B-16-111. In-person instruction.**

58 (1) As used in this section:

59 (a) "Course" means each section of a course that an institution of higher education  
60 offers as:

61 (i) part of a program of instruction; or

62 (ii) a general education requirement.

63 (b) "Institution of higher education" means an institution described in Section  
64 53B-1-102.

65 (c) "Program of instruction" means the same as that term is defined in Section  
66 53B-16-102.

67 (2) Except as provided in Subsection (3):

68 (a) for fall semester in 2021, an institution of higher education shall offer a number of  
69 in-person courses that is at least 75% of the number of in-person courses that the institution of  
70 higher education offered for the analogous semester that began immediately on or after August  
71 1, 2019; and

72 (b) for spring semester in 2022, an institution of higher education shall offer a number  
73 of in-person courses that is at least 75% of the number of in-person courses that the institution  
74 of higher education offered at the beginning of the analogous semester that began on or  
75 immediately after January 1, 2020.

76 (3) An institution of higher education may offer fewer in-person courses than the  
77 number of courses described in Subsection (2):

78 (a) in proportion to the institution of higher education's decline in enrollment if the  
79 institution has a decline in enrollment between the analogous semesters described in  
80 Subsection (2);

81 (b) for courses that are designed to accommodate nontraditional students who need to  
82 participate in online learning; or

83 (c) if a number of vaccinations against COVID-19, as that term is defined in Section  
84 53-2c-102, that would allow all willing members of the institution's faculty and staff to be  
85 vaccinated has not been available in the state before the beginning of the semester in question.

86 Section 3. Section **53G-9-210** is enacted to read:

87 **53G-9-210. Requirement for in-person instruction -- Test to stay programs.**

88 (1) As used in this section:

89 (a) "Case threshold" means as applicable, the number of students in a school, or  
90 percentage of students in a school who meet the conditions described in Subsection (3).

91 (b) "COVID-19" means:

92 (i) severe acute respiratory syndrome coronavirus 2; or

93 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

94 (c) "In-person instruction" means instruction offered by a school that allows a student  
95 to choose to attend school in-person at least four days per week if the student:

96 (i) is enrolled in a school that is not implementing a test to stay program; or

97 (ii) (A) is enrolled in a school that is implementing a test to stay program; and

98 (B) meets the test to stay program's criteria for attending school in person.

99 (d) "Local Education Agency" or LEA means:

100 (i) a school district;

101 (ii) a charter school, other than an online-only charter school; or

102 (iii) the Utah Schools for the Deaf and the Blind.

103 (e) "School" means a school other than an online-only charter school or an online-only  
104 public school.

105 (f) "Test to stay program" means a program through which an LEA provides testing for  
106 COVID-19 for students during an outbreak of COVID-19 at a school in order to:

107 (i) identify cases of COVID-19; and

108 (ii) allow individuals who test negative for COVID-19 to attend school in person.

109 (2) (a) An LEA shall:

110 (i) except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure that a  
111 school offers in-person instruction; and

112 (ii) require a school that reaches the case threshold to:

113 (A) fulfill the requirement described in Subsection (2)(a)(i) by initiating a test to stay

114 program for the school; and

115 (B) provide a remote learning option for students who do not wish to attend in person.

116 (b) The requirement to provide in-person instruction described in Subsection (2)(a)  
117 does not apply for a temporary period if the governor, the president of the Senate, the speaker  
118 of the House of Representatives, and the state superintendent of public instruction jointly  
119 concur with an LEA's assessment that due to public health emergency circumstances, the risks  
120 related to in-person instruction temporarily outweigh the value of in-person instruction.

121 (3) (a) For purposes of determining whether a school has reached the school's case  
122 threshold, a student is included in positive cases for the school if the student:

123 (i) within the preceding 14 days:

124 (A) attended at least some in-person instruction at the school; and

125 (B) tested positive for COVID-19; and

126 (ii) did not receive the student's positive COVID-19 test results through regular  
127 periodic testing required to participate in LEA-sponsored athletics or another LEA-sponsored  
128 extracurricular activity.

129 (b) (i) A school with 1,500 or more students meets the case threshold if at least 2% of  
130 the school's students meet the conditions described in Subsection (3)(a).

131 (ii) A school with fewer than 1,500 students meets the case threshold if 30 or more of  
132 the school's students meet the conditions described in Subsection (3)(a).

133 (4) (a) An LEA may not test a student for COVID-19 who is younger than 18 years old  
134 without the consent of the student's parent.

135 (b) An LEA may seek advance consent from a student's parent for future testing for  
136 COVID-19.

137 **Section 4. Effective date.**

138 If approved by two-thirds of all the members elected to each house, this bill takes effect  
139 upon approval by the governor, or the day following the constitutional time limit of Utah  
140 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
141 the date of veto override.

