

HB0473S01 compared with HB0473

~~{Omitted text}~~ shows text that was in HB0473 but was omitted in HB0473S01

inserted text shows text that was not in HB0473 but was inserted into HB0473S01

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School Digital Materials Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nicholeen P. Peck

Senate Sponsor: Keven J. Stratton

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3 LONG TITLE

4 General Description:

5 This bill amends and enacts provisions regarding the accessibility of sensitive material
6 through digital instructional material in a school setting.

7 Highlighted Provisions:

8 This bill:

- 9 ▸ defines terms;
- 10 ▸ ~~{requires the state auditor to establish and oversee a digital materials regulator (regulator),~~
including reporting on the actions of the regulator to the Education Interim Committee;}
- 12 ▸ ~~{requires the regulator to:}~~
 - 13 • ~~{investigate allegations regarding sensitive material in digital instructional materials;}~~
 - 14 • ~~{impose a fine on a vendor that provides digital access to sensitive material in a school~~
setting; and}
 - 16 • ~~{make recommendations regarding the termination of contracts with fined vendors;}~~
- 17 ▸ includes information regarding sensitive material in the information the state board provides
through a certain parent portal;

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19 ▸ {~~allows the regulator to initiate a sensitive material review in any local education agency (LEA);~~}

21 ▸ {~~requires the state board to report alleged sensitive material violations involving digital instructional material that a vendor provides to the regulator;~~}

23 ▸ requires each {~~LEA~~} local education agency (LEA) to:

- 24 • provide certain information to parents at the time of student registration each year; and
- 25 • maintain a section on the homepage of the LEA's website regarding sensitive material reporting;

27 ▸ allows the state board, an LEA, or the Utah Education and Telehealth Network (UETN) to rescind certain contracts if a vendor does not remove access to digital sensitive material;

30 ▸ requires the state board, an LEA, or UETN to:

20 • remove access to digital instructional material that a vendor provides after a certain threshold of violations;

31 • provide certain notice to each vendor with which the entity contracts to provide digital instructional material in a school setting; and

33 • ensure that any database or school-provided device which a student may access uses a filter or other software to prohibit access to sensitive material; and

35 ▸ makes technical and conforming changes.

27 Money Appropriated in this Bill:

28 None

29 Other Special Clauses:

30 This bill provides a special effective date.

32 AMENDS:

42 ~~{53E-1-201, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525}~~

33 **53G-6-806**, as last amended by Laws of Utah 2024, Chapter 21, as last amended by Laws of Utah 2024, Chapter 21

34 **53G-10-103**, as last amended by Laws of Utah 2024, Chapter 318, as last amended by Laws of Utah 2024, Chapter 318

45 ~~{67-3-1, as last amended by Laws of Utah 2024, Chapters 3, 158, as last amended by Laws of Utah 2024, Chapters 3, 158}~~

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ENACTS:

~~{67-3-14, Utah Code Annotated 1953, Utah Code Annotated 1953}~~

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

~~{Section 1. Section 53E-1-201 is amended to read: }~~

53E-1-201. Reports to and action required of the Education Interim Committee.

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:
- (a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;
 - (b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;
 - (c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;
 - (d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;
 - (e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;
 - (f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;
 - (g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;
 - (h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;
 - (i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;
 - (j) the report described in Section 53F-2-522 regarding mental health screening programs;
 - (k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;
 - (l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

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- (m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;
- 84 (n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;
- 86 (o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;
- 89 (p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;
- 91 (q) the report described in Section 53G-7-221 by the state board regarding innovation plans;
- 93 (r) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program[-] ; and
- 95 (s) the report described in Section 67-3-1 from the state auditor regarding the digital materials regulator.
- 97 (2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:
- 99 (a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;
- 101 (b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;
- 104 (c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;
- 107 (d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;
- 109 (e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;
- 112 (f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;
- 115 (g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and
- 117 (h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

37 Section 1. Section **53G-6-806** is amended to read:

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53G-6-806. Parent portal.

(1) As used in this section:

(a) "Parent portal" means the posting the state board is required to provide under this section.

(b) "School" means a public elementary or secondary school, including a charter school.

(2)

(a) The state board shall post information that allows a parent of a student enrolled in a school to:

(i) access an LEA's policies required by Sections 53G-9-203 and 53G-9-605;

(ii) be informed of resources and steps to follow when a student has been the subject, perpetrator, or bystander of bullying, cyber-bullying, hazing, retaliation, or abusive conduct such as:

(A) resources for the student, including short-term mental health services;

(B) options for the student to make changes to the student's educational environment;

(C) options for alternative school enrollment;

(D) options for differentiated start or stop times;

(E) options for differentiated exit and entrance locations; and

(F) the designated employee for an LEA who addresses incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(iii) be informed of the steps and resources for filing a grievance with a school or LEA regarding bullying, cyber-bullying, hazing, or retaliation;

(iv) be informed of the steps and resources for seeking accommodations under the Americans with Disabilities Act of 1990, 42 U.S.C. sec. 12101 et seq;

(v) be informed of the steps and resources for seeking accommodations under state or federal law regarding religious accommodations;

(vi) receive information regarding the reporting of sensitive material, as described in Section 53G-10-103;

~~[(vi)]~~ (vii) be informed of the steps and resources for filing a grievance for an alleged violation of state or federal law, including:

(A) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d-2000d-4;

(B) Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681-1688;

(C) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794; and

(D) Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12131-12165;

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[~~(vii)~~] (viii) receive information about constitutional rights and freedoms afforded to families in public education;

158 [~~(viii)~~] (ix) be informed of how to access an internal audit hotline if established by the state board; and

160 [~~(ix)~~] (x) be informed of services for military families.

161 (b) In addition to the information required under Subsection (2)(a), the state board:

162 (i) shall include in the parent portal:

163 (A) the comparison tool created under Section 53G-6-805;

164 (B) school level safety data, including data points described in Section 53E-3-516; and

166 (C) a link to the public safety portal described in Section 63A-16-1002; and

167 (ii) may include in the parent portal other information that the state board determines is helpful to parents.

169 (3)

(a) The state board shall post the parent portal at a location that is easily located by a parent.

171 (b) The state board shall update the parent portal at least annually.

172 (c) In accordance with state and federal law, the state board may collaborate with a third-party to provide safety data visualization in comparison to other states' data.

174 (4) An LEA shall annually notify each of the following of how to access the parent portal:

175 (a) a parent of a student; and

176 (b) a teacher, principal, or other professional staff within the LEA.

93 Section 2. Section **53G-10-103** is amended to read:

94 **53G-10-103. Sensitive instructional materials.**

179 (1) As used in this section:

180 ~~{(a) "Digital materials regulator" means the regulator under the oversight of the state auditor in accordance with Section 67-3-14.}~~

182 ~~{(a)} {(b)}~~

(i) "Instructional material" means a material, regardless of format, used:

183 (A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or

185 (B) to support a student's learning in any school setting.

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(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

188 (iii) "Instructional material" does not mean exclusively library materials.

189 ~~{(b){}}~~ ~~{(e){}}~~ "LEA governing board" means~~:~~ the same as that term is defined in Section 53E-1-102.

191 ~~[(i) for a school district, the local school board;]~~

192 ~~[(ii) for a charter school, the charter school governing board; or]~~

193 ~~[(iii) for the Utah Schools for the Deaf and the Blind, the state board.]~~

194 ~~{(c){}}~~ ~~{(d){}}~~ "Material" means the same as that term is defined in Section 76-10-1201.

195 ~~{(d){}}~~ ~~{(e){}}~~ "Minor" means any person less than 18 years old.

196 ~~{(e){}}~~ ~~{(f){}}~~ "Objective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section 76-10-1235, under the non-discretionary standards described in Subsection 76-10-1227(1)(a)(i), (ii), or (iii).

200 ~~{(f){}}~~ ~~{(g){}}~~ "Public school" means:

201 (i) a district school;

202 (ii) a charter school; or

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

204 ~~{(g){}}~~ ~~{(h){}}~~

(i) "School setting" means, for a public school:

205 (A) in a classroom;

206 (B) in a school library; or

207 (C) on school property.

208 (ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

211 (A) an assembly;

212 (B) a guest lecture;

213 (C) a live presentation; or

214 (D) an event.

215 ~~{(h){}}~~ ~~{(i){}}~~

(i) "Sensitive material" means an instructional material that constitutes objective sensitive material or subjective sensitive material.

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- 217 (ii) "Sensitive material" does not include an instructional material:
218 (A) that an LEA selects under Section 53G-10-402;
219 (B) for a concurrent enrollment course that contains sensitive material and for which a parent receives
notice from the course provider of the material before enrollment of the parent's child and gives the
parent's consent by enrolling the parent's child;
223 (C) for medical courses;
224 (D) for family and consumer science courses; or
225 (E) for another course the state board exempts in state board rule.
226 (iii) "Subjective sensitive material" means an instructional material that constitutes pornographic
or indecent material, as that term is defined in Section 76-10-1235, under the following factor-
balancing standards:
229 (A) material that is harmful to minors under Section 76-10-1201;
230 (B) material that is pornographic under Section 76-10-1203; or
231 (C) material that includes certain fondling or other erotic touching under Subsection 76-10-1227(1)(a)
(iv).
233 ~~{(j)}~~ (i) "UETN" means the Utah Education and Telehealth Network, created in Section 53B-17-105.
235 ~~{(k) {"Vendor" means the same as that term is defined in Section 67-3-14.}}~~
149 (j)
236 ~~{(2)}~~
~~{(a) "Vendor" means an entity that provides instructional material to students in a school setting:~~
151 ~~(A) under a contract with the state board, an LEA, or UETN; or~~
152 ~~(B) through donating instructional material.~~
153 (ii) "Vendor" does not include an internet service provider, as that term is defined in Section
76-10-1230.
155 (2)
(a) Sensitive materials are prohibited in the school setting.
237 (b) A public school or an LEA may not:
238 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive
materials; or
240 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.
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- (c) In evaluating, selecting, or otherwise considering action related to a given instructional material under this section, each public school and each LEA shall prioritize protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material.
- 246 (d) If an instructional material constitutes objective sensitive material:
- 247 (i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and
- 249 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.
- 251 (3)
- (a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:
- 253 (i) an employee of the relevant LEA;
- 254 (ii) a student who is enrolled in the relevant LEA;
- 255 (iii) a parent of a child who is enrolled in the relevant LEA; ~~{ or }~~
- 256 (iv) a member of the relevant LEA governing board ~~{, }~~ ~~or~~
- 257 ~~{ (v) the digital materials regulator. }~~
- 258 (b)
- (i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.
- 262 (ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.
- 266 (4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:
- 268 (a)
- (i) make an initial determination as to whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and
- 272 (ii) if the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material under Subsection (4)(a)(i), immediately remove the

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challenged material from any school setting that provides student access to the challenged material until the LEA completes the LEA's full review of the challenged material under this section;

277 (b)

(i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and

279 (ii) if the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;

282 (c) only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:

284 (i) review the allegations and the challenged instructional material under the subjective material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material;

288 (ii) allow student access to the challenged instructional material during the LEA's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and

291 (iii) if the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option described in Subsection (4)(c)(ii); and

295 (d) communicate to the state board ~~(i)~~ :

214 ~~(i)~~ the allegation ~~and~~ ;

215 ~~(ii)~~ the LEA's final determination regarding the allegation and the challenged instructional material ~~(i)~~ ;
and

217 ~~(iii)~~ if the challenged instructional material is digital material, the vendor providing access to the digital material.

297 (5)

(a) An individual described in Subsection (3)(a) may appeal an LEA's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the LEA governing board.

300 (b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:

302 (i) the board's rationale for the decision; and

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- 303 (ii) the board's determination on each component of the statutory and any additional policy standards
the board uses to reach the board's conclusions.
- 305 (6) An LEA governing board may not enact rules or policies that prevent the LEA governing board
from:
- 307 (a) revisiting a previous decision;
- 308 (b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a
challenged instructional material; or
- 310 (c) reconsidering a challenged instructional material if the LEA governing board receives additional
information regarding the material.
- 312 (7)
- (a) Except as provided in Subsection (7)(d), if the threshold described in Subsection (7)(b) is met, each
LEA statewide shall remove the relevant instructional material from student access.
- 315 (b) The requirement described in Subsection (7)(a) to remove a given material from student access
applies if the following number of LEAs makes a determination that a given instructional material
constitutes objective sensitive material:
- 318 (i) at least three school districts; or
- 319 (ii) at least two school districts and five charter schools.
- 320 (c) The state board shall:
- 321 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); { **f** and }
- 322 ~~{(ii) report to the digital materials regulator any allegation involving material that a vendor provides~~
~~digitally in a school setting; and }~~
- 324 ~~{(ii){} {(iii){}}~~ no later than 10 school days after the day on which the condition described in
Subsection (7)(b) occurs, communicate to all LEAs the application of the requirement described in
Subsection (7)(a) to remove the material from student access.
- 328 (d)
- (i) When the threshold described in Subsection (7)(b) is met for a given instructional material, in
addition to making the communication described in Subsection (7)(c), the state board may:
- 331 (A) place the material on the agenda of a public board meeting within 60 days after the day on
which the state board makes the communication to LEAs under Subsection (7)(c); and
- 334 (B) at the specified state board meeting, vote to overturn the application of the requirement
described in Subsection (7)(a) to remove a given material from student access statewide.

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- 337 (ii) If the state board votes to overturn the application of the statewide removal requirement described in
Subsection (7)(a) under Subsection (7)(d)(i):
- 339 (A) the statewide removal requirement described in Subsection (7)(a) no longer applies;
- 341 (B) an LEA may choose to return the given material to student access; and
- 342 (C) nothing affects the findings of an LEA governing board regarding removal of the given material
within the board's LEA.
- 264 (e) Each LEA, the state board, and UETN shall remove student access to any material that a vendor
provides if three separate items of digital instructional material that the vendor provides are subject
to statewide removal under this section.
- 344 [(e)] (f) This Subsection (7) applies to sensitive materials that LEAs remove from student access,
regardless of whether:
- 346 (i) the sensitive material determinations occur in the same academic year; or
- 347 (ii) a sensitive material determination occurred before July 1, 2024.
- 348 (8) The state board shall:
- 349 (a) in consultation with the Office of the Attorney General, provide guidance and training to support
public schools in identifying instructional materials that meet the definition of sensitive materials
under this section;
- 352 (b) establish a process through which an individual described in Subsection (3)(a) may report to the
state board an allegation that an LEA is out of compliance with this section; and
- 355 (c) annually report to the Education Interim Committee, at or before the November interim meeting, on
implementation and compliance with this section, including:
- 357 (i) any policy the state board or an LEA adopts to implement or comply with this section;
- 359 (ii) any rule the state board makes to implement or comply with this section; and
- 360 (iii) any complaints an LEA or the state board receives regarding a violation of this section, including:
- 362 (A) action taken in response to a complaint described in this Subsection (8)(c)(iii);
- 363 (B) if an LEA retains an instructional material for which the LEA or the state board receives a
complaint, the LEA's rationale for retaining the instructional material; and
- 366 (C) compliance failures that the state board identifies through the reporting process described in
Subsection (8)(b) and other investigations or research.
- 368 (9) The state shall defend, indemnify, and hold harmless a person acting under color of state law to
enforce this section for any claims or damages, including court costs and attorney fees, that:

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- 371 (a) a person brings or incurs as a result of this section; and
372 (b) is not covered by the person's insurance policies or any coverage agreement that the State Risk
Management Fund issues.
- 374 (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the
Legislative Auditor General shall:
- 376 (a) conduct an audit of each school district's compliance with this section, ensuring the completion of
all school district audits before November 2028; and
378 (b) annually report to the Education Interim Committee regarding completed sensitive material audits
under this Subsection (10).
- 380 (11)
- (a) At the time of student registration each year, each LEA shall provide to parents:
- 381 (i) a physical copy of information regarding the process for reporting sensitive material in a school
setting within the LEA{, ~~including the role of the digital materials regulator to investigate
allegations involving digital instructional material~~};
- 385 (ii) an email containing the information described in Subsection (11)(a)(i); and
386 (iii) a direct link to the LEA's website that addresses sensitive material reporting described in
Subsection (11)(b).
- 388 (b) Each LEA website shall maintain an easily accessible and clearly visible section on the website's
homepage for reporting violations of law regarding sensitive material.
- 390 (12)
- (a) The state board, an LEA, or UETN may refuse donations of materials by a vendor or nonprofit, or,
without any penalty or any further financial obligation, rescind or otherwise terminate a contract for
a vendor to provide instructional material into which the state board, LEA, or UETN enters on or
after July 1, 2025, if:
- 394 (i) the state board or LEA governing board determines that instructional material is or contains
sensitive material; and
- 396 (ii) within 30 school days after the day on which the state board or LEA governing board provide
notice of the determination described in Subsection (12)(a)(i), the vendor fails to eliminate the
segment of the instructional material containing the sensitive material or otherwise remove
access to the sensitive material.

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- (b) In any contract for a vendor to provide digital instructional material for which the parties negotiate terms and into which the state board, an LEA, or UETN enters after July 1, 2025, the state board, LEA, or UETN shall ensure that the contract contains:
- 403 (i) notice provisions regarding the requirements and prohibitions regarding sensitive material in this section; and
- 405 (ii) provisions requiring the vendor to notify the { ~~digital materials regulator and the~~ } contracting entity of any update, modification, or addition to the instructional material the vendor provides that may contain or constitute sensitive material, including links to other material or websites from within the instructional material.
- 330 (c) Before an LEA, the state board, or UETN may require removal of donation of digital instructional materials from a vendor, the receiving entity shall provide notice regarding the requirements and prohibitions regarding sensitive material in this section.
- 409 ~~{(e)}~~ (d) The state board, an LEA, or UETN may remove a segment of digital instructional material that is found, through the processes described in this section, to contain sensitive material from the relevant curriculum.
- 412 ~~{(d)}~~ (e) An LEA, the state board, and the Utah Education and Telehealth Network shall each:
- 413 ~~{(i) {notify each vendor with which the entity contracts to provide digital instructional material in a school setting regarding:} }~~
- 415 ~~{(A)}~~ (i) notify each vendor with which the entity contracts to provide digital instructional material in a school setting regarding the requirements, prohibitions, and processes in this section and any relevant rule or policy of the contracting entity; and
- 417 ~~{(B) {the authority and duties of the digital materials regulator under Section 67-3-14, including the potential imposition of fines for violations and the requirement to submit an annual compliance letter to the digital materials regulator; and} }~~
- 420 (ii) ensure that any device, database, or service that allows a student to access digital instructional material includes a filter or other software service that prohibits access to sensitive material.
- 423 ~~{Section 4. Section 67-3-1 is amended to read: }~~
- 424 **67-3-1. Functions and duties.**
- 425 (1)
- (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

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- 427 (b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable
and necessary expenses of the state auditor's office.
- 429 (2) The state auditor shall examine and certify annually in respect to each fiscal year, financial
statements showing:
- 431 (a) the condition of the state's finances;
- 432 (b) the revenues received or accrued;
- 433 (c) expenditures paid or accrued;
- 434 (d) the amount of unexpended or unencumbered balances of the appropriations to the agencies,
departments, divisions, commissions, and institutions; and
- 436 (e) the cash balances of the funds in the custody of the state treasurer.
- 437 (3)
- 438 (a) The state auditor shall:
- 438 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of any
department of state government or any independent agency or public corporation as the
law requires, as the auditor determines is necessary, or upon request of the governor or the
Legislature;
- 442 (ii) perform the audits in accordance with generally accepted auditing standards and other auditing
procedures as promulgated by recognized authoritative bodies; and
- 444 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 445 (A) honesty and integrity in fiscal affairs;
- 446 (B) accuracy and reliability of financial statements;
- 447 (C) effectiveness and adequacy of financial controls; and
- 448 (D) compliance with the law.
- 449 (b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed
in accordance with federal audit requirements.
- 451 (c)
- 451 (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the
state auditor from the General Fund.
- 453 (ii) If an appropriation is not provided, or if the federal government does not specifically provide for
payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated

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on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4)

(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

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- (6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.
- 487 (7) The state auditor shall:
- 488 (a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:
- 490 (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
- 492 (ii) all debtors of the state;
- 493 (b) collect and pay into the state treasury all fees received by the state auditor;
- 494 (c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;
- 497 (d) stop the payment of the salary of any state official or state employee who:
- 498 (i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;
- 500 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or
- 503 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;
- 505 (e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 507 (f) superintend the contractual auditing of all state accounts;
- 508 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;
- 512 (h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and
- 515 (i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds

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the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

520 (8)

(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

524 (b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

528 (i) shall provide a recommended timeline for corrective actions;

529 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

531 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

536 (c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

539 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

541 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

543 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

545 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

547 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

549 (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

552 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

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- 555 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal
written notice of noncompliance from the auditor and has been given 60 days to make the specified
558 corrections.
- 558 (10)
- (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a
notice of non-registration, as that term is defined in Section 67-1a-15.
- 561 (b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local
government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from
accessing:
- 564 (i) money held by the state; and
- 565 (ii) money held in an account of a financial institution by:
- 566 (A) contacting the entity's financial institution and requesting that the institution prohibit access to the
account; or
- 568 (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,
requesting an order of the court to prohibit a financial institution from providing the entity access to
an account.
- 571 (c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if
the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from
the lieutenant governor.
- 574 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:
- 576 (a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms
are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is
necessary to:
- 579 (i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or
state or local taxing or fee-assessing unit; or
- 581 (ii) meet debt service obligations; and
- 582 (b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local
taxing or fee-assessing unit as the state auditor determines is appropriate.
- 585 (12)

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(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

588 (b) If the state auditor seeks relief under Subsection (12)(a):

589 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

591 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

594 (13) The state auditor shall:

595 (a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

601 (b) ensure that those guidelines and procedures provide assurances to the state that:

602 (i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

604 (ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

608 (iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

610 (iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

614 (14)

(a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy

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and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

621 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office
of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or
investigation of the public entity subject to the notice to determine compliance with Section
11-41-103.

625 (15)

(a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

627 (b) If the state auditor has previously been a responsible official in state government whose work has
not yet been audited, the Legislature shall:

629 (i) designate how that work shall be audited; and

630 (ii) provide additional funding for those audits, if necessary.

631 (16) The state auditor shall:

632 (a) with the assistance, advice, and recommendations of an advisory committee appointed by the state
auditor from among special district boards of trustees, officers, and employees and special service
district boards, officers, and employees:

635 (i) prepare a Uniform Accounting Manual for Special Districts that:

636 (A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for
special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts,
and special service districts under Title 17D, Chapter 1, Special Service District Act;

640 (B) conforms with generally accepted accounting principles; and

641 (C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of
accounting, budgeting, and reporting;

643 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally
accepted accounting principles;

645 (iii) conduct a continuing review and modification of procedures in order to improve them;

647 (iv) prepare and supply each district with suitable budget and reporting forms; and

648 (v)

(A) prepare instructional materials, conduct training programs, and render other services considered
necessary to assist special districts and special service districts in implementing the uniform
accounting, budgeting, and reporting procedures; and

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- 652 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22,
State Training and Certification Requirements; and
- 654 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences
of specific special districts and special service districts selected by the state auditor and make the
information available to all districts.
- 657 (17)
- (a) The following records in the custody or control of the state auditor are protected records under Title
63G, Chapter 2, Government Records Access and Management Act:
- 660 (i) records that would disclose information relating to allegations of personal misconduct,
gross mismanagement, or illegal activity of a past or present governmental employee if the
information or allegation cannot be corroborated by the state auditor through other documents
or evidence, and the records relating to the allegation are not relied upon by the state auditor in
preparing a final audit report;
- 666 (ii) records and audit workpapers to the extent the workpapers would disclose the identity of
an individual who during the course of an audit, communicated the existence of any waste
of public funds, property, or manpower, or a violation or suspected violation of a law, rule,
or regulation adopted under the laws of this state, a political subdivision of the state, or any
recognized entity of the United States, if the information was disclosed on the condition that the
identity of the individual be protected;
- 673 (iii) before an audit is completed and the final audit report is released, records or drafts circulated
to an individual who is not an employee or head of a governmental entity for the individual's
response or information;
- 676 (iv) records that would disclose an outline or part of any audit survey plans or audit program; and
- 678 (v) requests for audits, if disclosure would risk circumvention of an audit.
- 679 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records
or information that relate to a violation of the law by a governmental entity or employee to a
government prosecutor or peace officer.
- 682 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor
to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2,
Government Records Access and Management Act.
- 685 (d)

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- (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.
- 691 (ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.
- 695 (iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.
- 698 (18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.
- 703 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.
- 705 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.
- 709 (21)
- (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:
- 710 (i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;
- 712 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and
- 714 (iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into

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consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

- 719 (b) Nothing in this subsection limits or impairs the authority of the State Board of Education to
administer the programs described in Subsection (21)(a).
- 721 (22) The state auditor shall, based on the information posted by the Office of Legislative Research and
General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following
information on the state auditor's website:
- 724 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);
- 725 (b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;
- 727 (c) an indication regarding whether the policy complies with the requirements established by law for the
policy; and
- 729 (d) a link to the policy.
- 730 (23)
- (a) A legislator may request that the state auditor conduct an inquiry to determine whether a
government entity, government official, or government employee has complied with a legal
obligation directly imposed, by statute, on the government entity, government official, or
government employee.
- 734 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry
requested.
- 736 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post
the results of the inquiry on the state auditor's website.
- 738 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination,
without conducting an audit, regarding whether the obligation was fulfilled.
- 741 (24) The state auditor shall:
- 742 (a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with
Section 63G-31-401; and
- 744 (b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions
under this Subsection (24).
- 746 (25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:
- 748 (a) establishing a process to receive and audit each alleged violation; and
- 749

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(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).

(26) The state auditor shall:

(a) establish and oversee a digital materials regulator, in accordance with Section 67-3-14;

(b) establish the compensation of the digital materials regulator and any other staff the state auditor deems necessary to fulfill the role of the digital materials regulator;

(c) review the actions of the digital materials regulator; and

(d) annually report regarding the digital materials regulator to the Education Interim Committee.

Section 5. Section 5 is enacted to read:

67-3-14. Digital materials regulator.

(1) As used in this section:

(a) "Instructional material" means the same as that term is defined in Section 53G-10-103.

(b) "LEA" means the same as that term is defined in Section 53E-1-102.

(c) "Regulator" means the digital materials regulator the state auditor establishes under this section.

(d) "School setting" means the same as that term is defined in Section 53G-10-102.

(e) "Sensitive material" means the same as that term is defined in Section 53G-10-103.

(f) "State board" means the State Board of Education.

(g) "Vendor" means an entity that provides instructional material to students in a school setting:

(i) under a contract with the state board, an LEA, or the Utah Education and Telehealth Network; or

(ii) through donating instructional material.

(2) The state auditor shall establish a digital materials regulator to oversee compliance with state laws governing sensitive material in a school setting, including the marketing and sale of sensitive material to minors through educational resources.

(3) The regulator shall:

(a) investigate reports of, through digital instructional material in a school setting:

(i) the marketing of sensitive material to minors; and

(ii) the availability of sensitive material to minors in school databases or other educational resources;

(b) conduct research;

(c)

(i) impose a fine of \$10,000 per day per item of sensitive material in accordance with Subsection (4);
and

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- 784 (ii) deposit any fee the regulator collects under Subsection (3)(c)(i) into the Uniform School Fund;
786 (d) make recommendations to LEA governing boards and the state board for the termination of
contracts with vendors with three or more fines under Subsection (3)(c); and
789 (e) refer alleged violations of Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and
Performances, regarding sensitive material in a school setting to relevant law enforcement agencies.
792 (4) A vendor is subject to a fine of \$10,000 per day for each item of sensitive material that a vendor
makes accessible to a minor through digital instructional material in a school setting.
795 (5) A vendor shall submit an annual compliance letter, before August 1 of each year, affirming
understanding of and compliance with Section 53G-10-103.

345 Section 3. **Effective date.**

This bill takes effect on July 1, 2025.

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