

Candice B. Pierucci proposes the following substitute bill:

**Course Choice Empowerment**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: Jefferson Moss

---

---

**LONG TITLE**

**General Description:**

This bill establishes a private online course choice program.

**Highlighted Provisions:**

This bill:

- establishes standards for educational software and hardware procurement;
- removes references to a contractor from the Statewide Online Education Program statute;
- creates an online course choice program specifically for private school students;
- requires the program be administered by an independent program manager contracted by the State Board of Education;
- allows eligible students to earn credits through online courses, including courses in blended-learning environments;
- establishes a contract administrator role to oversee program implementation;
- authorizes the state board to contract with multiple entities for different program functions;
- provides for state oversight while maintaining program independence;
- creates transition provisions if program manager contracts end;
- requires separate funding from public education programs;
- requires the program manager to:
  - approve and oversee course providers;
  - approve and oversee courses offered;
  - establish payment structure for courses; and
  - annually report on program performance; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

**53F-4-501**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 1

**53F-4-503**, as last amended by Laws of Utah 2024, Chapter 24

**53F-4-505**, as last amended by Laws of Utah 2024, Chapter 24

**53F-4-507**, as last amended by Laws of Utah 2024, Chapter 24

**53F-4-511**, as last amended by Laws of Utah 2024, Chapter 24

**53F-4-512**, as last amended by Laws of Utah 2024, Chapter 24

**53F-4-514**, as last amended by Laws of Utah 2024, Chapter 24

**53F-4-516**, as last amended by Laws of Utah 2024, Chapter 24

**53F-6-401**, as last amended by Laws of Utah 2024, Chapter 26

**ENACTS:**

**53F-4-209**, Utah Code Annotated 1953

**53F-4-519**, Utah Code Annotated 1953

**53F-6-501**, Utah Code Annotated 1953

**Utah Code Sections affected by Coordination Clause:**

---

---

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

Section 1. Section **53F-4-209** is enacted to read:

**53F-4-209 . Neutrality and integrity in educational software and hardware procurement.**

(1) As used in this section:

(a) "Educational entity" means:

(i) the state board; or

(ii) a local education agency governing board.

(b) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with computer data or with the operation of a computer, computer program, or computer network.

(c) "Total cost of ownership" means the sum of all costs borne by the educational entity during the useful life of the software and hardware, including costs for acquisition, installation, training, data conversion, integration, maintenance, upgrades, and technical support.

- (2) The Legislature finds that:
- (a) the state board and local education agency governing boards have access to a broad variety of software and hardware products;
  - (b) these boards should evaluate software and hardware based on performance, value, cost, and licensing terms; and
  - (c) neutral software and hardware procurement practices promote competition, reduce costs, and provide better educational outcomes.
- (3) An educational entity shall:
- (a) base software and hardware procurement decisions on performance and value criteria, including quality, functionality, security, reliability, interoperability, and total cost of ownership;
  - (b) maintain neutrality with respect to:
    - (i) whether a for-profit or non-profit entity provides the software and hardware; and
    - (ii) the licensing model under which a provider offers the software and hardware; and
  - (c) retain the ability to install or run software and hardware on hardware that the educational entity chooses.
- (4) An educational entity may consider the effect of specific licensing terms in software and hardware procurement decisions, including terms governing:
- (a) availability of software and hardware source code;
  - (b) rights and restrictions regarding software and hardware modification;
  - (c) redistribution rights;
  - (d) warranties; and
  - (e) intellectual property indemnification.
- (5) An educational entity shall interpret and apply this section in concert with all applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

Section 2. Section **53F-4-501** is amended to read:

**53F-4-501 . Definitions.**

As used in this part:

- (1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).
- (2)(a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.
- (b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(4)[(a)] "Eligible student" means a student who:

[(i)] (a) ~~[who]~~intends to take a course for middle school or high school credit; and

[(ii)(A) ~~who is enrolled in an LEA in Utah;~~]

[(B) ~~who attends a private school or home school and whose custodial parent is a resident of Utah; or~~]

[(C) ~~who is an exchange student residing in Utah and enrolled in an LEA or private school in Utah.~~]

(b) is:

(i) enrolled in an LEA in Utah; or

(ii) a home-based student in accordance with Section 53G-6-204, whose custodial parent is a resident of Utah.

[(b) ~~"Eligible student" does not include a scholarship student as defined in Section 53F-6-401.~~]

[(5) ~~"Exchange student" means a student sponsored by an agency approved by an LEA or private school governing board or a student who has an F-1, J-1, or J-2 visa.~~]

[(6)] (5) "High school" means grade 9, 10, 11, or 12.

[(7)] (6) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

[(8)] (7) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of whether the student participates in the course at home, at school, at another location, or any combination of these.

[(9)] (8) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

[(10)] (9) "Primary LEA of enrollment" or "primary LEA" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[(11)] (10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

[(12) ~~"State board's contractor" means the private entity described in Section 53F-4-503 with which the state board contracts to administer the portion of the Statewide Online~~

Education Program designated for a student who attends private school or home school.]

Section 3. Section **53F-4-503** is amended to read:

**53F-4-503 . Option to enroll in online courses offered through the Statewide  
Online Education Program.**

- (1) Subject to Subsections (2), (9), and (12), and~~[, for a public education student,]~~ with the advice of a school counselor at a student's primary LEA, an eligible student may enroll in an online course offered through the Statewide Online Education Program if:
  - (a) the student meets the course prerequisites;
  - (b) the course is open for enrollment; and
  - (c) the online course is aligned with the student's plan for college and career readiness.
- (2) An eligible student may enroll in online courses totaling up to six credits per school year.
- (3) Notwithstanding Subsection (2):
  - (a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or
  - (b) upon the request of an eligible student, the state board ~~[or, in relation to a student who attends a private school or home school, the state board's contractor,]~~ may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.
- (4) An eligible student's primary LEA of enrollment:
  - (a) in conjunction with the student and the student's parent, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section 53E-2-304; and
  - (b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.
- (5) An eligible student's primary LEA of enrollment may not:
  - (a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or
  - (b) give preference to an online course or authorized online course provider.
- (6) The state board, ~~[or, in relation to a student who attends a private school or home school, the state board's contractor,]~~ including an employee of the state board~~[- or the state board's contractor,]~~, may not give preference to an online course or authorized

online course provider.

(7)(a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a ~~[public school]~~ student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the ~~[public school]~~ eligible student.

(8) The state board shall coordinate with the Utah System of Higher Education to study funding structures and access barriers related to concurrent enrollment for the Statewide Online Education Program and provide recommendations to the Education Interim Committee no later than the November 2024 meeting.

(9) Subject to legislative appropriations~~[- and for an eligible student who is enrolled at a public school]~~, the state board shall provide Statewide Online Education Program academic counseling that:

(a) may advise an eligible student or an eligible student's parent regarding an online course enrollment including how an online course relates to graduation requirements described in Section 53E-4-204 and administrative rule;

(b) provides the training described in Section 53F-4-514;

(c) provides technical support to an LEA, school-based counselor, eligible student, or eligible student's parent;

(d) assists in gathering information, reports, and data an LEA requests; and

(e) directs an eligible student or an eligible student's parent to a school-specific counselor for advice regarding an online course enrollment in relation to an LEA, or school-specific graduation requirement and all other counseling services.

(10) If an eligible student has an IEP or Section 504 accommodation plan:

(a) the eligible student's primary LEA:

(i) shall:

(A) forward a copy of the relevant portions of the eligible student's existing IEP or Section 504 accommodation plan to the authorized online course provider in accordance with federal law and guidelines; and

(B) ensure the authorized online course provider is provided an eligible student's

- 199 updated IEP when revisions are made;
- 200 (ii) may:
- 201 (A) ensure the eligible student's IEP team and the authorized online course
- 202 provider review a course enrollment for compliance with requirements
- 203 described in Subsection (1); and
- 204 (B) as needed, coordinate additional IEP team reviews with the authorized online
- 205 course provider to ensure appropriate services, supports, and accommodations
- 206 are in place for the eligible student; and
- 207 (b) the authorized online course provider:
- 208 (i) shall implement an eligible student's IEP or Section 504 accommodation plan; and
- 209 (ii) may seek assistance from the primary LEA to implement an eligible student's IEP
- 210 or Section 504 accommodation plan.
- 211 (11) The state board shall create a model cooperative agreement between a primary LEA
- 212 and an authorized online course provider for use when the primary LEA determines that
- 213 an authorized online course provider would best provide IEP services, including a
- 214 requirement that the eligible student's primary LEA provide funding for the IEP services.
- 215 (12) If the program lacks sufficient legislative appropriations to fund the enrollment in
- 216 online courses for all eligible students who do not have a primary LEA of enrollment,
- 217 the state board ~~[or, in relation to a student who attends a private school or home school,~~
- 218 ~~the state board's contractor,]~~ shall prioritize funding the enrollment of an eligible student
- 219 who intends to graduate from high school during the school year in which the student
- 220 enrolls in an online course.
- 221 ~~[(13) No later than April 1, 2025, and in accordance with Title 63G, Chapter 6a, Utah~~
- 222 ~~Procurement Code, the state board shall use funds the state board expends to administer~~
- 223 ~~to the Statewide Online Education Program for students who attend private school or~~
- 224 ~~home school to alternatively contract with a private entity:]~~
- 225 ~~[(a) that has demonstrated an expertise or ability to administer a statewide program to~~
- 226 ~~deliver education services to students who attend private school or home school; and]~~
- 227 ~~[(b) to administer the portion of the Statewide Online Education Program that is~~
- 228 ~~designated for students who attend private school or home school, including~~
- 229 ~~providing an enrollment platform or tool separate from the enrollment tool or~~
- 230 ~~platform the state board provides for the program.]~~
- 231 ~~[(14) The state board's contractor described in Subsection (13) may use a percentage of the~~
- 232 ~~appropriation for home school and private school students that is equal to the proportion~~

of the state board's administrative cost in relation to the appropriation for students enrolled in an LEA.]

Section 4. Section **53F-4-505** is amended to read:

**53F-4-505 . Payment for an online course.**

- (1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:
  - (a) \$200 for the following courses, except a concurrent enrollment course:
    - (i) financial literacy;
    - (ii) health;
    - (iii) fitness for life; and
    - (iv) computer literacy;
  - (b) \$200 for driver education;
  - (c) \$250 for a course that meets core standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;
  - (d) \$300 for the following courses:
    - (i) a course that meets core standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and
    - (ii) a world language course, except a concurrent enrollment course;
  - (e) \$350 for the following courses:
    - (i) a course that meets core standards for Utah public schools requirements for language arts, mathematics, or science; and
    - (ii) a concurrent enrollment course; and
  - (f) \$250 for a course not described in Subsections (1)(a) through (e).
- (2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.
- (3) The online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.
- (4) An authorized online course provider shall receive payment for an online course as follows:
  - (a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53F-4-506;
  - (b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53F-4-506 and 25% of the online course fee upon the beginning



- 267 of the second .5 credit of the online course; and
- 268 (c) if a student completes a 1 credit online course within 12 months or a .5 credit course
- 269 within nine weeks following the end of a traditional semester, 50% of the online
- 270 course fee.
- 271 (5)(a) If a student fails to complete a 1 credit course within 12 months or a .5 credit
- 272 course within nine weeks following the end of a traditional semester, the student may
- 273 continue to be enrolled in the course until the student graduates from high school.
- 274 (b) To encourage an authorized online course provider to provide remediation to a
- 275 student who remains enrolled in an online course pursuant to Subsection (5)(a) and
- 276 avoid the need for credit recovery, an authorized online course provider shall receive
- 277 a payment equal to 30% of the online course fee if the student completes the online
- 278 course:
- 279 (i) for a high school online course, before the student graduates from high school; or
- 280 (ii) for a middle school online course, before the student completes middle school.
- 281 (6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a
- 282 school district or charter school may:
- 283 (a) negotiate a fee with an authorized online course provider for an amount up to the
- 284 amount prescribed in Subsections (1) through (3); and
- 285 (b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).
- 286 (7) An authorized online course provider who contracts with a vendor for the acquisition of
- 287 online course content or online course instruction may negotiate the payment for the
- 288 vendor's service independent of the fees specified in Subsections (1) through (3).
- 289 (8) The state board ~~[or, in relation to a student who attends a private school or home school,~~
- 290 ~~the state board's contractor,]~~ may not remove a student from an online course if the
- 291 student is eligible for continued enrollment in the online course under Subsection (5).
- 292 (9) Upon request by a primary LEA, the state board shall provide an itemized report to the
- 293 primary LEA showing the deduction described in Subsection 53F-4-508(2) by student
- 294 and course enrolled.

295 Section 5. Section **53F-4-507** is amended to read:

296 **53F-4-507 . Direction to deduct funds and make payments -- Plan for the**

297 **payment of online courses taken by home-based students.**

- 298 (1)[(a)] Subject to future budget constraints, the Legislature shall adjust the
- 299 appropriation for the Statewide Online Education Program based on[÷]
- 300 [(÷)]

(a) the anticipated increase of eligible ~~[home-school]~~ home-based ~~[and private school]~~ students enrolled in the Statewide Online Education Program; and

~~[(ii)]~~

(b) the value of the weighted pupil unit.

~~[(b) The state board shall, if the state board contracts with a private entity under Subsection 53F-4-503(9), delegate to the state board's contractor the management of the funds appropriated for the Statewide Online Education Program for students who attend private school or home school.]~~

(2) Notwithstanding Subsection (1) and subject to future budget constraints, the Legislature shall:

(a) consider enrollment projections provided by the authorized online course providers to account for enrollment growth during the appropriations process; and

(b) provide a supplemental appropriation to adequately fund the Statewide Online Education Program when the enrollment amount exceeds the projected enrollment amounts provided by the authorized online course providers~~[: and]~~ .

~~[(e) in the fiscal year beginning July 1, 2025, keep all other appropriations for the Statewide Online Education Program separate from the appropriations described in Section 53F-4-518.]~~

(3)(a) The state board shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to pay for online course fees.

(b) Money shall be deducted under Subsection (3)(a) in the amount and at the time an authorized online course provider qualifies to receive payment for an online course provided to a ~~[public education]~~ student, not to exceed 90 days after qualification, as provided in Subsection 53F-4-505(4).

~~[(e) The state board or, in relation to a student who attends a private school or home school, the state board's contractor, shall deduct money from funds allocated for course fees for a private school or home school student in the amount and at the time an authorized online course provider qualifies to receive payment for an online course, not to exceed 90 days after qualification.]~~

(4) From money deducted under Subsection (3), the state board ~~[or, in relation to a student who attends a private school or home school, the state board's contractor,]~~ shall make payments to the student's authorized online course provider as provided in Section 53F-4-505.

Section 6. Section **53F-4-511** is amended to read:

**53F-4-511 . Report on performance of authorized online course providers.**

- (1) The state board, in collaboration with authorized online course providers, ~~[and, if applicable, the state board's contractor, ]~~ shall develop a report on the performance of authorized online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an authorized online course provider.
- (2) A report on the performance of an authorized online course provider shall include:
- (a) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;
  - (b) the percentage of the authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505 (4)(c);
  - (c) the percentage of the authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505 (4)(c) and before the student graduates from high school; and
  - (d) the pupil-teacher ratio for the combined online courses of the authorized online course provider.
- (3) The state board shall post a report on the performance of an authorized online course provider on the Statewide Online Education Program's website described in Section 53F-4-512.

Section 7. Section **53F-4-512** is amended to read:

**53F-4-512 . Dissemination of information on the Statewide Online Education Program.**

- (1) The state board shall develop a website for the Statewide Online Education Program which shall include:
- (a) a description of the Statewide Online Education Program, including its purposes;
  - (b) notwithstanding Subsection (2), information on who is eligible to enroll, and how an eligible student may enroll, in an online course;
  - (c) a directory of authorized online course providers;
  - (d) a link to a course catalog for each authorized online course provider; and
  - (e) a report on the performance of authorized online course providers as required by Section 53F-4-511.
- (2) An authorized online course provider shall provide the following information on the

authorized online course provider's website:

- (a) a description of the Statewide Online Education Program, including its purposes;
- (b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;
- (c) a course catalog;
- (d) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;
- (e) the percentage of an authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505 (4)(c);
- (f) the percentage of an authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505 (4)(c) and before the student graduates from high school; and
- (g) the authorized online course provider's pupil-teacher ratio for the online courses combined.

~~[(3) The state board's contractor shall provide on the contractor's website information regarding enrollment and participation by a private school or home school student through the contractor.]~~

Section 8. Section **53F-4-514** is amended to read:

**53F-4-514 . State board -- Rulemaking -- Fees.**

- (1) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide a delayed effective date that is after the school year has ended for a change to an administrative rule related to the Statewide Online Education Program if the change would require an authorized online course provider to make program changes during the school year.
- (2) The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:
  - (a) a course credit acknowledgement form and procedures for completing and submitting to the state board ~~[or, in relation to a student who attends a private school or home school, the state board's contractor,]~~ a course credit acknowledgement;
  - (b) procedures for the administration of a statewide assessment to a student enrolled in an online course; ~~[and]~~
  - (c) protocols for an online course provider to obtain approval to become a certified

- online course provider, including:
- (i) the application procedure for an online course provider to obtain approval to become a certified online course provider; and
  - (ii) the standards that a certified online course provider and any online course the certified online course provider offers shall meet;
- (d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, criteria for an authorized online course provider to submit for approval an online course that does not have an existing state board course code; and
- (e) ~~[no later than July 1, 2024, a]~~ a process within existing systems at the state board ~~[or, in relation to a student who attends a private school or home school, the state board's contractor,]~~ to allow a certified online course provider access to an educator's licensing, endorsement, certification, and assignment information if the educator is teaching an online course for the certified online course provider;
- (f) in consultation with the authorized online course providers, the parameters for conducting a site visit including:
- (i) a definition for the term, site visit;
  - (ii) the minimum amount of time required for:
    - (A) notice to an authorized online course provider of a site visit; and
    - (B) an authorized online course provider to prepare for a site visit;
  - (iii) the documents, data, and artifacts subject to inspection during a site visit; and
  - (iv) a process to ensure a site visit allows for observation of instruction without interfering with the instruction;
- (g) annual mandatory training for relevant staff at a primary LEA that includes:
- (i) program requirements for a primary LEA including reporting requirements and methods;
  - (ii) uses of resources and tools to ensure adequate monitoring of an eligible student's progress;
  - (iii) federal and state requirements for accommodating enrollments that involve special education;
  - (iv) appropriate circumstances and methodologies for reducing an eligible student's schedule; and
  - (v) other components the state board determines are necessary~~[-and]~~ .
- (3)(a) When establishing the standards described in Subsection (2)(c)(ii) the state board shall:

- 437 (i) establish rules and minimum standards regarding accreditation;  
438 (ii) require an online course to be aligned with the core standards described in  
439 Section 53E-4-202;  
440 (iii) require proof that a national organization responsible for college athletics  
441 endorses:  
442 (A) the certified online course provider; or  
443 (B) the online course that a certified online course provider offers;  
444 (iv) permit an open-entry, open-exit method of instructional delivery that allows a  
445 student the flexibility to:  
446 (A) schedule in response to individual needs or requirements;  
447 (B) demonstrate competency when the student has mastered knowledge and skills;  
448 (C) begin or end study at any time; and  
449 (D) progress through course material at the student's own pace; and  
450 (v) except as provided in Subsection (5), require an individual who teaches a course  
451 for a certified online course provider to hold a teaching license issued by the state  
452 board.
- 453 (b) When establishing the standards described in Subsection (2)(c)(ii), the state board  
454 may not:  
455 (i) specify a minimum duration for an online course;  
456 (ii) specify a minimum amount of time that a student must spend in an online course;  
457 or  
458 (iii) limit the class size of an online course.
- 459 (4) No later than January 31, 2026, the state board shall create a communication dashboard  
460 for the program [~~and only related to eligible students enrolled in a public school~~]that  
461 may include:  
462 (a) a counselor contact list for an eligible student that is accessible to an authorized  
463 online course provider; and  
464 (b) progress monitoring fields that are accessible to the primary LEA, the eligible  
465 student's counselor, and the eligible student's parent containing:  
466 (i) grade progress reporting of an eligible student by an authorized online course  
467 provider;  
468 (ii) an ability to flag a student that is at-risk of failing an online course; and  
469 (iii) other relevant capabilities the state board determines to be necessary in  
470 consultation with LEA users of the dashboard.

- 471 (5) If an individual possesses a provider-specific license described in Section 53E-6-201,  
472 the state board may not prohibit the individual from teaching an online course for an  
473 authorized online course provider while the individual is in the process of obtaining an  
474 endorsement or additional license issued by the state board.
- 475 (6) The state board may establish a fee, in accordance with Section 63J-1-504, in an amount  
476 to pay the costs to the state board of the application approval process and the monitoring  
477 of a certified online course provider's compliance with the standards described in  
478 Subsection (2)(c)(ii).
- 479 (7)(a) Fee revenue collected in accordance with Subsection (6) shall be:
- 480 (i) deposited into the Uniform School Fund as a dedicated credit; and
- 481 (ii) used to pay the costs to the state board of reviewing certified online course  
482 providers' applications and compliance with the standards described in Subsection  
483 (2)(c)(ii).

484 Section 9. Section **53F-4-516** is amended to read:

485 **53F-4-516 . Report of noncompliance -- Action to ensure compliance.**

- 486 (1) The state superintendent shall report to the state board any report of noncompliance of  
487 this part made to a staff member of the state board[ ~~or, in relation to a student who~~  
488 ~~attends a private school or home school, the state board's contractor~~].
- 489 (2) The state board [and, if applicable, the state board's contractor, ]shall take appropriate  
490 action to ensure compliance with this part.

491 Section 10. Section **53F-4-519** is enacted to read:

492 **53F-4-519 . Home-based student access to online courses.**

- 493 Subject to legislative appropriations and Subsection 53-4-514(2), and notwithstanding  
494 Subsections 53F-4-509(2) and (3), the state board shall
- 495 (1) use funds from an appropriation for the Statewide Online Education Program to pay for  
496 an online course fee described in Section 53F-4-505 for a home-based student whose  
497 custodial parent is a resident of Utah; and
- 498 (2) allocate funds for online course fees for home-based students on a first-come,  
499 first-served basis until the appropriated funds are fully expended.

500 Section 11. Section **53F-6-401** is amended to read:

501 **53F-6-401 . Definitions.**

502 As used in this part:

- 503 (1) "Eligible student" means a student:
- 504 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

- (b) who is a resident of the state, including a child of a military service member, as that term is defined in Section 53B-8-102;
- (c) who, during the school year for which the student is applying for a scholarship account:
- (i) does not receive a scholarship under:
    - (A) the Carson Smith Scholarship Program established in Section 53F-4-302; or
    - (B) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and
  - (ii) is not enrolled in, upon receiving the scholarship:
    - (A) an LEA; or
    - (B) the Statewide Online Education Program to participate in a course with funding provided under Title 53F, Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Subsection 53F-6-409(7);
  - (d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and
  - (e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).
- (2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.
- (3)(a) "Home-based scholarship student" means a student who:
- (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;
  - (ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a ~~[home-school]~~ home-based learning environment; and
  - (iii) receives a benefit of scholarship funds.
- (b) "Home-based scholarship student" does not mean a ~~[home-school]~~ home-based student who does not receive a scholarship under the program.
- (4) "Parent" means:
- (a) the same as that term is defined in Section 53E-1-102; and
  - (b) a foster parent who has initiated a process to adopt the foster child.
- (5) "Program manager" means an organization that:
- (a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;
  - (b) is not affiliated with any international organization;
  - (c) does not harvest data for the purpose of reproducing or distributing the data to other



entities;

(d) has no involvement in guiding or directing any curriculum or curriculum standards;

(e) does not manage or otherwise administer a scholarship under:

(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(ii) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(f) an agreement with the state board recognizes as a program manager, in accordance with this part.

(6)(a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Program manager employee" does not include:

(i) an individual who volunteers for the program manager or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

(7) "Program manager officer" means:

(a) a member of the board of a program manager; or

(b) the chief administrative officer of a program manager.

(8)(a) "Qualifying provider" means one of the following entities:

(i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

(ii) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(b) "Qualifying provider" does not include:

(i) a parent of a home-based scholarship student [~~or a home school student~~] solely in relation to the parent's child; or

(ii) any other individual that does not meet the requirements described in Subsection (8)(a).

(9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(10) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

(11)(a) "Scholarship expense" means an expense described in Section 53F-6-402 that a

parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

- ~~[(a)]~~ (i) tuition and fees of a qualifying provider;
- ~~[(b)]~~ (ii) fees and instructional materials at a technical college;
- ~~[(c)]~~ (iii) tutoring services;
- ~~[(d)]~~ (iv) fees for after-school or summer education programs;
- ~~[(e)]~~ (v) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;
- ~~[(f)]~~ (vi) educational software and applications;
- ~~[(g)]~~ (vii) supplies or other equipment related to a scholarship student's educational needs;
- ~~[(h)]~~ (viii) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;
- ~~[(i)]~~ (ix) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:
  - ~~[(i)]~~ (A) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;
  - ~~[(ii)]~~ (B) a state-recognized industry certification examination; and
  - ~~[(iii)]~~ (C) an examination related to college or university admission;
- ~~[(j)]~~ (x) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;
- ~~[(k)]~~ (xi) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;
- ~~[(l)]~~ (xii) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed \$750 in a given school year;
- ~~[(m)]~~ (xiii) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or
- ~~[(n)]~~ (xiv) any other expense for a good or service that:

- 607                    [(i)] (A) a parent or scholarship student incurs in the education of the scholarship  
608                    student; and
- 609                    [(ii)] (B) the program manager approves, in accordance with Subsection (5)(d).
- 610        (b) "Scholarship expense" does not include:
- 611                    (i) chaperone expenses, except that a family with one or more scholarship students  
612                    receiving the scholarship under Subsection 53F-6-402(2)(c) may use scholarship  
613                    funds for one chaperone expense or pass per family, regardless of how many  
614                    scholarship students are in the family or household;
- 615                    (ii) season tickets or subscriptions to entertainment venues;
- 616                    (iii) ski passes or lift tickets;
- 617                    (iv) access to recreational facilities unless for physical education of the student;
- 618                    (v) playground equipment;
- 619                    (vi) the purchase of any type of:
- 620                        (A) furniture; or
- 621                        (B) a musical instrument;
- 622                    (vii) apparel; and
- 623                    (viii) other non-educational expenses as the program manager determines.
- 624        (12) "Scholarship funds" means:
- 625                    (a) funds that the Legislature appropriates for the program; and
- 626                    (b) interest that scholarship funds accrue.
- 627        (13)(a) "Scholarship student" means an eligible student, including a home-based  
628                    scholarship student, for whom the program manager establishes and maintains a  
629                    scholarship account in accordance with this part.
- 630                    (b) "Scholarship student" does not include a [~~home school~~] home-based student who does  
631                    not receive a scholarship award under the program.
- 632        (14) "Utah Fits All Scholarship Program" or "program" means the scholarship program  
633                    established in Section 53F-6-402.

634                    Section 12. Section **53F-6-501** is enacted to read:

635                                    **Part 5. Utah Private Course Choice Empowerment**

636                                    **53F-6-501 . Utah Private Course Choice Empowerment program.**

637                    (1) As used in this section:

- 638                    (a) "Authorized online course provider" or "provider" means a provider approved by the  
639                    program manager to offer online courses through the program.
- 640                    (b) "Blended learning" means an education model that:

- 641 (i) combines in-person and online or digital instruction and learning activities;  
642 (ii) allows students to receive instruction through:  
643 (A) direct, in-person interaction with an instructor;  
644 (B) digital or online content and activities; or  
645 (C) a combination of both in-person and online methods;  
646 (iii) may include hybrid teaching formats where:  
647 (A) some students participate in-person while others participate remotely; or  
648 (B) instruction alternates between in-person and online delivery; and  
649 (iv) provides students flexibility in time, place, path, or pace of learning.  
650 (c) "Contract administrator" means the state board's appointed Deputy Superintendent of  
651 Operations that ensures the program manager meets contractual obligations.  
652 (d) "Contract oversight and compliance" means the oversight and coordination functions  
653 performed by the Department of Operations contract administrator, including:  
654 (i) establishing and maintaining program standards within a contract with a program  
655 manager;  
656 (ii) determining operational requirements and structures;  
657 (iii) procuring and managing contracts for program services and standards;  
658 (iv) ensuring program integrity through direct or contracted oversight;  
659 (v) coordinating program functions and contracted services with a program manager;  
660 and  
661 (vi) maintaining appropriate separation between government oversight and  
662 independent program operations.  
663 (e) "Contracted entity" means an organization that:  
664 (i) contracts with the state board to perform duties and functions necessary for  
665 program administration and operations;  
666 (ii) is not affiliated with any international organization;  
667 (iii) does not harvest data for the purpose of reproducing or distributing the data to  
668 other entities;  
669 (iv) has no involvement in guiding or directing any curriculum or curriculum  
670 standards; and  
671 (v) performs the specific duties and functions assigned in the contract with the state  
672 board.  
673 (f) "Department of Operations" means the section of the state board that oversees  
674 financial operations, procurement operations, data and statistics operations, school

land trust, and information technology operations for the state board.

(g) Eligible student" means a student:

(i) who attends a private school whose parent is a resident of Utah; or

(ii) who is an exchange student residing in Utah and enrolled in a private school in Utah.

(h) "Online course" means a course of instruction for grades 6 through 12 offered through the program using digital technology, including:

(i) an exclusively online learning and instructional model; or

(ii) blended learning models.

(i) "Private school" means the same as term is defined in Section 53F-6-401.

(j) "Program" means the Utah Private Course Choice Empowerment program created in this section.

(k) "Program manager" means a contracted entity that, at the time of application, demonstrates the ability without external contracts to internally meet the qualifications specified in this section, that is contracted by the state board to administer the Utah Private Course Choice Empowerment program, including:

(i) the ability to manage, distribute, and transact program funds;

(ii) capacity to create and maintain a user-friendly website;

(iii) the ability to verify a student's eligibility based on the requirements of this part;

(iv) capacity to process provider payments and maintain financial records;

(v) ability to track, monitor, and report program enrollment, participation, and outcomes at both provider and individual student levels; and

(vi) maintenance of a publicly accessible provider list, including:

(A) the capability to allow a student or a student's parent to rate, review, and share information about providers; and

(B) appropriate links to a provider's course catalog.

(2) The program is created to enable an eligible student to engage in taking online courses.

(3) The purposes of the program are to:

(a) provide a student with access to online learning options regardless of where the student attends school, including blending learning settings;

(b) provide digital learning options for a student regardless of language, residence, family income, or special needs;

(c) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(d) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(e) allow a student to customize the student's schedule to better meet the student's academic goals;

(f) provide quality learning options to better prepare a student for post-secondary education and career opportunities; and

(g) support flexible learning environments through blended learning options that combine the benefits of both in-person and online instruction to enhance student engagement and achievement.

(4) An eligible student may enroll in an online course offered through the program if:

(a) the student meets the course prerequisites; and

(b) the course is open for enrollment.

(5)(a) An eligible student may enroll in online courses up to the equivalent of six credits per school year.

(b) Notwithstanding Subsection (5)(a), if an eligible student is also a scholarship student as defined in Section 53F-6-401, the student may enroll in online courses up to the equivalent of four credits per school year.

(6)(a) No later than April 1, 2025, the state board shall:

(i) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, enter in an agreement with one or more contracted entities to serve as a program manager for the program, including management of the funds appropriated for the program;

(ii) ensure the initial contract is no more than a three-year contract with annual renewal options subject to performance review and compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(iii) ensure the contract:

(A) clearly delineates the specific duties and functions to be performed;

(B) ensures the efficiency and success of the program;

(C) maintains appropriate separation between program and contract administration and direct educational services;

(D) preserves the independence of educational decisions made between parents and providers; and

(E) does not impose any requirements on the program manager that are not essential to the basic administration of the program or create restrictions,

- 743 directions, or mandates regarding instructional content or curriculum.
- 744 (b) The state board shall perform contract oversight and compliance through the contract
- 745 administrator, who shall:
- 746 (i) regulate and take enforcement action as necessary against a program manager in
- 747 accordance with the provisions of the state board's agreement with the program
- 748 manager;
- 749 (ii) ensure the program manager adheres to all contractual obligations;
- 750 (iii) review all program reports and financial records;
- 751 (iv) conduct regular compliance audits; and
- 752 (v) evaluate the program manager's performance annually.
- 753 (c) The state board shall not include a provision in any rule that creates or implies a
- 754 restriction, direction, or mandate regarding program administration, including student
- 755 enrollment, payments to providers, instructional content, or curriculum.
- 756 (d) The state board, in collaboration with the contract administrator, may:
- 757 (i) distribute program functions among multiple contracted entities, including:
- 758 (A) program management functions;
- 759 (B) financial processing and payment functions;
- 760 (C) provider management functions; and
- 761 (D) other administrative functions as needed; and
- 762 (ii) ensure appropriate coordination between all contracted entities through clearly
- 763 defined roles and responsibilities in each contract.
- 764 (7)(a) The program manager shall:
- 765 (i) administer the program;
- 766 (ii) ensure an eligible student can navigate to all authorized online course providers'
- 767 enrollment platforms or tools for the program;
- 768 (iii) approve and oversee authorized online course providers;
- 769 (iv) establish guidelines for qualifying providers and courses;
- 770 (v) manage funds appropriated for the program;
- 771 (vi) make payments to authorized online course providers that may not include
- 772 transaction fees of any kind;
- 773 (vii) as described in Subsection (19), provide an annual report on the performance of
- 774 the program to the Education Interim Committee; and
- 775 (viii) ensure compliance with applicable laws and regulations.
- 776 (b) The program manager shall maintain detailed financial records subject to review by

777           the contract administrator, including:

778           (i) all course payments processed;

779           (ii) provider payment histories;

780           (iii) administrative costs; and

781           (iv) audit results.

782   (8) The state board may regulate and take enforcement action as necessary against a  
783   program manager in accordance with the provisions of the state board's agreement with  
784   the program manager.

785   (9)(a) If the state board determines that a program manager has violated a provision of  
786   this part or a provision of the state board's agreement with the program manager, the  
787   state board shall send written notice to the program manager explaining the violation  
788   and the remedial action required to correct the violation.

789   (b) A program manager that receives a notice described in Subsection (9)(a) shall, no  
790   later than 60 days after the day on which the program manager receives the notice,  
791   correct the violation and report the correction to the state board.

792   (c)(i) If a program manager that receives a notice described in Subsection (9)(a) fails  
793   to correct a violation in the time period described in Subsection (9)(b), the state  
794   board may bar the program manager from further participation in the program.

795   (ii) A program manager may appeal a decision of the state board under Subsection  
796   (9)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

797   (d) A program manager may not accept state funds while the program manager:

798   (i) is barred from participating in the program under Subsection (9)(c)(i); or

799   (ii) has an appeal pending under Subsection (9)(c)(ii).

800   (e) A program manager that has an appeal pending under Subsection (9)(c)(ii) may  
801   continue to administer online courses during the pending appeal.

802   (10) The program manager shall approve online course providers to offer courses through  
803   the program.

804   (11)(a) Subject to Subsection (11)(b), the program manager shall establish a process to  
805   approve an entity as an authorized online course provider, including:

806   (i) the entity's demonstration of at least three years of experience in either:

807           (A) developing and delivering proprietary digital coursework for students; or

808           (B) successfully aggregating and managing third-party digital education providers  
809           and courses for students;

810   (ii) the ability to provide a publicly available user-friendly website for an eligible



- 811 student, including:
- 812 (A) an accessible course enrollment system;
- 813 (B) comprehensive provider and course information; and
- 814 (C) program participation metrics;
- 815 (iii) verification that within the past five years, the entity:
- 816 (A) has not been subject to sanctions;
- 817 (B) has not undergone investigations;
- 818 (C) has not had adverse findings in malfeasance audits; and
- 819 (D) has not received other official censures in any state where it delivers digital
- 820 courses;
- 821 (iv) certification that the entity is not currently named in any lawsuit or ongoing civil
- 822 litigation in any state where the entity delivers digital courses; and
- 823 (v) the entity's demonstrated capacity to:
- 824 (A) evaluate and monitor course quality and content;
- 825 (B) verify instructor qualifications and experience;
- 826 (C) ensure instructor technical competency;
- 827 (D) conduct instructor background checks;
- 828 (E) provide regular professional development;
- 829 (F) implement student safety policies;
- 830 (G) maintain data privacy and security;
- 831 (H) enforce a learner code of conduct; and
- 832 (I) uphold academic integrity standards.
- 833 (b) In accordance with Subsection (13), the program manager shall allow all authorized
- 834 online course providers and courses the state board has approved up to July 1, 2024,
- 835 for the Statewide Online Education Program described in Title 53F, Chapter 4, Part
- 836 5, Statewide Online Education Program, to be offered to private school students.
- 837 (12) The program manager may revoke approval of an authorized online course provider
- 838 for non-compliance with program requirements described in this section or poor
- 839 performance as the program manager determines.
- 840 (13) The program manager shall establish a process for reviewing and approving courses to
- 841 be offered through the program, including:
- 842 (a) submission of the following course information:
- 843 (i) course title;
- 844 (ii) course fee;

- 26 -

- 879                    real-time in-person instruction for a portion of the course; and
- 880                    (n) prohibiting credit recovery courses or packet-based courses.
- 881                    (14) The program manager shall ensure the review process described in Subsection (13):
- 882                    (a) does not require an authorized online course provider to alter the provider's:
- 883                    (i) creed;
- 884                    (ii) practices;
- 885                    (iii) admissions policies;
- 886                    (iv) hiring practices; or
- 887                    (v) curricula, including any religious course or course content;
- 888                    (b) maintains an authorized online course provider's autonomy while accepting program
- 889                    funds; and
- 890                    (c) provides for a regular renewal of:
- 891                    (i) a course approval; and
- 892                    (ii) an authorized online course provider's authorization based on criteria, including:
- 893                    (A) a course completion rate of at least 80%;
- 894                    (B) reviews of the courses provided by a parent or eligible student; and
- 895                    (C) if applicable, fidelity to the approval criteria described in Subsection (11).
- 896                    (15) An authorized online course provider shall:
- 897                    (a) for each course offered, establish reasonable:
- 898                    (i) course lengths;
- 899                    (ii) standardized completion deadlines that are the same for all courses offered by the
- 900                    provider;
- 901                    (iii) standardized withdrawal deadlines that are the same for all courses offered by the
- 902                    provider; and
- 903                    (iv) course fees;
- 904                    (b) submit the information described in Subsections (13) and (15)(a) to the program
- 905                    manager for approval;
- 906                    (c) ensure the information described in Subsections (13) and (15)(a) are correctly posted
- 907                    with each course listing; and
- 908                    (d) report enrollment and withdrawal data to the program manager within five business
- 909                    days.
- 910                    (16) Subject to legislative appropriation, the program manager shall manage program funds
- 911                    to administer the program, including:
- 912                    (a) paying a course fee to an authorized online course provider as follows:

- 913            (i) 60% of the course fee paid upon an eligible student's enrollment; and  
914            (ii) 40% of the course fee paid upon the eligible student's completion of the course;  
915        (b) if the student does not complete the course by the deadline the authorized online  
916            course provider establishes as described in Subsection (15), disqualifying an  
917            authorized online course provider from receiving the 40% of the course fee as  
918            described in Subsection (16)(a)(ii);  
919        (c) processing payments to a provider within 30 days of relevant deadlines for  
920            enrollment, withdrawal, or course completion; and  
921        (d) establishing a payment structure for payments made to a provider that ensures no  
922            transaction fees are passed on to the provider.  
923        (17) Subject to legislative appropriation, the Legislature shall:  
924            (a) provide funds for the program that are separate from funding for public education  
925            programs; and  
926            (b) adjust the appropriation based on anticipated enrollment increases in the program.  
927        (18) The program manager may use a percentage of the appropriation described in  
928            Subsection (17) for administrative costs as follows:  
929            (a) up to 8% of the appropriation for administrative costs when the total annual  
930            appropriation from the Legislature is \$10,000,000 or less; and  
931            (b) up to 5% of the appropriation for administrative costs when the total annual  
932            appropriation from the Legislature exceeds \$10,000,000.  
933        (19) The program manager shall provide an annual report to the Education Interim  
934            Committee regarding the performance of the program, including:  
935            (a) number of students served;  
936            (b) courses offered and completed;  
937            (c) student progress and completion rates; and  
938            (d) financial information and use of funds.  
939        (20) The program manager shall establish a comprehensive system for monitoring  
940            providers, including:  
941            (a) regular performance reviews based on:  
942                (i) student completion rates;  
943                (ii) student academic progress metrics;  
944                (iii) instructor qualifications and performance;  
945                (iv) course content quality and alignment; and  
946                (v) technical system reliability;

(b) annual compliance audits of:

(i) financial records;

(ii) student data privacy practices; and

(iii) security protocols; and

(c) regular provider site visits that occur at least once per academic year.

(21) On or before July 1, 2025, and as frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

(a) information on the program manager, including the program manager's contact information; and

(b) an overview of the program.

(22) In the event of the expiration or termination of a program manager contract, or the inability of a program manager to perform required duties:

(a) the Department of Operations shall serve as a temporary bridge program administrator solely during the time required to:

(i) maintain essential program operations; and

(ii) complete the procurement process for selecting a new program manager;

(b) the Department of Operations shall immediately initiate and complete the procurement process described in this section in an expedited manner;

(c) the Department of Operations shall establish clear timelines and procedures for the transition process between the previous program manager to the Department of Operations to the new program manager; and

(d) the Department of Operations shall provide proper notice to and coordinate with:

(i) authorized online course providers;

(ii) parents;

(iii) the state board; and

(iv) other affected parties.

### Section 13. **Effective Date.**

This bill takes effect on May 7, 2025.

### Section 14. **Coordinating S.B. 137 with H.B. 455.**

If S.B. 137, Course Choice Empowerment, and H.B. 455, Utah Fits All Scholarship Program Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the amendments to Subsection 53F-6-401(11)(b) in S.B. 137 supersede the amendments to Subsection 53F-6-401(20)(b) in H.B. 455.