

# HB0197S03 compared with HB0197S02

~~{Omitted text}~~ shows text that was in HB0197S02 but was omitted in HB0197S03  
inserted text shows text that was not in HB0197S02 but was inserted into HB0197S03

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## School Materials Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nicholeen P. Peck

Senate Sponsor: Keven J. Stratton

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### LONG TITLE

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#### General Description:

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

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#### Highlighted Provisions:

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This bill:

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▸ defines ~~{terms}~~ a term;

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

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- ~~{provide}~~ send certain ~~{information to a parent}~~ communications to the State Board of Education;

12

- screen ~~{each}~~ instructional material ~~{an LEA adds to the LEA's collection of instructional materials}~~ ;

14

- adopt certain policies; and

15

- ~~{acquire academically rigorous materials for a school library}~~;

16

- ~~{requires the state board to qualify a book reviewer to review instructional material for an LEA}~~;

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- 18       ▶ { ~~requires the state board, an LEA, or UETN to:~~ }
- 19             • { ~~remove~~ } ensure tools that allow access to digital instructional material { ~~that a vendor~~  
provides after } include a { ~~certain threshold of violations~~ } filter;
- 21             • { ~~remove instructional material under certain circumstances; and~~ }
- 22             • { ~~require a vendor to remove certain instructional material;~~ }
- 23       ▶ prohibits a vendor from:
- 24             • advertising to a student through instructional material; { ~~or~~ } and
- 25             • including certain live links or website addresses in { ~~the~~ } instructional material; and
- 28       ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

20       None

### Other Special Clauses:

22       This bill provides a special effective date.

### Utah Code Sections Affected:

24       AMENDS:

25       **53G-10-103** , as last amended by Laws of Utah 2025, Chapter 173

ENACTS:

37       ~~{53G-10-308, Utah Code Annotated 1953}~~

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

28       Section 1. Section **53G-10-103** is amended to read:

29       **53G-10-103. Sensitive instructional materials.**

42       (1) As used in this section:

43       {~~(a) "Contracting entity" means the entity, including the LEA governing board, the state board, or~~  
~~UETN, that contracts with a vendor for a given digital instructional material, including a digital~~  
~~database.~~}

46       {~~(a)~~} {~~(b)~~}

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

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

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

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- 50 (ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites,  
online applications, and live presentations.
- 52 (iii) "Instructional material" does not mean exclusively library materials.
- 53 ~~{(b)} {e)}~~ "LEA governing board" means ~~{:}~~ ~~the same as that term is defined in Section~~  
~~53E-1-102.~~
- 55 ~~{(i) for a school district, the local school board;}~~
- 56 ~~{(ii) for a charter school, the charter school governing board; or}~~
- 57 ~~{(iii) for the Utah Schools for the Deaf and the Blind, the state board.}~~
- 58 ~~{(c)} {d)}~~ "Material" means the same as that term is defined in Section 76-5c-101.
- 59 ~~{(d)} {e)}~~ "Minor" means any person less than 18 years old.
- 60 ~~{(e)} {f)}~~ "Objective sensitive material" means an instructional material that constitutes  
pornographic or indecent material, as that term is defined in Section 76-5c-208, under the non-  
discretionary standards described in Subsections 76-5c-207(1)(a)(i)(A), (B), or (C).
- 64 ~~{(f)} {g)}~~ "Public school" means:
- 65 (i) a district school;
- 66 (ii) a charter school; or
- 67 (iii) the Utah Schools for the Deaf and the Blind.
- 68 ~~{(g)} {h)}~~
- (i) "School setting" means, for a public school:
- 69 (A) in a classroom;
- 70 (B) in a school library; or
- 71 (C) on school property.
- 72 (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:
- 75 (A) an assembly;
- 76 (B) a guest lecture;
- 77 (C) a live presentation; or
- 78 (D) an event.
- 79 ~~{(h)} {i)}~~
- (i) "Sensitive material" means an instructional material that constitutes objective sensitive material or  
subjective sensitive material.

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- 81 (ii) "Sensitive material" does not include an instructional material:  
82 (A) that an LEA selects under Section 53G-10-402;  
83 (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;  
87 (C) for medical courses;  
88 (D) for family and consumer science courses; or  
89 (E) for another course the state board exempts in state board rule.
- 90 (iii) "Subjective sensitive material" means an instructional material that constitutes pornographic or  
indecent material, as that term is defined in Section 76-5c-208, under the following factor-balancing  
standards:  
93 (A) material that is harmful to minors under Section 76-5c-101;  
94 (B) material that is pornographic under Section 76-5c-101; or  
95 (C) material that includes certain fondling or other erotic touching under Subsection 76-5c-207(1)(a)(i)  
(D).
- 97 ~~{(j) {"UETN" means the Utah Education and Telehealth Network, created in Section 53H-4-213.1.}}~~
- 99 (k)(i) "Vendor" means an entity that provides digital instructional material to students in a school  
setting:  
101 (i) under a contract with a contracting entity; or  
102 (ii) through donating the digital instructional material.  
103 (2)  
(a) Sensitive materials are prohibited in the school setting.  
104 (b) A public school or an LEA may not:  
105 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive  
materials; or  
107 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.  
109 (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.  
113 (d) If an instructional material constitutes objective sensitive material:  
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- (i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and
- 116 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.
- 118 (3)
- (a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:
- 120 (i) an employee of the relevant LEA;
- 121 (ii) a student who is enrolled in the relevant LEA;
- 122 (iii) a parent of a child who is enrolled in the relevant LEA; or
- 123 (iv) a member of the relevant LEA governing board.
- 124 (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.
- 128 (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.
- 132 (4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:
- 134 (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
- 138 (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 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;
- 143 (b)
- (i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and

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- 145 (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;
- 148 (c) only if the LEA makes a determination that the challenged instructional material does not constitute  
objective sensitive material:
- 150 (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;
- 154 (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
- 157 (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
- 161 (d) communicate to the state board[-] :
- 162 (i) the allegation[-and-] ;
- 163 (ii) the LEA's final determination regarding the allegation and the challenged instructional material[-] ;  
and
- 165 (iii) if the challenged instructional material is digital material, the vendor providing access to the digital  
material.
- 167 (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.
- 170 (b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive  
material review appeal, clearly identifying:
- 172 (i) the board's rationale for the decision; and
- 173 (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.
- 175 (6) An LEA governing board may not enact rules or policies that prevent the LEA governing board  
from:
- 177 (a) revisiting a previous decision;

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- 178 (b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a  
challenged instructional material; or
- 180 (c) reconsidering a challenged instructional material if the LEA governing board receives additional  
information regarding the material.
- 182 (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.
- 185 (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:
- 188 (i) at least three school districts; or
- 189 (ii) at least two school districts and five charter schools.
- 190 (c) The state board shall:
- 191 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
- 192 (ii) 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.
- 196 (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:
- 199 (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
- 202 (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.
- 205 (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):
- 207 (A) the statewide removal requirement described in Subsection (7)(a) no longer applies;
- 209 (B) an LEA may choose to return the given material to student access; and
- 210 (C) nothing affects the findings of an LEA governing board regarding removal of the given material  
within the board's LEA.

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- (e) This Subsection (7) applies to sensitive materials that LEAs remove from student access, regardless of whether:
- 214 (i) the sensitive material determinations occur in the same academic year; or
- 215 (ii) a sensitive material determination occurred before July 1, 2024.
- 216 ~~{(f) Each LEA, the state board, and UETN shall remove student access that the LEA, state board, or UETN facilitates 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. }~~
- 220 (8) The state board shall:
- 221 (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;
- 224 (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 }**
- 227 (c) annually report to the Education Interim Committee, at or before the November interim meeting, on implementation and compliance with this section, including:
- 229 (i) any policy the state board or an LEA adopts to implement or comply with this section;
- 231 (ii) any rule the state board makes to implement or comply with this section; and
- 232 (iii) any complaints an LEA or the state board receives regarding a violation of this section, including:
- 234 (A) action taken in response to a complaint described in this Subsection (8)(c)(iii);
- 235 (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
- 238 (C) compliance failures that the state board identifies through the reporting process described in Subsection (8)(b) and other investigations or research ~~{, { } ; and }~~
- 241 ~~{(d) qualify one established book reviewer, that an LEA may use to comply with the requirements of Subsection (11), to provide the following services without cost to the state board or LEA: }~~
- 244 ~~{(i) identifying and comparing material that potentially contains sensitive material to state education standards and sensitive material requirements; and }~~
- 246 ~~{(ii) screening the instructional materials described in Subsection (8)(d)(i) for a violation of this section using technology, including artificial intelligence assisted analysis, or other methods. }~~
- 249 (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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- 252 (a) a person brings or incurs as a result of this section; and  
253 (b) is not covered by the person's insurance policies or any coverage agreement that the State Risk  
Management Fund issues.
- 255 (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the  
Legislative Auditor General shall:
- 257 (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  
259 (b) annually report to the Education Interim Committee regarding completed sensitive material audits  
under this Subsection (10).
- 261 (11) Each LEA shall:
- 262 (a) ~~{notify a parent annually of the process required}~~ screen each instructional material an LEA adds  
to ~~{report a potentially}~~ the LEA's collection of instructional materials for sensitive ~~{material under~~  
this section} materials;
- 264 (b) ~~{screen each instructional material an LEA adds to}~~ before the ~~{LEA's collection}~~ beginning of  
the 2026-2027 school year, adopt a policy for the selection of instructional materials ~~{for}~~ that  
prevents potentially sensitive materials ~~{;}~~ from entering a school, including:
- 266 (c) ~~{(i)}~~ {before the beginning of} materials in the ~~{2026-2027 school year, adopt a policy for:}~~ school  
library;
- 267 (i) ~~{(ii)}~~ artificial intelligence tools the ~~{selection of instructional materials that prevent potentially~~  
sensitive materials from entering a school, including:} state board provides; and
- 269 (A) ~~{(iii)}~~ digital instructional materials ~~{in the school library}~~ ; and
- 270 (B) ~~{(c)}~~ {artificial intelligence tools the state board} ensure that each device, database, or service  
a school or LEA provides ~~{; and}~~ that allows a student to access digital instructional materials  
includes a filter or other software service:
- 271 (C) ~~{(i)}~~ {digital instructional materials} that prohibits access to sensitive material; {and}
- 272 (ii) ~~{collecting academically rigorous materials in accordance with Section 53G-10-308}~~ that uses  
blocked keyword lists; and
- 274 (d) ~~{(iii)}~~ for which LEA personnel decrypt websites to ensure ~~{that each LEA or school-provided~~  
device} the efficacy of the filtering, ~~{database, or service}~~ including any online school library and  
other encrypted websites that ~~{allows a student to}~~ students commonly access ~~{digital instructional~~  
material includes a filter or other software service:} .

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- 277 (i){(12)} ~~{that prohibits access to sensitive material;}~~ A vendor may not:
- 278 (ii){(a)} ~~{that uses blocked keyword lists}~~ advertise a product or service to a student when the student  
is using instructional materials the vendor provides; {and}
- 279 (iii){(b)} ~~{for which LEA personnel decrypt websites}~~ allow a third-party to advertise products or  
services to {ensure} a student, either through direct advertisement, or through the {efficacy}  
inclusion of {the filtering, including any online school library and other encrypted websites that  
students commonly access.} advertising content within the instructional materials; or
- 282 (12){(c)}
- {(a)} ~~{The state board, an LEA, and UETN may refuse donations of}~~ include live links or website  
addresses in the materials {by a} the vendor provides to sites or {nonprofit if the} materials  
{contain sensitive material.} that:
- 284 (b){(i)}
- {(i)} ~~{In either of the following instances, the vendor shall eliminate the segment of the digital~~  
~~instructional material containing the}~~ contain objective sensitive material ~~{or otherwise remove~~  
~~access to the sensitive material.}~~ ;
- 287 (A){(ii)} ~~{for material under a contract of an LEA, the LEA governing board determining that the~~  
~~digital instructional material is or contains objective sensitive material}~~ are not educationally  
focused; or
- 290 (B){(iii)} ~~{for material under a contract of the state board or UETN, an LEA reporting to the state~~  
~~board that the LEA governing board has determined that the digital instructional material is}~~  
advertise a product or {contains objective sensitive material} service.
- 293 {(ii)} ~~{A contracting entity shall, without any penalty or any further financial obligation, rescind~~  
~~or otherwise terminate a contract for a vendor to provide instructional material into which the~~  
~~contracting entity enters on or after July 1, 2027, after three instances of a vendor failing to comply~~  
~~with Subsection (12)(b)(i).}~~
- 297 {(e)} ~~{For digital instructional material that is found through the processes described in this section to~~  
~~contain sensitive material, the state board, an LEA, or UETN shall:}~~
- 299 {(i)} ~~{remove the segment of digital instructional material from the relevant curriculum; or}~~
- 301 {(ii)} ~~{require the vendor to remove the segment of digital instructional material from the relevant~~  
~~curriculum.}~~
- 303 {(13)}

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- 308    ~~{(a)} {A vendor that contracts with a contracting entity to provide an instructional material shall notify the contracting entity of any update, modification, or addition to the digital instructional material the vendor provides that contains or constitutes sensitive material, including links to other material or websites from within the digital instructional material.}~~
- 309    ~~{(b)} {A vendor may not:}~~
- 310    ~~{(i)} {advertise products or services to a student when the student is using instructional materials the vendor provides;}~~
- 311    ~~{(ii)} {allow a third-party to advertise products or services to a student, either through direct advertisement, or through the inclusion of advertising content within the instructional material; or}~~
- 314    ~~{(iii)} {include live links or website addresses in the materials the vendor provides to sites or material outside the vendor's material that:}~~
- 316    ~~{(A)} {contains objective sensitive material;}~~
- 317    ~~{(B)} {is not educationally focused;}~~
- 318    ~~{(C)} {advertises products or services; or}~~
- 319    ~~{(D)} {does not align with the state's academic core standards the state board establishes.}~~
- 321    ~~{(14)}~~
- 322    ~~{(a)} {A parent whose student is exposed to objective sensitive material, as the objective sensitive material process described in Subsection (4)(b) determines, has a private right of action against the LEA or vendor responsible for knowingly retaining the objective sensitive material and exposing the student to the objective sensitive material under this section.}~~
- 326    ~~{(b)} {If a parent prevails in an action under Subsection (14)(a):}~~
- 327    ~~{(i)} {the court shall:}~~
- 328    ~~{(A)} {award reasonable costs to the parent; and}~~
- 329    ~~{(B)} {require the defendant to pay the parent's attorney fees; and}~~
- 330    ~~{(ii)} {the parent may recover:}~~
- 331    ~~{(A)} {actual damages; and}~~
- 332    ~~{(B)} {liquidated damages of \$500 for each instance of objective sensitive material to which the parent's student is exposed in violation of this section.}~~
- 334    ~~{(c)} {Notwithstanding Subsection (14)(a), a parent may not bring a civil action against an employee of the LEA in the employee's individual capacity.}~~
- 336    Section 2. Section 2 is enacted to read:

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- 337 **53G-10-308. Academic rigor of books in a school library.**
- 338 (1) As used in this section, "academically rigorous" means content that meaningfully advances core  
academic standards by requiring sustained comprehension, analysis, and subject-matter learning  
beyond materials intended primarily for entertainment.
- 341 (2) An LEA shall require a school within the LEA to:
- 342 (a) ensure the acquisition and accessibility of academically rigorous books including primary sources  
and scholarly works focused on:
- 344 (i) United States history; and
- 345 (ii) Utah history;
- 346 (b) maintain a collection of biographies on the founders and other historically influential figures who  
have shaped the course of United States and Utah history; and
- 348 (c) when choosing textbooks and curriculum, ensure alignment with state standards.

258 Section 2. **Effective date.**

Effective Date.

This bill takes effect on July 1, 2026.

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