

Representative Francis D. Gibson proposes the following substitute bill:

PUBLIC EDUCATION MODERNIZATION ACT

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Public Education Modernization Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Initiative to Modernize the Delivery of Public Education in Utah

Advisory Committee;

- ▶ requires the State Board of Education to develop and implement an Initiative to modernize the delivery of public education in Utah by:

- designing a master plan; and
- issuing requests for proposals for education consulting and education technology providers;

- ▶ establishes requirements for the Initiative to modernize the delivery of public education in Utah master plan and individual local education agency plans;

- ▶ establishes requirements for a local education agency to participate in a grant program related to the Initiative to modernize the delivery of public education in Utah;

- ▶ requires a local education agency that participates in the Initiative to modernize the



26 delivery of public education in Utah grant program to report annually to the State Board of
27 Education;

28 ▶ requires a local education agency that constructs a school building after July 1,
29 2015, to meet certain technology infrastructure requirements;

30 ▶ establishes requirements for the State Board of Education and other certain entities
31 related to the collection, usage, and storage of student data; and

32 ▶ repeals the Smart School Technology Program.

33 **Money Appropriated in this Bill:**

34 This bill appropriates in fiscal year 2015:

35 ▶ to the Related to Basic School Program - Public Education Modernization Program,
36 as an ongoing appropriation:

37 • from the General Fund, \$150,000,000; and

38 ▶ to the Related to Basic School Program - Public Education Modernization Program,
39 as a one-time appropriation:

40 • from the Education Fund, \$50,000,000.

41 **Other Special Clauses:**

42 This bill provides an effective date.

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

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

47 **Utah Code Sections Affected:**

48 AMENDS:

49 **63M-1-906**, as last amended by Laws of Utah 2012, Chapter 208

50 ENACTS:

51 **53A-1-1201**, Utah Code Annotated 1953

52 **53A-1-1202**, Utah Code Annotated 1953

53 **53A-1-1203**, Utah Code Annotated 1953

54 **53A-1-1204**, Utah Code Annotated 1953

55 **53A-1-1205**, Utah Code Annotated 1953

56 **53A-1-1206**, Utah Code Annotated 1953

57 [53A-13-303](#), Utah Code Annotated 1953

58 REPEALS:

59 [53A-1-709](#), as last amended by Laws of Utah 2013, Chapter 173

60 [63M-1-909.5](#), as last amended by Laws of Utah 2013, Chapter 173

61 **Utah Code Sections Affected by Coordination Clause:**

62 [53A-1-1202](#), Utah Code Annotated 1953

63 [53A-1-1203](#), Utah Code Annotated 1953



64
65 *Be it enacted by the Legislature of the state of Utah:*

66 Section 1. Section [53A-1-1201](#) is enacted to read:

67 **Part 12. Public Education Modernization Act**

68 **[53A-1-1201](#). Title.**

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

70 Section 2. Section [53A-1-1202](#) is enacted to read:

71 **[53A-1-1202](#). Definitions.**

72 As used in this part:

73 (1) "Advisory committee" means the Initiative to Modernize the Delivery of Public
74 Education in Utah Advisory Committee created in Subsection [53A-1-1203](#)(2)(a).

75 (2) "Board" means the State Board of Education.

76 (3) "Education consultant" includes an organization.

77 (4) "Educator" means an individual who holds or is required to hold a license under
78 Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

79 (5) "High quality professional learning" means a comprehensive, sustained, and
80 intensive approach to improving educator effectiveness in raising student achievement and
81 improving the school level outcomes described in Subsection [53A-1-1203](#)(1)(b)(iii) that meets
82 the high quality professional learning standards established by the board.

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

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

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

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

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

91 **53A-1-1203. Initiative to modernize the delivery of public education in Utah --**
92 **Advisory committee -- Request for proposals for education consultant -- Master plan.**

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

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

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

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

101 (iii) improve school level outcomes, including:

102 (A) student achievement on statewide tests;

103 (B) rate of student learning;

104 (C) attendance;

105 (D) discipline incidents;

106 (E) parental involvement;

107 (F) citizen involvement;

108 (G) graduation rates;

109 (H) student enrollment in higher education;

110 (I) dropout rates;

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

112 (K) teacher satisfaction and engagement; and

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

115 (2) (a) There is created until December 31, 2015, the Initiative to Modernize the
116 Delivery of Public Education in Utah Advisory Committee to:

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

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

121 (b) The advisory committee shall be composed of:

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

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

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

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

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

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

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

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

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

138 (iii) the executive director of the STEM Action Center appointed under Section
139 [63M-1-3203](#).

140 (c) Board staff shall staff the advisory committee.

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

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

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

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

150 (b) a determination of the requirements for:
151 (i) statewide technology infrastructure; and
152 (ii) local LEA technology infrastructure;
153 (c) standards for high quality professional learning related to implementing and
154 maintaining the initiative that require an LEA to provide at least:
155 (A) 40 hours a year of high quality professional learning outside of regular school
156 hours for an educator, including an administrator; and
157 (B) 16 hours a year of high quality professional learning for a technical support person;
158 (d) a detailed definition of the type or types of personal mobile learning devices to be
159 used by LEAs and distributed to:
160 (i) educators; and
161 (ii) public school students in kindergarten through grade 12;
162 (e) a statewide technical support plan for implementation and maintenance of the
163 initiative that includes standards and competency requirements for technical support personnel;
164 (f) a grant program for participating LEAs developed in accordance with Section
165 [53A-1-1205](#);
166 (g) specifications for an LEA plan that include:
167 (i) format and submission requirements;
168 (ii) a statement of purpose that describes the learning objectives, goals, and measurable
169 outcomes the LEA will accomplish by implementing the initiative;
170 (iii) other LEA plan requirements, including the requirements described in Subsection
171 [53A-1-1204\(5\)](#);
172 (iv) a schedule that coordinates grant program requirements with the requirements
173 described in Subsection (5)(g)(iii); and
174 (v) a disclosure by the LEA of the LEA's current technology expenditures;
175 (h) an ongoing evaluation process that is monitored by the board, performed by an
176 independent contractor under contract with the board, and based on:
177 (i) the school level outcomes described in Subsection (1)(b)(iii); and
178 (ii) technology system functionality;
179 (i) metrics of improved growth in the rate of student learning that will serve as a
180 benchmark for LEA initiative implementation outcomes;

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

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

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

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

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

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

190 (a) Section [53A-13-303](#); and

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

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

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

195 **53A-1-1204. Request for proposals for education technology providers --**

196 **Preparation of local education agency plans.**

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

200 (2) An education technology provider that responds to the request for proposals
201 described in Subsection (1) shall submit a proposed generic LEA plan that ensures a reliable,
202 scalable, and effective implementation of the initiative across a wide range of students and
203 LEAs.

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

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

210 (b) In preparing a customized plan under Subsection (4)(a), an LEA and the LEA's
211 technology provider shall encourage participation and input from parents, educators,

212 technology support personnel, and school community councils.

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

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

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

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

220 (d) infrastructure acquisition;

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

222 (f) how the LEA will provide the high quality professional learning described in
223 Subsection [53A-1-1203\(5\)\(c\)](#);

224 (g) procurement and distribution of:

225 (i) devices;

226 (ii) digital content;

227 (iii) software; and

228 (iv) support service;

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

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

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

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

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

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

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

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

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

- 243 (o) ongoing periodic coaching of educators, including administrators; and
244 (p) other criteria required by the master plan developed under Section [53A-1-1203](#).
245 (6) An LEA may subject an LEA plan to a peer review.
246 (7) An education technology provider selected under Subsection (1) shall comply with
247 policies and procedures developed by the board under Section [53A-13-303](#).
248 Section 5. Section **53A-1-1205** is enacted to read:
249 **53A-1-1205. Grant program -- Board approval of local education agency plans.**
250 (1) In consultation with the education consultant described in Section [53A-1-1203](#), the
251 board shall develop a grant program in accordance with this section to assist an LEA to
252 implement the initiative.
253 (2) To be eligible for a grant payment, an LEA:
254 (a) shall comply with the master plan;
255 (b) shall, before receiving a grant payment, complete each master plan component
256 conditioned on receiving the grant payment;
257 (c) may not supplant funds previously used for the LEA's current technology program
258 to fund nontechnology programs;
259 (d) shall have an LEA plan approved by the board in accordance with Subsection (3);
260 and
261 (e) shall consistently meet defined LEA plan goals.
262 (3) (a) An LEA that applies to the board for a grant to implement the initiative shall, as
263 part of the application, submit an LEA plan to the board for approval.
264 (b) The board shall work with the education consultant to review and approve each
265 submitted LEA plan.
266 (c) The board may not approve an LEA plan unless the LEA plan meets:
267 (i) the requirements described in Subsection [53A-1-1204\(5\)](#); and
268 (ii) the applicable standards, criteria, and timelines established in the master plan.
269 (4) The board shall award grants on the basis of available funding, giving priority to
270 LEA plans that are timely, well developed, and board approved.
271 (5) (a) An LEA that is currently participating in the grant program shall prepare and
272 submit to the board an annual progress report that:
273 (i) gives a detailed summary of the LEA's LEA plan; and

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

276 (b) The progress report described in Subsection (5)(a) is due by August 1 of each year.
277 Section 6. Section 53A-1-1206 is enacted to read:

278 **53A-1-1206. Initiative compliance for construction of new schools.**

279 An LEA shall ensure that a school building constructed by the LEA on or after July 1,
280 2015, meets the infrastructure requirements for the initiative as established by the board in
281 accordance with Section 53A-1-1203.

282 Section 7. Section 53A-13-303 is enacted to read:

283 **53A-13-303. Security requirements related to the collection, usage, and storage of**
284 **student data.**

285 (1) As used in this section:

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

287 (b) "Education entity" means:

288 (i) the board;

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

290 (iii) a school district;

291 (iv) a public school; or

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

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

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

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

299 (2) The board shall:

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

302 (b) develop, publish, and make publicly available policies and procedures to comply
303 with this part and other relevant privacy laws, including ensuring that a contract entered into

304 between an education entity and a third party contractor, which allows the third party contractor

305 to have access to student data, includes:

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

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

308 contractor;

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

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

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

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

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

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

320 (iv) privacy compliance standards;

321 (v) privacy and annual security audits;

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

323 (viii) data retention and disposition policies; and

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

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

328 (a) a local school board;

329 (b) a charter school; and

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

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

333 (b) A third party contractor shall:

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

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

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

339 **63M-1-906. Qualification for assistance.**

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

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

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

352 (c) satisfy other criteria the administrator considers appropriate.

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

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

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

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

362 (iv) the applicant is an entity offering an economic opportunity under Section
363 **63M-1-909**.

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

- 367 (3) The administrator shall:
- 368 (a) for applicants not described in Subsection (2)(a):
- 369 (i) make findings as to whether or not each applicant has satisfied each of the
- 370 conditions set forth in Subsection (1); and
- 371 (ii) monitor the continued compliance by each applicant with each of the conditions set
- 372 forth in Subsection (1) for five years;
- 373 (b) for applicants described in Subsection (2)(a), make findings as to whether the
- 374 economic activities of each applicant has resulted in the creation of new jobs on a per capita
- 375 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
- 376 located;
- 377 (c) monitor the compliance by each applicant with the provisions of any contract or
- 378 agreement entered into between the applicant and the state as provided in Section 63M-1-907;
- 379 and
- 380 (d) make funding decisions based upon appropriate findings and compliance.

381 Section 9. **Repealer.**

382 This bill repeals:

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

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

386 Section 10. **Appropriation.**

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

392 To Related to Basic School Program

393 <u>From General Fund</u>	\$150,000,000
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394 <u>From Education Fund, one-time</u>	\$50,000,000
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395 Schedule of Programs:

396 <u>Public Education Modernization Program</u>	\$200,000,000
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397 Under Section 63J-1-603, the Legislature intends that the appropriation for the Public

398 Education Modernization Act is:

399 (1) to be used as provided in Title 53A, Chapter 1, Part 12, Public Education

400 Modernization Act; and

401 (2) nonlapsing.

402 Section 11. **Effective date.**

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

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

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

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

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

414 Section 13. **Coordinating H.B. 131 with H.B. 320 -- Substantive and technical**
415 **amendments.**

416 If this H.B. 131 and H.B. 320, Educators' Professional Learning, both pass and become
417 law, it is the intent of the Legislature that the Office of Legislative Research and General
418 Counsel in preparing the Utah Code database for publication, modify Subsection
419 [53A-1-1202\(5\)](#) to read:

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

421 (a) as defined in Section [53A-3-701\(1\)](#);

422 (b) that meets the standards described in Section [53A-3-701\(2\)](#); and

423 (c) that improves the school level outcomes described in Subsection

424 [53A-1-1203\(1\)\(b\)\(iii\)](#)."