

Senator Lincoln Fillmore proposes the following substitute bill:

1 EDUCATION MONITORING AND FUNDS MANAGEMENT

2 AMENDMENTS

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: V. Lowry Snow

6 Senate Sponsor: Jerry W. Stevenson

8 LONG TITLE

9 General Description:

10 This bill amends provisions related to the monitoring and management of the use of
11 state funds.

12 Highlighted Provisions:

13 This bill:

14 ▶ creates the Charter School Closure Reserve Account to pay outstanding debts of a
15 charter school upon closure in certain circumstances;

16 ▶ requires the State Board of Education to use certain standards when monitoring a
17 local education agency's use of state education funds;

18 ▶ defines terms; and

19 ▶ makes technical and conforming changes.

20 Money Appropriated in this Bill:

21 None

22 Other Special Clauses:

23 None

24 Utah Code Sections Affected:

25 AMENDS:



26 **53E-3-501**, as last amended by Laws of Utah 2020, Chapter 400

27 ENACTS:

28 **53F-1-104**, Utah Code Annotated 1953

29 **53F-9-307**, Utah Code Annotated 1953

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

32 Section 1. Section **53E-3-501** is amended to read:

33 **53E-3-501. State board to establish miscellaneous minimum standards for public**
34 **schools.**

35 (1) The state board shall establish rules and minimum standards for the public schools
36 that are consistent with this public education code, including rules and minimum standards
37 governing the following:

38 (a) (i) the qualification and certification of educators and ancillary personnel who
39 provide direct student services;

40 (ii) required school administrative and supervisory services; and

41 (iii) the evaluation of instructional personnel;

42 (b) (i) access to programs;

43 (ii) attendance;

44 (iii) competency levels;

45 (iv) graduation requirements; and

46 (v) discipline and control;

47 (c) (i) school accreditation;

48 (ii) the academic year;

49 (iii) alternative and pilot programs;

50 (iv) curriculum and instruction requirements;

51 (v) school libraries; and

52 (vi) services to:

53 (A) persons with a disability as defined by and covered under:

54 (I) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;

55 (II) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and

56 (III) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and

- 57 (B) other special groups;
- 58 (d) (i) state reimbursed bus routes;
- 59 (ii) bus safety and operational requirements; and
- 60 (iii) other transportation needs;
- 61 (e) (i) school productivity and cost effectiveness measures;
- 62 (ii) federal programs;
- 63 (iii) school budget formats; and
- 64 (iv) financial, statistical, and student accounting requirements; and
- 65 (f) data collection and reporting by LEAs.
- 66 (2) The state board shall determine if:
- 67 (a) the minimum standards have been met; and
- 68 (b) required reports are properly submitted.
- 69 (3) The state board may apply for, receive, administer, and distribute to eligible
- 70 applicants funds made available through programs of the federal government.
- 71 (4) (a) A technical college listed in Section 53B-2a-105 shall provide
- 72 competency-based career and technical education courses that fulfill high school graduation
- 73 requirements, as requested and authorized by the state board.
- 74 (b) A school district may grant a high school diploma to a student participating in a
- 75 course described in Subsection (4)(a) that is provided by a technical college listed in Section
- 76 53B-2a-105.
- 77 (5) (a) As used in this Subsection (5), "generally accepted accounting principles"
- 78 means a common framework of accounting rules and standards for financial reporting
- 79 promulgated by [~~either the Financial Accounting Standards Board or~~] the Governmental
- 80 Accounting Standards Board[~~, as applicable to the reporting entity~~].
- 81 (b) Subject to Subsections (5)(c) and (d), the state board shall ensure that the rules and
- 82 standards described in Subsections (1)(e) and (f) allow for an LEA to make adjustments to the
- 83 LEA's general entry ledger, in accordance with generally accepted accounting principles, to
- 84 accurately reflect the LEA's use of funds for allowable costs and activities:
- 85 (i) during a fiscal year; and
- 86 (ii) at the close of a fiscal year.
- 87 (c) If the state board determines under Subsection (2) that an LEA has not met the

88 minimum standards described in Subsection (1)(e) or (f) or has not properly submitted a
89 required report, the state board shall allow the LEA an opportunity to cure the relevant defect
90 through an adjustment described in Subsection (5)(b).

91 (d) An LEA may not, in an adjustment described in Subsection (5)(b), reflect the use of
92 restricted federal or state funds for a cost or activity that is not an allowable cost or activity for
93 the restricted funds.

94 Section 2. Section **53F-1-104** is enacted to read:

95 **53F-1-104. Education monitoring and funds management.**

96 (1) As used in this section:

97 (a) "Allocable cost" means a cost for goods or services that are chargeable or
98 assignable to a state award or cost objective in accordance with relative benefits an LEA
99 receives.

100 (b) "Reasonable cost" means a cost that, in nature and amount, does not exceed an
101 amount that a prudent person would incur under the circumstances prevailing at the time the
102 decision was made to incur the cost.

103 (c) "State award" means:

104 (i) money that the Legislature appropriates to state education programs for an LEA's
105 use; or

106 (ii) a grant that the state board awards to an LEA as part of a state education program.

107 (2) Except as otherwise provided in this public education code, the state board shall
108 monitor state-funded education programs and the expenditure of state funds in accordance with
109 this section.

110 (3) Except as otherwise authorized by statute, the state board shall not allow a cost
111 under state awards, unless:

112 (a) the cost is necessary and reasonable for, and allocable to, the performance of the
113 state award;

114 (b) the cost conforms to any limitations or exclusions that apply uniformly to the LEA's
115 other activities;

116 (c) the LEA accorded the cost consistent treatment among programs;

117 (d) the LEA determined the cost in accordance with generally accepted accounting
118 principles;

- 119 (e) the LEA adequately documented the cost; and
- 120 (f) the LEA incurred the cost during the approved budget period.
- 121 (4) In determining whether a cost is a reasonable cost, the state board shall consider:
- 122 (a) whether the cost is of a type generally recognized as ordinary for:
- 123 (i) the operation of the LEA; or
- 124 (ii) the proper and efficient performance of the state award;
- 125 (b) the restraints or requirements imposed by:
- 126 (i) sound business practices;
- 127 (ii) arm's length bargaining;
- 128 (iii) federal, state, local, tribal, or other laws and regulations; and
- 129 (iv) the state award's restrictions and conditions;
- 130 (c) market prices for comparable goods or services in the geographic area;
- 131 (d) whether an individual involved in a decision to incur the cost acted with prudence
- 132 in the circumstances considering the individual's responsibilities to:
- 133 (i) the LEA;
- 134 (ii) the LEA's employees;
- 135 (iii) the LEA's students;
- 136 (iv) the public; and
- 137 (v) the state government; and
- 138 (e) whether the LEA significantly deviated from the LEA's established practices and
- 139 policies concerning incurring costs so that the costs the LEA incurs for the performance of the
- 140 state award are unjustifiably increased.
- 141 (5) The state board shall determine that a cost is an allocable cost if:
- 142 (a) the LEA incurred the cost specifically for the state award;
- 143 (b) the cost:
- 144 (i) benefits both the state award and the LEA's other work; and
- 145 (ii) can be distributed in proportions that may be approximated using reasonable
- 146 methods; and
- 147 (c) the cost is necessary to the overall operation of the LEA and is assignable in part to
- 148 the state award.
- 149 Section 3. Section **53F-9-307** is enacted to read:

150 53F-9-307. Charter School Closure Reserve Account.

151 (1) As used in this section:

152 (a) "Account" means the Charter School Closure Reserve Account created in this
153 section.

154 (b) "Charter school authorizer" or "authorizer" means an entity listed in Section
155 [53G-5-205](#) that authorizes a charter school.

156 (2) There is created within the Education Fund a special revenue fund known as the
157 "Charter School Closure Reserve Account."

158 (3) The account consists of:

159 (a) appropriations of the Legislature;

160 (b) amounts deposited into the account in accordance with this section; and

161 (c) interest earned on money in the account.

162 (4) (a) The account shall earn interest.

163 (b) Interest earned on the account shall be deposited into the account.

164 (5) (a) In a fiscal year that begins on or after July 1, 2021, a charter school shall
165 annually contribute to the account \$2 per student enrolled in the charter school until the
166 account balance reaches \$3,000,000.

167 (b) (i) Beginning with the fiscal year following the first fiscal year in which the account
168 balance reaches \$3,000,000, except as provided in Subsections (5)(b)(ii) and (iii), in any fiscal
169 year in which the account balance is less than \$3,000,000, a charter school shall contribute to
170 the account a prorated amount, not to exceed \$2 per student enrolled in a charter school, in
171 accordance with Subsection (6).

172 (ii) Except as provided in Subsection (5)(b)(iii), if no funds have been withdrawn from
173 the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2024,
174 in which the account balance is less than \$2,500,000, a charter school shall contribute to the
175 account a prorated amount, not to exceed \$2 per student enrolled in a charter school, in
176 accordance with Subsection (6).

177 (iii) If no funds have been withdrawn from the account due to a charter school closure,
178 in a fiscal year that begins on or after July 1, 2026, in which the account balance is less than
179 \$2,000,000, a charter school shall contribute to the account a prorated amount, not to exceed \$2
180 per student enrolled in a charter school, in accordance with Subsection (6).

181 (c) The state board shall ensure that the total contribution from charter schools
182 described in Subsection (5)(b) equals the lesser of:

183 (i) (A) in a fiscal year after the first fiscal year in which the account balance reaches
184 \$3,000,000, an amount sufficient to maintain an account balance of \$3,000,000;
185 (B) in a fiscal year that begins on or after July 1, 2024, if no funds have been
186 withdrawn from the account due to charter school closure, an amount sufficient to maintain an
187 account balance of \$2,500,000; or

188 (C) in a fiscal year that begins on or after July 1, 2026, if no funds have been
189 withdrawn from the account due to charter school closure, an amount sufficient to maintain an
190 account balance of \$2,000,000; and

191 (ii) \$2 per student enrolled in a charter school.

192 (6) The state board of education shall make rules in accordance with Title 63G,
193 Chapter 3, Utah Administrative Rulemaking Act, for:

194 (a) calculating the amounts described in Subsections (6)(b) and (c);
195 (b) a process for collecting charter school contributions into the account described in
196 this section; and

197 (c) a process for depositing charter school contributions into the account described in
198 this section into the account.

199 (7) Money in the account may only be used upon closure of a charter school that closes
200 on or after January 1, 2021:

201 (a) to pay debts that the charter school owes to:

202 (i) the state board; or
203 (ii) the state or federal government;

204 (b) after the charter school has made other reasonable attempts to resolve debts the
205 charter school owes to:

206 (i) the state board; or
207 (ii) the state or federal government; and

208 (c) after a charter school liquidates all of the charter school's assets.

209 (8) Money in the account may not be used to pay bond debt.

210 (9) The state board, in partnership with a charter school authorizer:

211 (a) may authorize the use of money in the account, subject to the restrictions described

212 in Subsections (7) and (8); and
213 (b) before authorizing the use of funds in the account as described in Subsection (9)(a),
214 shall investigate all reasonable alternatives for a charter school to pay debt that the charter
215 school owes to:
216 (i) the state board; and
217 (ii) the state or federal government.