Senator **Kathleen A. Riebe** proposes the following substitute bill:

1 # IN-PERSON LEARNING AMENDMENTS
2 ## 2022 GENERAL SESSION
3 ## STATE OF UTAH
4 **Chief Sponsor: Jordan D. Teuscher**
5 Senate Sponsor: Todd D. Weiler

6 

7 **LONG TITLE**
8 **General Description:**
9     This bill amends provisions regarding in-person learning requirements and test to stay
10 programs within public schools.
11 **Highlighted Provisions:**
12     This bill:
13     ‣ suspends a test to stay program requirement;
14     ‣ amends provisions regarding the computation of the case threshold that triggers the
15 test to stay program requirement;
16     ‣ clarifies when a student may return to school during a test to stay event;
17     ‣ provides additional procedural requirements for the application of an exception to
18 an in-person learning requirement;
19     ‣ prohibits opt-outs of a required test to stay program;
20     ‣ clarifies that a student who is not tested follows remote learning requirements; and
21     ‣ makes technical and conforming changes.
22 **Money Appropriated in this Bill:**
23     None
24 **Other Special Clauses:**
25     This bill provides a special effective date.

26    This bill provides revisor instructions.

27  **Utah Code Sections Affected:**

28  AMENDS:

29        **26-6-42**, as enacted by Laws of Utah 2021, Chapter 435

30        **53G-9-210**, as last amended by Laws of Utah 2021, First Special Session, Chapter 7

31  **Utah Code Sections Affected by Revisor Instructions:**

32        **26-6-42**, as enacted by Laws of Utah 2021, Chapter 435

33

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

35        Section 1.  Section **26-6-42** is amended to read:

36        **26-6-42.    Department support for local education agency test to stay programs --**

37  **Department guidance for local education agencies.**

38        (1)  As used in this section:

39        (a)  "Case threshold" means the same as that term is defined in Section 53G-9-210.

40        (b)  "COVID-19" means the same as that term is defined in Section 53G-9-210.

41        (c)  "Local education agency" or "LEA" means the same as that term is defined in

42  Section 53G-9-210.

43        (d)  "Test to stay program" means the same as that term is defined in Section

44  53G-9-210.

45        (2)  At the request of an LEA, the department shall provide support for the LEA's test to

46  stay program if a school in the LEA reaches the case threshold, including by providing:

47        (a)  COVID-19 testing supplies;

48        (b)  a mobile testing unit; and

49        (c)  other support requested by the LEA related to the LEA's test to stay program.

50        (3)  The department shall ensure that guidance the department provides to LEAs related

51  to test to stay programs complies with Section 53G-9-210, including the determination of

52  whether a school meets a case threshold described in Subsection 53G-9-210(3).

53        (4)  Subsection (2) regarding the requirement to support an LEA's test to stay program

54  does not apply after the effective date of this bill unless the test to stay requirement is triggered

55  under Subsection 53G-9-210(2)(c).

56        Section 2.  Section **53G-9-210** is amended to read:

57          **53G-9-210.   Requirement for in-person instruction -- Test to stay programs --**
58    **Face coverings.**
59          (1)  As used in this section:
60          (a)  "Case threshold" means as applicable[,]:
61          (i)  the number of students in a school, or percentage of students in a school who meet
62    the conditions described in Subsection (3)[.]; or
63          (ii)  1% of educators.
64          (b)  "COVID-19" means:
65          (i)  severe acute respiratory syndrome coronavirus 2; or
66          (ii)  the disease caused by severe acute respiratory syndrome coronavirus 2.
67          (c)  "Estimated incubation period" means a period of time that the Department of
68    Health identifies as the number of days between exposure and symptom onset for a given
69    variant of COVID-19.
70          [(c)] (d)  "Extracurricular activity" means the same as that term is defined in Section
71    53G-7-501.
72          [(d)] (e)  "Face covering" means a mask, shield, or other device that is intended to be
73    worn in a manner to cover the mouth, nose, or face to prevent the spread of COVID-19.
74          [(e)] (f)  "In-person instruction" means instruction offered by a school that allows a
75    student to choose to attend school in-person at least four days per week if the student:
76          (i)  is enrolled in a school that is not implementing a test to stay program; or
77          (ii) (A)  is enrolled in a school that is implementing a test to stay program; and
78          (B)  meets the test to stay program's criteria for attending school in person.
79          [(f)] (g)  "Local Education Agency" or LEA means:
80          (i)  a school district;
81          (ii)  a charter school, other than an online-only charter school; or
82          (iii)  the Utah Schools for the Deaf and the Blind.
83          [(g)] (h)  "School" means a school other than an online-only charter school or an
84    online-only public school.
85          (i)  "Remote learning" means primarily synchronous learning through which an
86    educator and students connect in the same virtual method concurrently instead of solely
87    individualized online work.

88          [(h)] (j) "Test to stay program" means a program through which an LEA provides

89     testing for COVID-19 for students during an outbreak of COVID-19 at a school in order to:

90          (i)  identify cases of COVID-19; [and]

91          (ii)  allow individuals to attend school in person who:

92          (A)  test negative for COVID-19 [to attend school in person.] during the test to stay

93     program; or

94          (B)  are cleared to return to school after the estimated incubation period; and

95          (iii)  require students who test positive or who are not tested to attend school remotely

96     during the estimated incubation period.

97          (2) (a)  An LEA shall:

98          (i)  except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure that a

99     school offers in-person instruction; and

100          (ii)  if the determination described in Subsection (2)(c) has been made, require a school

101     that reaches the case threshold to:

102          (A)  fulfill the requirement described in Subsection (2)(a)(i) by initiating a test to stay

103     program for the school; and

104          (B)  provide a remote learning option for students who do not wish to attend in person.

105          (b)  [The] Beginning January 31, 2022, the requirement to provide in-person instruction

106     described in Subsection (2)(a) does not apply for a temporary period of remote learning within

107     an LEA or a given school within an LEA if:

108          (i)  the COVID-19 case rates within one or more schools within the LEA have

109     surpassed the case threshold;

110          (ii)  the local governing board requests application of the exception by delivering to the

111     governor, the president of the Senate, the speaker of the House of Representatives, and the state

112     superintendent of public instruction [jointly concur with an LEA's] a letter that details:

113          (A)  information regarding the case threshold requirement described in Subsection

114     (2)(b)(i);

115          (B)  the local governing board's assessment that due to public health emergency

116     circumstances within the LEA or given school, the risks related to in-person instruction

117     temporarily outweigh the value of in-person instruction[.];

118          (C)  a public meeting of the local governing board in which the board voted to request

119    the exception described in this Subsection (2)(b);

120          (D)  a specific and temporary period of time for which the local governing board seeks

121    a pivot to remote learning within the LEA or given school; and

122          (E)  the measures the local governing board will implement for the LEA or given school

123    to return to in-person learning following the identified temporary remote learning period; and

124          (iii)  the governor, the president of the Senate, the speaker of the House of

125    Representatives, and the state superintendent of public instruction jointly confer and approve,

126    or approve with modifications, the request described in Subsection (2)(b)(i).

127          (c)  The requirement to initiate a test to stay program described in Subsection (2)(a)(ii)

128    only applies if, in consultation with the Department of Health, the governor, the president of

129    the Senate, the speaker of the House of Representatives, and the state superintendent of public

130    instruction jointly determine that a variant of COVID-19 currently affecting the public

131    education system is of a type that testing and isolation under a test to stay program would be

132    effective in mitigating the harmful public health effects of the variant.

133          (3) (a)  For purposes of determining whether a school has reached the school's case

134    threshold for students, a student is included in positive cases for the school if the student[: (i)],

135    within the preceding [14 days] number of days equal to the estimated incubation period:

136          [(A)] (i)  attended at least some in-person instruction at the school; and

137          [(B)] (ii)  tested positive for COVID-19[, and].

138          [(ii)  did not receive the student's positive COVID-19 test results through regular

139    periodic testing required to participate in LEA-sponsored athletics or another LEA-sponsored

140    extracurricular activity.]

141          (b) (i)  A school with 1,500 or more students meets the case threshold if at least 2% of

142    the school's students meet the conditions described in Subsection (3)(a).

143          (ii)  A school with fewer than 1,500 students meets the case threshold if 30 or more of

144    the school's students meet the conditions described in Subsection (3)(a).

145          (4) (a)  An LEA may not test a student for COVID-19 who is younger than 18 years old

146    without the consent of the student's parent.

147          (b)  An LEA may seek advance consent from a student's parent for future testing for

148    COVID-19.

149          (c) (i)  An LEA may not offer or accept a parental exemption or exclusion from a test to

150     stay program.
151             (ii)  A student who is not tested under a test to stay program may not attend in person
152     until after the estimated incubation period under public health guidelines.
153             (5)  An LEA, an LEA governing board, the state board, the state superintendent, or a
154     school may not require an individual to wear a face covering to attend or participate in
155     in-person instruction, LEA-sponsored athletics, or another LEA-sponsored extracurricular
156     activity, or in any other place on the campus of a school or school facility after the end of the
157     2020-2021 school year.
158             Section 3.  **Effective date.**
159             If approved by two-thirds of all the members elected to each house, this bill takes effect
160     upon approval by the governor, or the day following the constitutional time limit of Utah
161     Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
162     the date of veto override.
163             Section 4.  **Revisor instructions.**
164             The Legislature intends that the Office of Legislative Research and General Counsel, in
165     preparing the Utah Code database for publication, replace the reference in Section
166     26-6-42 from "the effective date of this bill" to the bill's actual effective date.