

Senator Lincoln Fillmore proposes the following substitute bill:

REGULATORY SANDBOX IN EDUCATION

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Douglas R. Welton

LONG TITLE

General Description:

This bill permits a school to implement an innovative education program.

Highlighted Provisions:

This bill:

▶ permits a district school or charter school to:

- create a plan to implement an innovative education program (innovation plan);

and

- apply to the State Board of Education (state board) for a waiver of state board

rule;

▶ to support an innovative education program, permits a local education agency

(LEA) to:

- expend a percentage of state restricted funding under certain circumstances; and
- accept private grants, loans, gifts, endowments, devises, or bequests;

▶ requires a charter school authorizer to amend a charter school's charter agreement

to:

- incorporate an approved innovation plan; and
- remove an innovation plan that is no longer in effect;

▶ requires a local school board or charter school authorizer to submit approved



- 26 innovation plans to the state board;
- 27 ▶ permits the state board to terminate an innovation plan under certain circumstances;
- 28 ▶ requires the state board to:
 - 29 • upon request, report to the Education Interim Committee on the use of state
 - 30 restricted funding an LEA uses to support an innovative education plan; and
 - 31 • waive certain state board rules;
 - 32 ▶ defines terms; and
 - 33 ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **53E-1-201**, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351

41 **53G-5-303**, as last amended by Laws of Utah 2019, Chapter 293

42 ENACTS:

43 **53G-7-221**, Utah Code Annotated 1953

44 **53G-7-222**, Utah Code Annotated 1953



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

47 Section 1. Section **53E-1-201** is amended to read:

48 **53E-1-201. Reports to and action required of the Education Interim Committee.**

49 (1) In accordance with applicable provisions and Section **68-3-14**, the following
50 recurring reports are due to the Education Interim Committee:

51 (a) the report described in Section **9-22-109** by the STEM Action Center Board,
52 including the information described in Section **9-22-113** on the status of the computer science
53 initiative and Section **9-22-114** on the Computing Partnerships Grants Program;

54 (b) the prioritized list of data research described in Section **35A-14-302** and the report
55 on research described in Section **35A-14-304** by the Utah Data Research Center;

56 (c) the report described in Section **35A-15-303** by the State Board of Education on

57 preschool programs;

58 (d) the report described in Section 53B-1-402 by the Utah Board of Higher Education
59 on career and technical education issues and addressing workforce needs;

60 (e) the annual report of the Utah Board of Higher Education described in Section
61 53B-1-402;

62 (f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education
63 regarding activities related to campus safety;

64 (g) the State Superintendent's Annual Report by the state board described in Section
65 53E-1-203;

66 (h) the annual report described in Section 53E-2-202 by the state board on the strategic
67 plan to improve student outcomes;

68 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for
69 the Deaf and the Blind;

70 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,
71 Actionable, and Dynamic Education director on research and other activities;

72 (k) the report described in Section 53F-2-522 regarding mental health screening
73 programs;

74 [~~(k)~~] (l) the report described in Section 53F-4-203 by the state board and the
75 independent evaluator on an evaluation of early interactive reading software;

76 [~~(l)~~] (m) the report described in Section 53F-4-407 by the state board on UPSTART;

77 [~~(m)~~] (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board
78 related to grants for professional learning and grants for an elementary teacher preparation
79 assessment; and

80 [~~(n)~~] (o) the report described in Section 53F-5-405 by the State Board of Education
81 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
82 for students who are low income.

83 (2) In accordance with applicable provisions and Section 68-3-14, the following
84 occasional reports are due to the Education Interim Committee:

85 (a) the report described in Section 35A-15-303 by the School Readiness Board by
86 November 30, 2020, on benchmarks for certain preschool programs;

87 (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education

88 on or before the Education Interim Committee's November 2021 meeting;

89 ~~[(e) the reports described in Section 53E-3-520 by the state board regarding cost~~
90 ~~centers and implementing activity based costing;]~~

91 ~~[(d)]~~ (c) if required, the report described in Section 53E-4-309 by the state board
92 explaining the reasons for changing the grade level specification for the administration of
93 specific assessments;

94 ~~[(e)]~~ (d) if required, the report described in Section 53E-5-210 by the state board of an
95 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

96 ~~[(f)]~~ (e) in 2022 and in 2023, on or before November 30, the report described in
97 Subsection 53E-10-309(7) related to the PRIME pilot program;

98 ~~[(g)]~~ (f) the report described in Section 53E-10-702 by Utah Leading through Effective,
99 Actionable, and Dynamic Education;

100 ~~[(h)]~~ (g) if required, the report described in Section 53F-2-513 by the state board
101 evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in
102 high poverty schools;

103 ~~[(i)]~~ (h) upon request, the report described in Section 53F-5-207 by the state board on
104 the Intergenerational Poverty Intervention Grants Program;

105 ~~[(j)]~~ (i) the report described in Section 53F-5-210 by the state board on the Educational
106 Improvement Opportunities Outside of the Regular School Day Grant Program;

107 (j) upon request, a report described in Section 53G-7-222 by an LEA regarding
108 expenditure of a percentage of state restricted funds to support an innovative education
109 program;

110 (k) the report described in Section 53G-7-503 by the state board regarding fees that
111 LEAs charge during the 2020-2021 school year;

112 (l) the reports described in Section 53G-11-304 by the state board regarding proposed
113 rules and results related to educator exit surveys; and

114 (m) the report described in Section 62A-15-117 by the Division of Substance Abuse
115 and Mental Health, the State Board of Education, and the Department of Health regarding
116 recommendations related to Medicaid reimbursement for school-based health services~~[-and]~~.

117 ~~[(n) the reports described in Section 63C-19-202 by the Higher Education Strategic~~
118 ~~Planning Commission.]~~

119 Section 2. Section **53G-5-303** is amended to read:

120 **53G-5-303. Charter agreement -- Content -- Modification.**

121 (1) As used in this section[, "satellite"]:

122 (2) (a) "Innovation plan" means the same as that term is defined in Section [53G-7-221](#).

123 (b) "Satellite charter school" means a charter school affiliated with an operating charter
124 school, which has the same charter school governing board and a similar program of
125 instruction, but has a different school number than the affiliated charter.

126 [~~(2)~~] (3) A charter agreement:

127 (a) is a contract between the charter school applicant and the charter school authorizer;

128 (b) shall describe the rights and responsibilities of each party; and

129 (c) shall allow for the operation of the applicant's proposed charter school.

130 [~~(3)~~] (4) A charter agreement shall include:

131 (a) the name of:

132 (i) the charter school; and

133 (ii) the charter school applicant;

134 (b) the mission statement and purpose of the charter school;

135 (c) the charter school's opening date;

136 (d) the grade levels the charter school will serve;

137 (e) (i) subject to Section [53G-6-504](#), the maximum number of students a charter school
138 will serve; or

139 (ii) for an operating charter school with satellite charter schools, the maximum number
140 of students of all satellite charter schools collectively served by the operating charter school;

141 (f) a description of the structure of the charter school governing board, including:

142 (i) the number of charter school governing board members;

143 (ii) how members of the charter school governing board are appointed; and

144 (iii) charter school governing board members' terms of office;

145 (g) assurances that:

146 (i) the charter school governing board will comply with:

147 (A) the charter school's bylaws;

148 (B) the charter school's articles of incorporation; and

149 (C) applicable federal law, state law, and state board rules;

150 (ii) the charter school governing board will meet all reporting requirements described
151 in Section [53G-5-404](#); and

152 (iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither
153 the authorizer nor the state, including an agency of the state, is liable for the debts or financial
154 obligations of the charter school or a person who operates the charter school;

155 (h) which administrative rules the state board will waive for the charter school;

156 (i) minimum financial standards for operating the charter school;

157 (j) minimum standards for student achievement; and

158 (k) signatures of the charter school authorizer and the charter school governing board
159 members.

160 ~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), a charter agreement may not
161 be modified except by mutual agreement between the charter school authorizer and the charter
162 school governing board.

163 (b) A charter school governing board may modify the charter school's charter
164 agreement without the mutual agreement described in Subsection ~~[(4)]~~ (5)(a) to:

165 (i) include an enrollment preference described in Subsection [53G-6-502\(4\)\(g\)](#)[-]; or

166 (ii) only as described in Subsection [53G-7-221\(5\)](#), include or remove an innovation
167 plan.

168 Section 3. Section [53G-7-221](#) is enacted to read:

169 **[53G-7-221](#). Innovative education program -- Innovation plan -- Waiver from state**
170 **board rule.**

171 (1) As used in this section:

172 (a) "Approved innovation plan" means an innovation plan that a local approving body
173 approves in accordance with this section.

174 (b) "Charter trust land council" means a council established by a charter school
175 governing board under Section [53G-7-1205](#).

176 (c) "Council" means a charter trust land council or a school community council.

177 (d) "Effective period" means the time period that an approved innovation plan is in
178 effect, beginning on the date on which the local approving body approves the innovation plan
179 and ending:

180 (i) at the end time period described in Subsection (2)(e)(ii); or

181 (ii) on the date an innovation school receives written notice that the state board has
182 terminated the innovation plan as described in Subsection (9).

183 (e) "Innovation LEA" means an LEA that includes an innovation school.

184 (f) "Innovation plan" means a plan to implement an innovative education program.

185 (g) "Innovation school" means a public school with an innovation plan that a local
186 approving body approves.

187 (h) "Innovative education program" or "program" means a program of research-based
188 innovations in a public school, including innovations in:

189 (i) school staffing;

190 (ii) curriculum and assessment;

191 (iii) class scheduling;

192 (iv) use of financial or other resources;

193 (v) faculty recruitment;

194 (vi) employment;

195 (vii) employee evaluations; or

196 (viii) compensation.

197 (i) "Local approving body" means:

198 (i) for a school district, the local school board; or

199 (ii) for a charter school, the charter school's authorizer.

200 (j) "Public school" means a district school or charter school.

201 (k) "School community council" means a council established at a school within a
202 school district under Section [53G-7-1202](#).

203 (l) "Student Achievement Backpack" means the same as that term is defined in Section
204 [53E-3-511](#).

205 (2) (a) A public school may create an innovation plan to implement an innovative
206 education program in any area of education.

207 (b) A public school shall submit an innovation plan to the public school's local
208 approving body.

209 (3) An innovation plan shall include:

210 (a) a statement of the public school's mission and an explanation of how the innovation
211 plan will enhance the school's ability to achieve the school's mission;

- 212 (b) a description of the innovative education program the public school will
- 213 implement;
- 214 (c) a list and description of the research or scientific basis supporting the innovative
- 215 education program;
- 216 (d) a list of the public school's programs, policies, or operations that the innovation
- 217 plan impacts, including:
 - 218 (i) the length of the school day;
 - 219 (ii) student graduation policies;
 - 220 (iii) the public school's assessment plan;
 - 221 (iv) the public school's proposed budget; or
 - 222 (v) the public school's staffing plan;
- 223 (e) (i) a description of the improvements in academic performance the public school
- 224 expects the innovation plan to achieve;
- 225 (ii) the period of time, not less than one year or more than three years, in which the
- 226 public school will demonstrate the results of the program; and
- 227 (iii) a description of the method the public school will use to measure outcomes and
- 228 demonstrate whether the innovation school achieves the improvements described in Subsection
- 229 (2)(e)(i);
- 230 (f) an estimate of cost savings or increased efficiencies, if any, the public school
- 231 expects implementing the innovation plan will achieve;
- 232 (g) evidence that the following agree to the innovation plan:
 - 233 (i) a majority of administrators employed at the public school;
 - 234 (ii) a majority of teachers employed at the public school; and
 - 235 (iii) a majority of the public school's council;
- 236 (h) a statement demonstrating the level of support for the innovation plan from other
- 237 members of the public school community, including:
 - 238 (i) school employees other than teachers;
 - 239 (ii) students;
 - 240 (iii) parents; and
 - 241 (iv) the surrounding community;
- 242 (i) a request for a waiver of any state board rule required for the public school to

243 implement the innovation plan, if any; and
244 (j) any additional information the local approving body requires.
245 (4) (a) A local approving body shall:
246 (i) review an innovation plan that an innovation school submits under Subsection (2);
247 (ii) approve or reject the innovation plan within 60 days after the day on which the
248 public school submits the innovation plan; and
249 (iii) within 30 days after the day on which the local approving body rejects an
250 innovation plan, provide to the public school an explanation in writing of the basis for the
251 rejection.
252 (b) A local approving body may not approve an innovation plan that would cause a
253 public school to violate:
254 (i) federal law; or
255 (ii) state law, other than a state board rule for which an innovation plan requests a
256 waiver.
257 (c) In approving innovation plans as described in Subsection (4)(a), a local approving
258 body shall give preference to innovations in the following areas:
259 (i) curriculum;
260 (ii) academic standards assessments;
261 (iii) accountability measures, including expanding the use of accountability measures
262 to more accurately present a complete measure of student learning and achievement, including
263 the use of:
264 (A) graduation or exit examinations;
265 (B) end-of-course evaluations;
266 (C) Student Achievement Backpack reviews;
267 (D) national and international accountability measures;
268 (E) measures of the percentage of students who enroll in an institution of higher
269 education after high school graduation; or
270 (F) measures of the percentage of students participating in the concurrent enrollment
271 program described in Section 53F-2-409;
272 (iv) providing services, including:
273 (A) special education services;

- 274 (B) services related to gifted and talented programs;
- 275 (C) services for English language learner students; or
- 276 (D) services for students at risk of academic failure, expulsion, or dropping out;
- 277 (v) teacher recruitment, training, preparation, or professional learning;
- 278 (vi) teacher employment;
- 279 (vii) educator evaluations;
- 280 (viii) employee compensation, including:
- 281 (A) performance pay plans;
- 282 (B) total compensation plans; or
- 283 (C) retirement or other benefits;
- 284 (ix) school governance; and
- 285 (x) plans for college and career readiness.
- 286 (5) A charter school governing board of an innovation school shall, in accordance with
- 287 Section 53G-5-303, modify the charter school's charter agreement to:
- 288 (a) include an approved innovation plan;
- 289 (b) include amendments to an approved innovation plan that a charter school authorizer
- 290 approves as described in Subsection (6); and
- 291 (c) remove an approved innovation plan at the end of the effective period.
- 292 (6) (a) (i) An innovation school may submit proposed amendments to an approved
- 293 innovation plan to the innovation school's local approving body.
- 294 (ii) An innovation school shall include with proposed amendments described
- 295 Subsection (6)(a)(i), evidence that the following agree to the proposed amendments:
- 296 (A) a majority of administrators employed at the innovation school;
- 297 (B) a majority of teachers employed at the innovation school; and
- 298 (C) a majority of the innovation school's council.
- 299 (b) A local approving body shall review and may approve or reject proposed
- 300 amendments that an innovation school submits under Subsection (6)(a).
- 301 (7) (a) Within 30 days of the date on which the local approving body approves an
- 302 innovation plan, or approves an amendment to an approved innovation plan, the local
- 303 approving body shall submit a copy of the approved innovation plan to the state board.
- 304 (b) The state board shall maintain a copy of an approved innovation plan a local

305 approving body submits under Subsection (7)(a).

306 (c) If an approved innovation plan a local approving body submits to the state board
307 includes a request for waiver of state board rule, the state board shall grant the requested
308 waiver, unless the waiver would:

309 (i) cause the innovation school to be in violation of state or federal law;

310 (ii) threaten the health, safety, or welfare of students in the innovation school; or

311 (iii) waive a rule related to:

312 (A) employee criminal background checks; or

313 (B) accounting principles.

314 (d) An innovation school may apply to the state board for additional or modified
315 waivers of state board rule.

316 (e) For an additional or modified waiver request described in Subsection (7)(d), the
317 state board may grant the waiver in accordance with Subsection (7)(c), if the waiver would
318 enhance any of the following for an innovative education program:

319 (i) educational opportunities;

320 (ii) standards; or

321 (iii) quality.

322 (8) (a) An innovation school shall annually report to the local approving body on the
323 innovation plan's progress in achieving the improvements described in Subsection (3)(e)(i).

324 (b) A local approving body shall annually submit a report described in Subsection
325 (8)(a) to the state board.

326 (c) (i) The state board may terminate an innovation plan in accordance with rules the
327 state board makes under Subsection (9), if the state board determines that the innovation plan
328 does not demonstrate sufficient progress.

329 (ii) The state board shall notify the local approving body and the innovation school in
330 writing of the state board's decision to terminate an innovation plan, within 30 days of the date
331 on which the state board makes the decision.

332 (9) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah
333 Administrative Rulemaking Act, to establish:

334 (a) requirements for the report described in Subsection (8)(a);

335 (b) a procedure for a local approving body to submit the report described in Subsection

336 (8)(b); and

337 (c) criteria the state board will use to:

338 (i) evaluate an innovation plan's progress; and

339 (ii) terminate an innovation plan.

340 (10) An innovation LEA may accept private grants, loans, gifts, endowments, devises,
341 or bequests which are made to support an innovative education program at an innovation
342 school.

343 Section 4. Section **53G-7-222** is enacted to read:

344 **53G-7-222. Budget flexibility for innovation LEAs.**

345 (1) As used in this section:

346 (a) "Innovation LEA" means the same as that term is defined in Section [53G-7-221](#).

347 (b) "Innovation school" means the same as that term is defined in Section [53G-7-221](#).

348 (c) "Innovative education program" means the same as that term is defined in Section
349 [53G-7-221](#).

350 (2) Notwithstanding any other provision of the Utah Code:

351 (a) an innovation LEA may, in each fiscal year:

352 (i) apply to the state board for approval to expend up to 35% of the LEA's state
353 restricted funding for each formula-based program to support an innovative education program
354 at an innovation school in the innovation LEA; and

355 (ii) except as provided in Subsection (2)(b), transfer fund balances between funds as
356 necessary to expend funds as described in Subsection (2)(a)(i); and

357 (b) an innovation LEA may not transfer funds under Subsection (2)(a) related to:

358 (i) the school LAND Trust Program, established in Section [53G-7-1206](#); or

359 (ii) a qualified grant program.

360 (3) An innovation LEA that expends funds as described in Subsection (2)(a) shall, in
361 accordance with the requirements that the state board establishes under Subsection (4), report
362 to the state board on how the innovation LEA expends the funds.

363 (4) The state board shall:

364 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
365 Rulemaking Act, to establish:

366 (i) requirements for an innovation LEA to apply for the state board's approval to

367 expend funds as described in Subsection (2);

368 (ii) procedures for an innovation LEA to submit the application described in

369 Subsection (4)(a); and

370 (iii) requirements for the report described in Subsection (3); and

371 (b) upon request of the Education Interim Committee, provide a report described in

372 Subsection (3) to the Education Interim Committee.

373 (5) In addition to the requirements established by the state board under Subsection

374 (4)(a)(i), an innovation LEA shall demonstrate how the innovation LEA has met the

375 requirements of each formula-based program from which the innovation LEA seeks approval to

376 expend funds as described in Subsection (2).

377 (6) (a) Nothing in this section authorizes an innovation LEA to violate:

378 (i) federal law; or

379 (ii) federal restrictions on the LEA's funds.

380 (b) An innovation LEA that takes an action that this section authorizes shall ensure that

381 the innovation LEA continues to meet federal maintenance of effort requirements.