

## SB0191S02 compared with SB0191S01

~~text~~ shows text that was in SB0191S01 but was deleted in SB0191S02.

text shows text that was not in SB0191S01 but was inserted into SB0191S02.

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Senator Lincoln Fillmore proposes the following substitute bill:

### REGULATORY SANDBOX IN EDUCATION

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: ~~text~~ Douglas R. Welton

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#### 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

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- 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  - remove an innovation plan that is no longer in effect;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 innovation plans to the state board;
- ▶ permits the state board to terminate an innovation plan under certain circumstances;
- ▶ requires the state board to:
  - upon request, report to the Education Interim Committee on the use of state restricted funding an LEA uses to support an innovative education ~~{plan}~~program;
  - annually report to the Education Interim Committee on innovation plans; and
  - waive certain state board rules;
- ▶ defines terms; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

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

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

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

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

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

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

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

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

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

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

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

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

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

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

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

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

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

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

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

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

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

(p) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans.

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

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

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

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

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

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

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

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

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

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

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

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

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### program:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

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

(c) the charter school's opening date;

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

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

(ii) for an operating charter school with satellite charter schools, the maximum number

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of students of all satellite charter schools collectively served by the operating charter school;

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

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

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

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

(g) assurances that:

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

(A) the charter school's bylaws;

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

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

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

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

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

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

(j) minimum standards for student achievement; and

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

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

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

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

(ii) only as described in Subsection 53G-7-221(5), include or remove an innovation plan.

Section 3. Section **53G-7-221** is enacted to read:

**53G-7-221. Innovative education program -- Innovation plan -- Waiver from state board rule.**

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(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(i) school staffing;

(ii) curriculum and assessment;

(iii) class scheduling;

(iv) use of financial or other resources;

(v) faculty recruitment;

(vi) employment;

(vii) employee evaluations; or

(viii) compensation.

(i) "Local approving body" means:

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

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

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

(k) "School community council" means a council established at a school within a

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school district under Section 53G-7-1202.

(1) "Student Achievement Backpack" means the same as that term is defined in Section 53E-3-511.

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

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

(3) An innovation plan shall include:

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

(b) a description of the innovative education program the public school will implement;

(c) a list and description of the research or scientific basis supporting the innovative education program;

(d) a list of the public school's programs, policies, or operations that the innovation plan impacts, including:

(i) the length of the school day;

(ii) student graduation policies;

(iii) the public school's assessment plan;

(iv) the public school's proposed budget; or

(v) the public school's staffing plan;

(e) (i) a description of the improvements in academic performance the public school expects the innovation plan to achieve;

(ii) the period of time, not less than one year or more than three years, in which the public school will demonstrate the results of the program; and

(iii) a description of the method the public school will use to measure outcomes and demonstrate whether the innovation school achieves the improvements described in Subsection (2)(e)(i);

(f) an estimate of cost savings or increased efficiencies, if any, the public school expects implementing the innovation plan will achieve;

(g) evidence that the following agree to the innovation plan:

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(i) a majority of administrators employed at the public school;

(ii) a majority of teachers employed at the public school; and

(iii) a majority of the public school's council;

(h) a statement demonstrating the level of support for the innovation plan from other members of the public school community, including:

(i) school employees other than teachers;

(ii) students;

(iii) parents; and

(iv) the surrounding community;

(i) a request for a waiver of any state board rule required for the public school to implement the innovation plan, if any; and

(j) any additional information the local approving body requires.

(4) (a) A local approving body shall:

(i) review an innovation plan that an innovation school submits under Subsection (2);

(ii) approve or reject the innovation plan within 60 days after the day on which the public school submits the innovation plan; and

(iii) within 30 days after the day on which the local approving body rejects an innovation plan, provide to the public school an explanation in writing of the basis for the rejection.

(b) A local approving body may not approve an innovation plan that would cause a public school to violate:

(i) federal law; or

(ii) state law, other than a state board rule for which an innovation plan requests a waiver.

(c) In approving innovation plans as described in Subsection (4)(a), a local approving body shall give preference to innovations in the following areas:

(i) curriculum;

(ii) academic standards assessments;

(iii) accountability measures, including expanding the use of accountability measures to more accurately present a complete measure of student learning and achievement, including the use of:

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- (A) graduation or exit examinations;
- (B) end-of-course evaluations;
- (C) Student Achievement Backpack reviews;
- (D) national and international accountability measures;
- (E) measures of the percentage of students who enroll in an institution of higher education after high school graduation; or
- (F) measures of the percentage of students participating in the concurrent enrollment program described in Section 53F-2-409;
  - (iv) providing services, including:
    - (A) special education services;
    - (B) services related to gifted and talented programs;
    - (C) services for English language learner students; or
    - (D) services for students at risk of academic failure, expulsion, or dropping out;
  - (v) teacher recruitment, training, preparation, or professional learning;
  - (vi) teacher employment;
  - (vii) educator evaluations;
  - (viii) employee compensation, including:
    - (A) performance pay plans;
    - (B) total compensation plans; or
    - (C) retirement or other benefits;
  - (ix) school governance; and
  - (x) plans for college and career readiness.
- (5) A charter school governing board of an innovation school shall, in accordance with Section 53G-5-303, modify the charter school's charter agreement to:
  - (a) include an approved innovation plan;
  - (b) include amendments to an approved innovation plan that a charter school authorizer approves as described in Subsection (6); and
  - (c) remove an approved innovation plan at the end of the effective period.
- (6) (a) (i) An innovation school may submit proposed amendments to an approved innovation plan to the innovation school's local approving body.
  - (ii) An innovation school shall include with proposed amendments described

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Subsection (6)(a)(i), evidence that the following agree to the proposed amendments:

(A) a majority of administrators employed at the innovation school;

(B) a majority of teachers employed at the innovation school; and

(C) a majority of the innovation school's council.

(b) A local approving body shall review and may approve or reject proposed amendments that an innovation school submits under Subsection (6)(a).

(7) (a) Within 30 days of the date on which the local approving body approves an innovation plan, or approves an amendment to an approved innovation plan, the local approving body shall submit a copy of the approved innovation plan to the state board.

(b) The state board shall maintain a copy of an approved innovation plan a local approving body submits under Subsection (7)(a).

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

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

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

(iii) waive a rule related to:

(A) employee criminal background checks; or

(B) accounting principles.

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

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

(i) educational opportunities;

(ii) standards; or

(iii) quality.

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

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

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

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

(9) The state board shall:

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

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

~~(b)~~(ii) a procedure for a local approving body to submit the report described in Subsection (8)(b); and

~~(c)~~(iii) criteria the state board will use to:

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

~~(ii)~~B) terminate an innovation plan~~(i)~~; and

(b) annually report to the Education Interim Committee, at or before the Education Interim Committee's November meeting, on:

(i) approved innovation plans;

(ii) waivers of state board rule granted under Subsection (7);

(iii) requested waivers of state board rule that the state board does not grant, including the reason for declining to grant the waiver;

(iv) innovation plans terminated under Subsection (8), including the reason for the termination;

(v) any statutory provisions that prevent:

(A) a local approving body from approving an innovation plan; or

(B) the state board from granting a waiver of state board rule; and

(vi) recommendations for legislation to address statutory provisions described in Subsection (9)(b)(v).

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(ii) a qualified grant program.

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

(4) The state board shall:

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

(i) requirements for an innovation LEA to apply for the state board's approval to expend funds as described in Subsection (2);

(ii) procedures for an innovation LEA to submit the application described in Subsection (4)(a); and

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

(b) upon request of the Education Interim Committee, provide a report described in Subsection (3) to the Education Interim Committee.

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

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(4)(a)(i), an innovation LEA shall demonstrate how the innovation LEA has met the requirements of each formula-based program from which the innovation LEA seeks approval to expend funds as described in Subsection (2).

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

(i) federal law; or

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

(b) An innovation LEA that takes an action that this section authorizes shall ensure that the innovation LEA continues to meet federal maintenance of effort requirements.