

# HB0138S01 compared with HB0138

~~text~~ shows text that was in HB0138 but was deleted in HB0138S01.

text shows text that was not in HB0138 but was inserted into HB0138S01.

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Representative Melissa G. Ballard proposes the following substitute bill:

## DIGITAL SCHOOL CURRICULUM REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melissa G. Ballard**

Senate Sponsor: ~~\_\_\_\_\_~~ Lincoln Fillmore

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### LONG TITLE

#### General Description:

This bill requires certain provisions in a contract between a state and local education agencies and a vendor in a contract for digital instructional material.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires provisions in a contract between the State Board of Education (state board) or a local education agency (LEA) and a vendor in a contract for digital instructional material that:
  - requires notice of changes to the digital instructional material; and
  - allows the relevant state board or LEA to reject the changes or terminate the contract in certain circumstances; and

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- ▶ ~~{makes technical and conforming changes}~~ requires an LEA to obtain an independent third-party evaluation of digital instructional material in certain circumstances.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

~~{AMENDS:~~

~~———— 53G-10-102, as enacted by Laws of Utah 2018, Chapter 3~~

~~———— 53G-10-103, as enacted by Laws of Utah 2022, Chapter 377~~

~~{ENACTS:~~

~~53G-10-104, Utah Code Annotated 1953~~

REPEALS:

~~53G-10-101, as enacted by Laws of Utah 2018, Chapter 3~~

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

Section 1. Section ~~{53G-10-102}~~ 53G-10-104 is ~~{amended to read:~~

~~———— 53G-10-102. Definitions.~~

~~———— [Reserved] As used in this chapter:~~

~~———— (1) "Instructional material" means the same as that term is defined in Section 53E-4-401.~~

~~———— (2) "Public school" means:~~

~~———— (a) a district school;~~

~~———— (b) a charter school; or~~

~~———— (c) the Utah Schools for the Deaf and the Blind.~~

~~———— (3) (a) "School setting" means, for a public school:~~

~~———— (i) in a classroom;~~

~~———— (ii) in a school library; or~~

~~———— (iii) on school property.~~

~~———— (b) "School setting" includes the following activities that an organization or individual~~

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~~conducts outside of a public school, if a public school or an LEA sponsors or requires the activity:~~

~~—— (i) an assembly;~~

~~—— (ii) a guest lecture;~~

~~—— (iii) a live presentation; or~~

~~—— (iv) an event.~~

~~—— Section 2. Section 53G-10-103 is amended to read:~~

~~—— 53G-10-103. Sensitive instructional materials:~~

~~—— (1) As used in this section:~~

~~—— [(a) (i) "Instructional material" means a material, regardless of format, used:]~~

~~—— [(A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or]~~

~~—— [(B) to support a student's learning in the school setting.]~~

~~—— [(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.]~~

~~—— [(b) "LEA governing board" means:]~~

~~—— [(i) for a school district, the local school board;]~~

~~—— [(ii) for a charter school, the charter school governing board; or]~~

~~—— [(iii) for the Utah Schools for the Deaf and the Blind, the state board.]~~

~~—— [(c) (a) "Material" means the same as that term is defined in Section 76-10-1201.~~

~~—— [(d) (b) "Minor" means any person less than 18 years old.~~

~~—— [(c) "Public school" means:]~~

~~—— [(i) a district school;]~~

~~—— [(ii) a charter school; or]~~

~~—— [(iii) the Utah Schools for the Deaf and the Blind.]~~

~~—— [(f) (i) "School setting" means, for a public school:]~~

~~—— [(A) in a classroom;]~~

~~—— [(B) in a school library; or]~~

~~—— [(C) on school property.]~~

~~—— [(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or~~

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~~requires the activity:]~~

~~—— [(A) an assembly;]~~

~~—— [(B) a guest lecture;]~~

~~—— [(C) a live presentation; or]~~

~~—— [(D) an event.]~~

~~—— [(g)] (c) (i) "Sensitive material" means an instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.~~

~~—— (ii) "Sensitive material" does not include an instructional material:~~

~~—— (A) that an LEA selects under Section 53G-10-402;~~

~~—— (B) for medical courses;~~

~~—— (C) for family and consumer science courses; or~~

~~—— (D) for another course the state board exempts in state board rule.~~

~~—— (2) (a) Sensitive materials are prohibited in the school setting:~~

~~—— (b) A public school may not:~~

~~—— (i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or~~

~~—— (ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials:~~

~~—— (3) An LEA shall include parents who are reflective of the members of the school's community when determining if an instructional material is sensitive material:~~

~~—— (4) The state board shall:~~

~~—— (a) in consultation with the Office of the Attorney General, provide guidance and training to support public schools in identifying instructional materials that meet the definition of sensitive materials under this section; and~~

~~—— (b) report to the Education Interim Committee and the Government Operations Interim Committee, at or before the November 2022 interim meeting, on implementation and compliance with this section, including:~~

~~—— (i) any policy the state board or an LEA adopts to implement or comply with this section;~~

~~—— (ii) any rule the state board makes to implement or comply with this section; and~~

~~—— (iii) any complaints an LEA or the state board receives regarding a violation of this~~

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~~section, including:~~

- ~~—— (A) action taken in response to a complaint described in this Subsection (4)(b)(iii); and~~
- ~~—— (B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material.~~

~~—— Section 3. Section 53G-10-104 is } enacted to read:~~

### **53G-10-104. Contract requirements for digital instructional material.**

(1) As used in this section:

(a) "Digital instructional material" means any instructional material, ~~as that term is defined in Section 53E-4-401,~~ that is digital, including instructional software programs, online or local applications, ~~{ websites, }~~ and other electronic material.

(b) "Sensitive material" means the same as that term is defined in Section 53G-10-103.

(~~{b}~~c) "Vendor" means an entity with which the state board or an LEA contracts to provide digital instructional material to students.

(2) Neither the state board nor an LEA may enter into a contract with a vendor for digital instructional materials unless the contract includes provisions that:

(a) require the vendor to notify the relevant state board or LEA governing board of any update, modification, or addition to the digital instructional material, ~~including links to other material or websites from within the digital instructional material;~~

(b) ensure that the relevant state board or LEA governing board has a sufficient period of time to review the new version of the digital instructional material that is the subject of the notice described in Subsection (2)(a); and

(c) if the relevant state board or LEA governing board determines that the new version of the digital instructional material that is the subject of the notice described in Subsection (2)(a) contains sensitive material, ~~{as that term is defined in Section 53G-10-103, }~~ allow the LEA to:

(i) ~~{reject}~~ give the vendor notice:

(A) of whether the LEA has removed the relevant chapter or section of the digital instructional material from the curriculum;

(B) that the LEA rejects the update, modification, or addition to the digital instructional material ~~{, requiring};~~ and

(C) that the vendor ~~is required~~ to provide the digital instructional material in the

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original form for which the parties contracted; ~~for~~

~~(ii)~~ and

(ii) no earlier than 14 days after the day on which the LEA provides the notice described in Subsection (2)(c)(i), if the vendor does not comply with the requirement to provide the digital instructional material in the originally contracted form, terminate the contract without any penalty related to the termination or any further financial obligation.

(3) (a) A student, a student's parent, or an LEA employee may notify the relevant LEA office responsible for curriculum regarding any content in digital instructional material that the individual:

(i) encounters through the LEA's curriculum or otherwise through the LEA; and

(ii) alleges to be sensitive material.

(b) Before 30 days after the day on which an LEA receives a notice described in Subsection (3)(a), the LEA shall:

(i) evaluate the relevant digital instructional material to determine whether the material constitutes sensitive material; and

(ii) if the material constitutes sensitive material:

(A) eliminate the chapter or section of the digital instructional material containing the sensitive material from the LEA's curriculum; and

(B) provide the notice to the vendor described in Subsection (2)(c)(i).

(c) If an LEA receives more than 10 notices described in Subsection (3)(a) regarding the same chapter or section of digital instructional material, the LEA shall:

(i) obtain an independent third-party evaluation of the digital instructional material to determine whether the material constitutes sensitive material; and

(ii) if the material constitutes sensitive material, provide the notice to the vendor described in Subsection (2)(c)(i).

~~(3)~~4 (a) Except as provided in Subsection (3)(b), this section does not apply to contracts in effect on July 1, 2023.

(b) Neither the state board nor an LEA may modify an existing contract, including a renewal or extension, unless the relevant state board or LEA complies with Subsection (2).

Section ~~4~~2. **Repealer.**

This bill repeals:

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Section **53G-10-101**, Title.

Section ~~5~~3. Effective date.

This bill takes effect on July 1, 2023.