

Senator Kirk A. Cullimore proposes the following substitute bill:

**STATEWIDE ONLINE EDUCATION PROGRAM**

**MODIFICATIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: Kera Birkeland

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Statewide Online Education Program (SOEP).

**Highlighted Provisions:**

This bill:

- ▶ requires the state board to provide longer notice periods for changes to the approval process for a certified online course provider;
- ▶ prohibits the state board from unenrolling a student under certain circumstances;
- ▶ establishes a deadline for making a payment to an authorized online course provider;
- ▶ establishes requirements for calculating a projected legislative appropriation for enrollment of students in the SOEP;
- ▶ requires the state board to create approval processes for new course offerings by an authorized online course provider;
- ▶ imposes requirements on the state board for conducting certain site visits;
- ▶ requires the state board to create an additional educator license type; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53E-6-201**, as last amended by Laws of Utah 2020, Chapters 365, 408

32 **53F-4-501**, as last amended by Laws of Utah 2021, Chapters 362, 413

33 **53F-4-502**, as last amended by Laws of Utah 2021, Chapter 362

34 **53F-4-503**, as last amended by Laws of Utah 2021, Chapter 362

35 **53F-4-504**, as last amended by Laws of Utah 2021, Chapter 413

36 **53F-4-505**, as last amended by Laws of Utah 2021, Chapter 362

37 **53F-4-507**, as last amended by Laws of Utah 2019, Chapter 186

38 **53F-4-514**, as last amended by Laws of Utah 2021, Chapter 413

39 **53F-4-518**, as enacted by Laws of Utah 2022, Chapter 395

40 REPEALS:

41 **53F-4-515**, as renumbered and amended by Laws of Utah 2018, Chapter 2



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

44 Section 1. Section **53E-6-201** is amended to read:

45 **53E-6-201. State board licensure.**

46 (1) [~~To be fully implemented by July 1, 2020, and, if technology and funds are~~  
47 ~~available, the~~] The state board shall establish in rule made in accordance with Title 63G,  
48 Chapter 3, Utah Administrative Rulemaking Act, a system for educator licensing that includes:

49 (a) an associate educator license that permits an individual to provide educational  
50 services in a public school while working to meet the requirements of a professional educator  
51 license;

52 (b) a professional educator license that permits an individual to provide educational  
53 services in a public school after demonstrating that the individual meets licensure requirements  
54 established in state board rule; [~~and~~]

55 (c) an LEA-specific educator license issued by the state board at the request of an  
56 LEA's governing body that is valid for an individual to provide educational services in the

57 requesting LEA's schools[-]; and

58 (d) beginning in the 2023-2024 school year, a provider-specific license issued by the  
59 state board at the request of an authorized online course provider described in Subsection  
60 53F-4-504 that:

61 (i) is valid for an individual to provide educational services to a student enrolled in an  
62 online course described in 53F-4-503; and

63 (ii) contains eligibility criteria that is no more stringent than the requirements for a  
64 license described in Subsection (1)(c).

65 (2) An individual employed in a position that requires licensure by the state board shall  
66 hold the license that is appropriate to the position.

67 (3) (a) The state board may by rule made in accordance with Title 63G, Chapter 3,  
68 Utah Administrative Rulemaking Act, rank, endorse, or otherwise classify licenses and  
69 establish the criteria for obtaining, retaining, and reinstating licenses.

70 (b) An educator who is enrolling in a course of study at an institution within the state  
71 system of higher education to satisfy the state board requirements for retaining a license is  
72 exempt from tuition, except for a semester registration fee established by the Utah Board of  
73 Higher Education, if:

74 (i) the educator is enrolled on the basis of surplus space in the class after regularly  
75 enrolled students have been assigned and admitted to the class in accordance with regular  
76 procedures, normal teaching loads, and the institution's approved budget; and

77 (ii) enrollments are determined by each institution under rules and guidelines  
78 established by the Utah Board of Higher Education in accordance with findings of fact that  
79 space is available for the educator's enrollment.

80 Section 2. Section **53F-4-501** is amended to read:

81 **53F-4-501. Definitions.**

82 As used in this part:

83 (1) "Authorized online course provider" means the entities listed in Subsection  
84 53F-4-504(1).

85 [(+)] (2) (a) "Certified online course provider" means a provider that the state board  
86 approves to offer courses through the Statewide Online Education Program.

87 (b) "Certified online course provider" does not include an entity described in

88 Subsections ~~53F-4-504~~(1)(a) through (c).

89 ~~[(2)]~~ (3) "Credit" means credit for a high school course, or the equivalent for a middle  
90 school course, as determined by the state board.

91 ~~[(3)]~~ (4) "Eligible student" means a student:

92 (a) who intends to take a course for middle school or high school credit; and

93 (b) (i) who is enrolled in ~~[a district school or charter school]~~ an LEA in Utah; or

94 (ii) (A) who attends a private school or home school; and

95 (B) whose custodial parent is a resident of Utah.

96 ~~[(4)]~~ (5) "High school" means grade 9, 10, 11, or 12.

97 ~~[(5)]~~ (6) "Middle school" means grade 7 or 8.

98 ~~[(6)]~~ (7) "Online course" means a course of instruction offered by the Statewide Online  
99 Education Program through the use of digital technology, regardless of whether the student  
100 participates in the course at home, at a school, at another location, or any combination of these.

101 ~~[(7)]~~ (8) "Plan for college and career readiness" means the same as that term is defined  
102 in Section ~~53E-2-304~~.

103 ~~[(8)]~~ (9) "Primary LEA of enrollment" means the LEA in which an eligible student is  
104 enrolled for courses other than online courses offered through the Statewide Online Education  
105 Program.

106 ~~[(9)]~~ (10) "Released-time" means a period of time during the regular school day a  
107 student is excused from school at the request of the student's parent pursuant to rules of the  
108 state board.

109 Section 3. Section ~~53F-4-502~~ is amended to read:

110 **~~53F-4-502. Statewide Online Education Program created -- Designated as~~**  
111 **~~program of the public education system -- Purposes.~~**

112 (1) The Statewide Online Education Program is created to enable an eligible student to,  
113 through the completion of publicly funded online courses:

114 (a) earn high school graduation credit; or

115 (b) earn middle school credit.

116 (2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online  
117 Education Program is designated as a program of the public education system.

118 (3) The purposes of ~~[an online school]~~ the Statewide Online Education Program are to:

119 (a) provide a student with access to online learning options regardless of where the  
120 student attends school, whether a public, private, or home school;

121 (b) provide ~~[high quality]~~ digital learning options for a student regardless of language,  
122 residence, family income, or special needs;

123 (c) provide online learning options to allow a student to acquire the knowledge and  
124 technology skills necessary in a digital world;

125 (d) utilize the power and scalability of technology to customize education so that a  
126 student may learn in the student's own style preference and at the student's own pace;

127 (e) utilize technology to remove the constraints of traditional classroom learning,  
128 allowing a student to access learning virtually at any time and in any place and giving the  
129 student the flexibility to take advantage of the student's peak learning time;

130 (f) provide personalized learning, where a student can spend as little or as much time  
131 as the student needs to master the material;

132 (g) provide greater access to self-paced programs enabling a high achieving student to  
133 accelerate academically, while a struggling student may have additional time and help to gain  
134 competency;

135 (h) allow a student to customize the student's schedule to better meet the student's  
136 academic goals;

137 (i) provide quality learning options to better prepare a student for post-secondary  
138 education and vocational or career opportunities; and

139 (j) allow a student to have an individualized educational experience.

140 [~~(4) The program created under this part shall be known as the "Statewide Online~~  
141 ~~Education Program."~~]

142 [~~(5)~~ (4) The program name, "Statewide Online Education Program," shall be used in  
143 the dissemination of information on the program.

144 Section 4. Section **53F-4-503** is amended to read:

145 **53F-4-503. Option to enroll in online courses offered through the Statewide**  
146 **Online Education Program.**

147 (1) Subject to Subsections (2), (3), and (9), an eligible student may enroll in an online  
148 course offered through the Statewide Online Education Program if:

149 (a) the student meets the course prerequisites;

- 150 (b) the course is open for enrollment;
- 151 (c) the online course is aligned with the student's plan for college and career readiness;
- 152 (d) the online course is consistent with the student's IEP, if the student has an IEP; and
- 153 (e) the online course is consistent with the student's international baccalaureate
- 154 program, if the student is participating in an international baccalaureate program.

155 (2) (a) Except as provided in Subsection (2)(b), an eligible student may enroll in online

156 courses for no more than six credits per school year.

157 (b) An eligible student may enroll in an online course for middle school credit for no

158 more than two credits per school year if the eligible student:

- 159 (i) does not have a primary LEA of enrollment; and
- 160 (ii) is enrolled in a private school.

161 (3) (a) An eligible student who has a primary LEA of enrollment may enroll in an

162 online course for middle school credit [~~beginning January 1, 2022~~].

163 (b) An eligible student who does not have a primary LEA of enrollment may enroll in

164 an online course for middle school credit [~~beginning in the 2022-2023 school year~~].

165 (4) Notwithstanding Subsection (2):

166 (a) a student's primary LEA of enrollment may allow an eligible student to enroll in

167 online courses for more than the number of credits specified in Subsection (2); or

168 (b) upon the request of an eligible student, the state board may allow the student to

169 enroll in online courses for more than the number of credits specified in Subsection (2), if the

170 online courses better meet the academic goals of the student.

171 (5) An eligible student's primary LEA of enrollment:

172 (a) in conjunction with the student and the student's parent, is responsible for preparing

173 and implementing a plan for college and career readiness for the eligible student, as provided in

174 Section [53E-2-304](#); and

175 (b) shall assist an eligible student in scheduling courses in accordance with the

176 student's plan for college and career readiness, graduation requirements, and the student's

177 post-secondary plans.

178 (6) An eligible student's primary LEA of enrollment may not:

179 (a) impose restrictions on a student's selection of an online course that fulfills

180 graduation requirements and is consistent with the student's plan for college and career

181 readiness or post-secondary plans; or

182 (b) give preference to an online course or authorized online course provider.

183 (7) The state board, including an employee of the state board, may not give preference  
184 to an online course or authorized online course provider.

185 (8) (a) Except as provided in Subsection (8)(b), a person may not provide an  
186 inducement or incentive to a public school student to participate in the Statewide Online  
187 Education Program.

188 (b) For purposes of Subsection (8)(a):

189 (i) "Inducement or incentive" does not mean:

190 (A) instructional materials or software necessary to take an online course; or

191 (B) access to a computer or digital learning device for the purpose of taking an online  
192 course.

193 (ii) "Person" does not include a relative of the public school student.

194 (9) If the program lacks sufficient legislative appropriations to fund the enrollment in  
195 online courses for all eligible students who do not have a primary LEA of enrollment, the state  
196 board shall prioritize funding the enrollment of an eligible student who intends to graduate  
197 from high school during the school year in which the student enrolls in an online course.

198 Section 5. Section **53F-4-504** is amended to read:

199 **53F-4-504. Authorized online course providers -- Certified online course**  
200 **providers.**

201 (1) The following entities are known as an authorized online course provider and may  
202 offer online courses to eligible students through the Statewide Online Education Program:

203 (a) a charter school or district school created exclusively for the purpose of serving  
204 students online;

205 (b) an LEA program, approved by the LEA governing board, that is created exclusively  
206 for the purpose of serving students online;

207 (c) a program of an institution of higher education listed in Section **53B-2-101** that:

208 (i) offers secondary school level courses; and

209 (ii) is created exclusively for the purpose of serving students online; and

210 (d) [~~beginning in the 2021-2022 school year,~~] a certified online course provider.

211 (2) The state board shall approve an online course provider as a certified online course

212 provider if the online course provider:

- 213 (a) complies with the application procedures described in Section 53F-4-514;
  - 214 (b) meets the standards described in Section 53F-4-514; and
  - 215 (c) has prior experience offering online courses to secondary students.
- 216 (3) The state board may revoke the approval described in Subsection (2) if the state

217 board:

218 (a) finds that a certified online course provider is not complying with the requirements  
219 described in Section 53F-4-514[?];

220 (b) provides written notice describing the findings of non-compliance to the certified  
221 online course provider;

222 (c) provides the certified online course provider with at least 60 days to remedy the  
223 findings of non-compliance;

224 (d) reevaluates the findings of non-compliance at least 60 days after the certified online  
225 course provider's remedy period described in Subsection (3)(c); and

226 (e) finds after reevaluation that the certified online course provider has failed to  
227 satisfactorily remedy the findings of non-compliance.

228 Section 6. Section 53F-4-505 is amended to read:

229 **53F-4-505. Payment for an online course.**

230 (1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1  
231 credit online course is:

232 (a) \$200 for the following courses, except a concurrent enrollment course:

- 233 (i) financial literacy;
- 234 (ii) health;
- 235 (iii) fitness for life; and
- 236 (iv) computer literacy;

237 (b) \$200 for driver education;

238 (c) \$250 for a course that meets core standards for Utah public schools in fine arts or  
239 career and technical education, except a concurrent enrollment course;

240 (d) \$300 for the following courses:

- 241 (i) a course that meets core standards for Utah public schools requirements in social  
242 studies, except a concurrent enrollment course; and



- 243 (ii) a world language course, except a concurrent enrollment course;
- 244 (e) \$350 for the following courses:
- 245 (i) a course that meets core standards for Utah public schools requirements for
- 246 language arts, mathematics, or science; and
- 247 (ii) a concurrent enrollment course; and
- 248 (f) \$250 for a course not described in Subsections (1)(a) through (e).
- 249 (2) If a course meets the requirements of more than one course fee category described
- 250 in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.
- 251 (3) [~~Beginning with the 2013-14 school year, the~~] The online course fees described in
- 252 Subsection (1) shall be adjusted each school year in accordance with the percentage change in
- 253 value of the weighted pupil unit from the previous school year.
- 254 (4) An [~~online learning provider~~] authorized online course provider shall receive
- 255 payment for an online course as follows:
- 256 (a) for a .5 credit online course, 50% of the online course fee after the withdrawal
- 257 period described in Section [53F-4-506](#);
- 258 (b) for a 1 credit online course, 25% of the online course fee after the withdrawal
- 259 period described in Section [53F-4-506](#) and 25% of the online course fee upon the beginning of
- 260 the second .5 credit of the online course; and
- 261 (c) if a student completes a 1 credit online course within 12 months or a .5 credit
- 262 course within nine weeks following the end of a traditional semester, 50% of the online course
- 263 fee.
- 264 (5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit
- 265 course within nine weeks following the end of a traditional semester, the student may continue
- 266 to be enrolled in the course until the student graduates from high school.
- 267 (b) To encourage an authorized online course provider to provide remediation to a
- 268 student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the
- 269 need for credit recovery, an authorized online course provider shall receive a payment equal to
- 270 30% of the online course fee if the student completes the online course:
- 271 (i) for a high school online course, before the student graduates from high school; or
- 272 (ii) for a middle school online course, before the student completes middle school.
- 273 (6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a

274 school district or charter school may:

275 (a) negotiate a fee with an authorized online course provider for an amount up to the  
276 amount prescribed in Subsections (1) through (3); and

277 (b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

278 (7) An authorized online course provider who contracts with a vendor for the  
279 acquisition of online course content or online course instruction may negotiate the payment for  
280 the vendor's service independent of the fees specified in Subsections (1) through (3).

281 (8) The state board may not remove a student from an online course if the student is  
282 eligible for continued enrollment in the online course under Subsection (5).

283 Section 7. Section **53F-4-507** is amended to read:

284 **53F-4-507. State board to deduct funds and make payments -- Plan for the**  
285 **payment of online courses taken by private and home school students.**

286 (1) [~~For a fiscal year that begins on or after July 1, 2018, and subject~~] Subject to future  
287 budget constraints, the Legislature shall adjust the appropriation for the Statewide Online  
288 Education Program based on:

289 (a) the anticipated increase of eligible home school and private school students  
290 enrolled in the Statewide Online Education Program; and

291 (b) the value of the weighted pupil unit.

292 (2) Notwithstanding Subsection (1) and subject to future budget constraints, the  
293 Legislature shall:

294 (a) consider enrollment projections provided by the authorized online course providers  
295 to account for enrollment growth during the appropriations process; ~~H→~~ **[and]** ~~←H~~

296 (b) provide a supplemental appropriation to adequately fund the Statewide Online  
297 Education Program when the enrollment amount exceeds the projected enrollment amounts  
298 provided by the authorized online course providers ~~H→~~ **[:] ; and**

298a **(c) in the fiscal year beginning July 1, 2025, keep all other appropriations for the**  
298b **Statewide Online Education Program separate from the appropriations described in Section**  
298c **53F-4-518.** ~~←H~~

299 ~~[(2)]~~ (3) (a) The state board shall deduct money from funds allocated to the student's  
300 primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to  
301 pay for online course fees.

302 (b) Money shall be deducted under Subsection ~~[(2)]~~ (3)(a) in the amount and at the  
303 time an authorized online course provider qualifies to receive payment for an online course  
304 provided to a public education student, not to exceed 90 days after qualification, as provided in

305 Subsection 53F-4-505(4).

306 (c) Beginning July 1, 2023, the state board shall deduct money from funds allocated for  
307 course fees for a private school or home school student in the amount and at the time an  
308 authorized online course provider qualifies to receive payment for an online course, not to  
309 exceed 90 days after qualification.

310 [~~3~~] (4) From money deducted under Subsection [~~2~~] (3), the state board shall make  
311 payments to the student's authorized online course provider as provided in Section 53F-4-505.

312 [~~4~~] (5) The Legislature shall establish a plan~~[, which shall take effect beginning on~~  
313 ~~July 1, 2013,]~~ for the payment of online courses taken by a private school or home school  
314 student.

315 Section 8. Section **53F-4-514** is amended to read:

316 **53F-4-514. State board -- Rulemaking -- Fees.**

317 (1) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
318 state board shall provide a delayed effective date that is after the school year has ended for a  
319 change to an administrative rule related to the Statewide Online Education Program if the  
320 change would require an authorized online course provider to make program changes during  
321 the school year.

322 [~~1~~] (2) The state board shall make rules in accordance with this part and Title 63G,  
323 Chapter 3, Utah Administrative Rulemaking Act, that establish:

324 (a) [~~establish~~] a course credit acknowledgement form and procedures for completing  
325 and submitting to the state board a course credit acknowledgement;

326 (b) [~~establish~~] procedures for the administration of a statewide assessment to a student  
327 enrolled in an online course; and

328 (c) [~~establish~~] protocols for an online course provider to obtain approval to become a  
329 certified online course provider, including:

330 (i) the application procedure for an online course provider to obtain approval to  
331 become a certified online course provider; [~~and~~]

332 (ii) the standards that a certified online course provider and any online course the  
333 certified online course provider offers shall meet[-];

334 (d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and  
335 Materials, criteria for an authorized online course provider to submit for approval an online

336 course that does not have an existing state board course code;

337 (e) no later than July 1, 2024, a process within existing systems at the state board to  
338 allow a certified online course provider access to an educator's licensing, endorsement,  
339 certification, and assignment information if the educator is teaching an online course for the  
340 certified online course provider;

341 (f) in consultation with the authorized online course providers, the parameters for  
342 conducting a site visit including:

- 343 (i) a definition for the term site visit;
- 344 (ii) the minimum amount of time required for:
  - 345 (A) notice to an authorized online course provider of a site visit; and
  - 346 (B) an authorized online course provider to prepare for a site visit;
- 347 (iii) the documents, data, and artifacts subject to inspection during a site visit; and
- 348 (iv) a process to ensure a site visit allows for observation of instruction without  
349 interfering with the instruction.

350 ~~[(2)]~~ (3) (a) When establishing the standards described in Subsection ~~[(1)(c)(ii)];~~  
351 ~~(2)(c)(ii)~~ the state board shall:

- 352 (i) establish rules and minimum standards regarding accreditation;
- 353 (ii) require an online course to be aligned with the core standards described in Section  
354 [53E-4-202](#);
- 355 (iii) require proof that a national organization responsible for college athletics  
356 endorses:

- 357 (A) the certified online course provider; or
- 358 (B) the online course that a certified online course provider offers;
- 359 (iv) permit an open-entry, open-exit method of instructional delivery that allows a  
360 student the flexibility to:

- 361 (A) schedule in response to individual needs or requirements;
- 362 (B) demonstrate competency when the student has mastered knowledge and skills;
- 363 (C) begin or end study at any time; and
- 364 (D) progress through course material at the student's own pace; and

365 (v) except as provided in Subsection (4), require an individual who teaches a course for  
366 a certified online course provider to hold a teaching license issued by the state board.

367 (b) When establishing the standards described in Subsection ~~[(1)(c)(ii)]~~ (2)(c)(ii), the  
368 state board may not:

- 369 (i) specify a minimum duration for an online course;
- 370 (ii) specify a minimum amount of time that a student must spend in an online course;

371 or

- 372 (iii) limit the class size of an online course.

373 (4) If an individual possesses a provider specific license described in Section  
374 53E-6-201, the state board may not prohibit the individual from teaching an online course for  
375 an authorized online course provider while the individual is in the process of obtaining an  
376 endorsement or additional license issued by the state board.

377 ~~[(3)]~~ (5) The state board may establish a fee, in accordance with Section 63J-1-504, in  
378 an amount to pay the costs to the state board of the application approval process and the  
379 monitoring of a certified online course provider's compliance with the standards described in  
380 Subsection ~~[(1)(c)(ii)]~~ (2)(c)(ii).

381 ~~[(4)]~~ (6) (a) Fee revenue collected in accordance with Subsection ~~[(3)]~~ (5) shall be:

- 382 ~~[(b)]~~ (i) deposited into the Uniform School Fund as a dedicated credit; and
- 383 ~~[(c)]~~ (ii) used to pay the costs to the state board of reviewing certified online course  
384 providers' applications and compliance with the standards described in Subsection ~~[(1)(c)(ii)]~~  
385 (2)(c)(ii).

386 Section 9. Section 53F-4-518 is amended to read:

387 **53F-4-518. Small school student access to college and career readiness courses.**

388 Subject to legislative appropriations and notwithstanding Subsections 53F-4-509(2) and  
389 (3), ~~[in lieu of a deduction described in Subsection 53F-4-507(2),]~~ the state board shall:

- 390 (1) use funds from an appropriation for the Statewide Online Education Program to pay  
391 for an online course fee described in Section 53F-4-505 for a student who is enrolled in a  
392 public high school that enrolls fewer than 1,000 students~~[-];~~ and

393 (2) after the funds described in Subsection (1) have been expended, make a deduction  
394 as described in Subsection 53F-4-507(3).

395 Section 10. **Repealer.**

396 This bill repeals:

397 Section 53F-4-515, **Review by legislative auditor general.**