

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

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 REPEALS:

40 **53F-4-515**, as renumbered and amended by Laws of Utah 2018, Chapter 2



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

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

44 **53E-6-201. State board licensure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

80 **53F-4-501. Definitions.**

81 As used in this part:

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

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

86 (b) "Certified online course provider" does not include an entity described in
87 Subsections 53F-4-504(1)(a) through (c).

88 [(2)] (3) "Credit" means credit for a high school course, or the equivalent for a middle
89 school course, as determined by the state board.

90 [(3)] (4) "Eligible student" means a student:

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

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

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

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

95 [(4)] (5) "High school" means grade 9, 10, 11, or 12.

96 [(5)] (6) "Middle school" means grade 7 or 8.

97 [(6)] (7) "Online course" means a course of instruction offered by the Statewide Online
98 Education Program through the use of digital technology, regardless of whether the student
99 participates in the course at home, at a school, at another location, or any combination of these.

100 (8) "Open-entry, open-exit" means a method of instructional delivery for an online
101 course that allows:

102 (a) for flexible scheduling in response to a student's needs; and

103 (b) a student the flexibility to begin or end study at any time, progress through course
104 material at the student's own pace.

105 [(7)] (9) "Plan for college and career readiness" means the same as that term is defined
106 in Section [53E-2-304](#).

107 [(8)] (10) "Primary LEA of enrollment" means the LEA in which an eligible student is
108 enrolled for courses other than online courses offered through the Statewide Online Education
109 Program.

110 [(9)] (11) "Released-time" means a period of time during the regular school day a
111 student is excused from school at the request of the student's parent pursuant to rules of the
112 state board.

113 Section 3. Section **53F-4-502** is amended to read:

114 **53F-4-502. Statewide Online Education Program created -- Designated as**
115 **program of the public education system -- Purposes.**

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

118 (a) earn high school graduation credit; or

- 119 (b) earn middle school credit.
- 120 (2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online
- 121 Education Program is designated as a program of the public education system.
- 122 (3) The purposes of ~~[an online school]~~ the Statewide Online Education Program are to:
- 123 (a) provide a student with access to online learning options regardless of where the
- 124 student attends school, whether a public, private, or home school;
- 125 (b) provide ~~[high quality]~~ digital learning options for a student regardless of language,
- 126 residence, family income, or special needs;
- 127 (c) provide online learning options to allow a student to acquire the knowledge and
- 128 technology skills necessary in a digital world;
- 129 (d) utilize the power and scalability of technology to customize education so that a
- 130 student may learn in the student's own style preference and at the student's own pace;
- 131 (e) utilize technology to remove the constraints of traditional classroom learning,
- 132 allowing a student to access learning virtually at any time and in any place and giving the
- 133 student the flexibility to take advantage of the student's peak learning time;
- 134 (f) provide personalized learning, where a student can spend as little or as much time
- 135 as the student needs to master the material;
- 136 (g) provide greater access to self-paced programs enabling a high achieving student to
- 137 accelerate academically, while a struggling student may have additional time and help to gain
- 138 competency;
- 139 (h) allow a student to customize the student's schedule to better meet the student's
- 140 academic goals;
- 141 (i) provide quality learning options to better prepare a student for post-secondary
- 142 education and vocational or career opportunities; and
- 143 (j) allow a student to have an individualized educational experience.
- 144 ~~[(4) The program created under this part shall be known as the "Statewide Online~~
- 145 ~~Education Program."]~~
- 146 ~~[(5)]~~ (4) The program name, "Statewide Online Education Program," shall be used in
- 147 the dissemination of information on the program.
- 148 Section 4. Section **53F-4-503** is amended to read:
- 149 **53F-4-503. Option to enroll in online courses offered through the Statewide**

150 **Online Education Program.**

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

- 153 (a) the student meets the course prerequisites;
- 154 (b) the course is open for enrollment;
- 155 (c) the online course is aligned with the student's plan for college and career readiness;
- 156 (d) the online course is consistent with the student's IEP, if the student has an IEP; and
- 157 (e) the online course is consistent with the student's international baccalaureate
158 program, if the student is participating in an international baccalaureate program.

159 (2) (a) Except as provided in Subsection (2)(b), an eligible student may enroll in online
160 courses for no more than six credits per school year.

161 (b) An eligible student may enroll in an online course for middle school credit for no
162 more than two credits per school year if the eligible student:

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

165 (3) (a) An eligible student who has a primary LEA of enrollment may enroll in an
166 online course for middle school credit [~~beginning January 1, 2022~~].

167 (b) An eligible student who does not have a primary LEA of enrollment may enroll in
168 an online course for middle school credit [~~beginning in the 2022-2023 school year~~].

169 (4) Notwithstanding Subsection (2):

170 (a) a student's primary LEA of enrollment may allow an eligible student to enroll in
171 online courses for more than the number of credits specified in Subsection (2); or

172 (b) upon the request of an eligible student, the state board may allow the student to
173 enroll in online courses for more than the number of credits specified in Subsection (2), if the
174 online courses better meet the academic goals of the student.

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

176 (a) in conjunction with the student and the student's parent, is responsible for preparing
177 and implementing a plan for college and career readiness for the eligible student, as provided in
178 Section [53E-2-304](#); and

179 (b) shall assist an eligible student in scheduling courses in accordance with the
180 student's plan for college and career readiness, graduation requirements, and the student's

181 post-secondary plans.

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

183 (a) impose restrictions on a student's selection of an online course that fulfills
184 graduation requirements and is consistent with the student's plan for college and career
185 readiness or post-secondary plans; or

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

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

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

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

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

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

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

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

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

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

203 **53F-4-504. Authorized online course providers -- Certified online course**
204 **providers.**

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

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

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

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

- 212 (i) offers secondary school level courses; and
- 213 (ii) is created exclusively for the purpose of serving students online; and
- 214 (d) [~~beginning in the 2021-2022 school year,~~] a certified online course provider.

215 (2) The state board shall approve an online course provider as a certified online course
216 provider if the online course provider:

- 217 (a) complies with the application procedures described in Section 53F-4-514;
- 218 (b) meets the standards described in Section 53F-4-514; and
- 219 (c) has prior experience offering online courses to secondary students.

220 (3) The state board may revoke the approval described in Subsection (2) if the state
221 board:

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

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

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

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

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

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

233 **53F-4-505. Payment for an online course.**

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

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

- 237 (i) financial literacy;
- 238 (ii) health;
- 239 (iii) fitness for life; and
- 240 (iv) computer literacy;

241 (b) \$200 for driver education;

242 (c) \$250 for a course that meets core standards for Utah public schools in fine arts or

243 career and technical education, except a concurrent enrollment course;

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

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

247 (ii) a world language course, except a concurrent enrollment course;

248 (e) \$350 for the following courses:

249 (i) a course that meets core standards for Utah public schools requirements for
250 language arts, mathematics, or science; and

251 (ii) a concurrent enrollment course; and

252 (f) \$250 for a course not described in Subsections (1)(a) through (e).

253 (2) If a course meets the requirements of more than one course fee category described
254 in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

255 (3) ~~[Beginning with the 2013-14 school year, the]~~ The online course fees described in
256 Subsection (1) shall be adjusted each school year in accordance with the percentage change in
257 value of the weighted pupil unit from the previous school year.

258 (4) An ~~[online learning provider]~~ authorized online course provider shall receive
259 payment for an online course as follows:

260 (a) for a .5 credit online course, 50% of the online course fee after the withdrawal
261 period described in Section [53F-4-506](#);

262 (b) for a 1 credit online course, 25% of the online course fee after the withdrawal
263 period described in Section [53F-4-506](#) and 25% of the online course fee upon the beginning of
264 the second .5 credit of the online course; and

265 (c) if a student completes a 1 credit online course within 12 months or a .5 credit
266 course within nine weeks following the end of a traditional semester, 50% of the online course
267 fee.

268 (5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit
269 course within nine weeks following the end of a traditional semester, the student may continue
270 to be enrolled in the course until the student graduates from high school.

271 (b) To encourage an authorized online course provider to provide remediation to a
272 student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the
273 need for credit recovery, an authorized online course provider shall receive a payment equal to

274 30% of the online course fee if the student completes the online course:

275 (i) for a high school online course, before the student graduates from high school; or

276 (ii) for a middle school online course, before the student completes middle school.

277 (6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a
278 school district or charter school may:

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

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

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

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

287 (9) If a student enrolled in an online course is an eligible student described in
288 Subsection 53F-4-501(4)(b)(i), the authorized online course provider shall provide the student's
289 LEA of enrollment an annual progress report regarding the student's participation in an online
290 course.

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

292 **53F-4-507. State board to deduct funds and make payments -- Plan for the**
293 **payment of online courses taken by private and home school students.**

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

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

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

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

302 (a) consider enrollment projections provided by the authorized online course providers
303 to account for enrollment growth during the appropriations process; and

304 (b) provide a supplemental appropriation to adequately fund the Statewide Online

305 Education Program when the enrollment amount exceeds the projected enrollment amounts
306 provided by the authorized online course providers.

307 ~~[(2)]~~ (3) (a) The state board shall deduct money from funds allocated to the student's
308 primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to
309 pay for online course fees.

310 (b) Money shall be deducted under Subsection ~~[(2)]~~ (3) in the amount and at the time
311 an authorized online course provider qualifies to receive payment for an online course provided
312 to a public education student, not to exceed 90 days after qualification, as provided in
313 Subsection 53F-4-505(4).

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

318 ~~[(3)]~~ (4) From money deducted under Subsection ~~[(2)]~~ (3), the state board shall make
319 payments to the student's authorized online course provider as provided in Section 53F-4-505.

320 ~~[(4)]~~ (5) The Legislature shall establish a plan~~[- which shall take effect beginning on~~
321 ~~July 1, 2013;]~~ for the payment of online courses taken by a private school or home school
322 student.

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

324 **53F-4-514. State board -- Rulemaking -- Fees.**

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

330 ~~[(1)]~~ (2) The state board shall make rules in accordance with this part and Title 63G,
331 Chapter 3, Utah Administrative Rulemaking Act, that establish:

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

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

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

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

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

342 (d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and
343 Materials, criteria for an authorized online course provider to submit for approval an online
344 course that does not have an existing state board course code;

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

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

351 (i) a definition for the term site visit;

352 (ii) the minimum amount of time required for:

353 (A) notice to an authorized online course provider of a site visit; and

354 (B) an authorized online course provider to prepare for a site visit;

355 (iii) the documents, data, and artifacts subject to inspection during a site visit; and

356 (iv) a process to ensure a site visit allows for observation of instruction without
357 interfering with the instruction.

358 [~~(2)~~] (3) (a) When establishing the standards described in Subsection [~~(1)(c)(ii)~~],
359 (2)(c)(ii) the state board shall:

360 (i) establish rules and minimum standards regarding accreditation;

361 (ii) require an online course to be aligned with the core standards described in Section
362 [53E-4-202](#);

363 (iii) require proof that a national organization responsible for college athletics
364 endorses:

365 (A) the certified online course provider; or

366 (B) the online course that a certified online course provider offers;

367 (iv) permit an open-entry, open-exit method of instructional delivery that allows a
 368 student the flexibility to:

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

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

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

- 377 (i) specify a minimum duration for an online course;
 - 378 (ii) specify a minimum amount of time that a student must spend in an online course;
- 379 or
- 380 (iii) limit the class size of an online course.

381 (4) If an individual possesses a provider specific license described in Section
 382 53E-6-201, the state board may not prohibit the individual from teaching an online course for
 383 an authorized online course provider while the individual is in the process of obtaining an
 384 endorsement or additional license issued by the state board.

385 [~~(3)~~] (5) The state board may establish a fee, in accordance with Section [63J-1-504](#), in
 386 an amount to pay the costs to the state board of the application approval process and the
 387 monitoring of a certified online course provider's compliance with the standards described in
 388 Subsection [~~(1)(c)(ii)~~] (2)(c)(ii).

389 [~~(4)~~] (6) (a) Fee revenue collected in accordance with Subsection [~~(3)~~] (5) shall be:
 390 [~~(b)~~] (i) deposited into the Uniform School Fund as a dedicated credit; and
 391 [~~(c)~~] (ii) used to pay the costs to the state board of reviewing certified online course
 392 providers' applications and compliance with the standards described in Subsection [~~(1)(c)(ii)~~]
 393 (2)(c)(ii).

394 **Section 9. Repealer.**

395 This bill repeals:

396 Section [53F-4-515](#), **Review by legislative auditor general.**