

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

102 [(8)] (9) "Primary LEA of enrollment" means the LEA in which an eligible student is
103 enrolled for courses other than online courses offered through the Statewide Online Education
104 Program.

105 [(9)] (10) "Released-time" means a period of time during the regular school day a
106 student is excused from school at the request of the student's parent pursuant to rules of the
107 state board.

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

109 **53F-4-502. Statewide Online Education Program created -- Designated as**
110 **program of the public education system -- Purposes.**

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

113 (a) earn high school graduation credit; or

114 (b) earn middle school credit.

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

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

118 (a) provide a student with access to online learning options regardless of where the

119 student attends school, whether a public, private, or home school;

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

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

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

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

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

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

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

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

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

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

141 [(5)] (4) The program name, "Statewide Online Education Program," shall be used in
142 the dissemination of information on the program.

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

144 **53F-4-503. Option to enroll in online courses offered through the Statewide
145 Online Education Program.**

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

148 (a) the student meets the course prerequisites;

149 (b) the course is open for enrollment;

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

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

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

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

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

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

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

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

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

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

164 (4) Notwithstanding Subsection (2):

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

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

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

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

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

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

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

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

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

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

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

176 post-secondary plans.

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

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

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

180 readiness or post-secondary plans; or

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

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

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

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

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

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

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

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

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

198 **53F-4-504. Authorized online course providers -- Certified online course**
199 **providers.**

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

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

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

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

207 (i) offers secondary school level courses; and

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

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

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

- 212 (a) complies with the application procedures described in Section 53F-4-514;
- 213 (b) meets the standards described in Section 53F-4-514; and
- 214 (c) has prior experience offering online courses to secondary students.
- 215 (3) The state board may revoke the approval described in Subsection (2) if the state
- 216 board:
- 217 (a) finds that a certified online course provider is not complying with the requirements
- 218 described in Section 53F-4-514[?];
- 219 (b) provides written notice describing the findings of non-compliance to the certified
- 220 online course provider;
- 221 (c) provides the certified online course provider with at least 60 days to remedy the
- 222 findings of non-compliance;
- 223 (d) reevaluates the findings of non-compliance at least 60 days after the certified online
- 224 course provider's remedy period described in Subsection (3)(c); and
- 225 (e) finds after reevaluation that the certified online course provider has failed to
- 226 satisfactorily remedy the findings of non-compliance.

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

228 **53F-4-505. Payment for an online course.**

- 229 (1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1
- 230 credit online course is:
- 231 (a) \$200 for the following courses, except a concurrent enrollment course:
- 232 (i) financial literacy;
- 233 (ii) health;
- 234 (iii) fitness for life; and
- 235 (iv) computer literacy;
- 236 (b) \$200 for driver education;
- 237 (c) \$250 for a course that meets core standards for Utah public schools in fine arts or
- 238 career and technical education, except a concurrent enrollment course;
- 239 (d) \$300 for the following courses:
- 240 (i) a course that meets core standards for Utah public schools requirements in social
- 241 studies, except a concurrent enrollment course; and
- 242 (ii) a world language course, except a concurrent enrollment course;

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

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

246 (ii) a concurrent enrollment course; and

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

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

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

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

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

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

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

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

266 (b) To encourage an authorized online course provider to provide remediation to a
267 student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the
268 need for credit recovery, an authorized online course provider shall receive a payment equal to
269 30% of the online course fee if the student completes the online course:

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

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

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

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

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

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

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

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

283 **53F-4-507. State board to deduct funds and make payments -- Plan for the**
284 **payment of online courses taken by private and home school students.**

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

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

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

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

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

295 (b) provide a supplemental appropriation to adequately fund the Statewide Online
296 Education Program when the enrollment amount exceeds the projected enrollment amounts
297 provided by the authorized online course providers.

298 [~~(2)~~] (3) (a) The state board shall deduct money from funds allocated to the student's
299 primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to
300 pay for online course fees.

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

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

309 ~~[(3)]~~ (4) From money deducted under Subsection ~~[(2)]~~ (3), the state board shall make
310 payments to the student's authorized online course provider as provided in Section 53F-4-505.

311 ~~[(4)]~~ (5) The Legislature shall establish a plan~~[, which shall take effect beginning on~~
312 ~~July 1, 2013,]~~ for the payment of online courses taken by a private school or home school
313 student.

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

315 **53F-4-514. State board -- Rulemaking -- Fees.**

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

321 ~~[(1)]~~ (2) The state board shall make rules in accordance with this part and Title 63G,
322 Chapter 3, Utah Administrative Rulemaking Act, that establish:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

349 ~~[(2)]~~ (3) (a) When establishing the standards described in Subsection ~~[(1)(c)(ii)];~~

350 ~~(2)(c)(ii)~~ the state board shall:

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

352 (ii) require an online course to be aligned with the core standards described in Section
353 [53E-4-202](#);

354 (iii) require proof that a national organization responsible for college athletics
355 endorses:

356 (A) the certified online course provider; or

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

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

360 (A) schedule in response to individual needs or requirements;

361 (B) demonstrate competency when the student has mastered knowledge and skills;

362 (C) begin or end study at any time; and

363 (D) progress through course material at the student's own pace; and

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

366 (b) When establishing the standards described in Subsection ~~[(1)(c)(ii)]~~ ~~(2)(c)(ii)~~, the

367 state board may not:

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

370 or

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

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

376 [~~3~~] (5) The state board may establish a fee, in accordance with Section 63J-1-504, in
377 an amount to pay the costs to the state board of the application approval process and the
378 monitoring of a certified online course provider's compliance with the standards described in
379 Subsection [~~1~~](c)(ii) (2)(c)(ii).

380 [~~4~~] (6) (a) Fee revenue collected in accordance with Subsection [~~3~~] (5) shall be:

381 [~~b~~] (i) deposited into the Uniform School Fund as a dedicated credit; and

382 [~~c~~] (ii) used to pay the costs to the state board of reviewing certified online course
383 providers' applications and compliance with the standards described in Subsection [~~1~~](c)(ii)
384 (2)(c)(ii).

385 Section 9. **Repealer.**

386 This bill repeals:

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