

## SB0167S03 compared with SB0167

~~deleted text~~ shows text that was in SB0167 but was deleted in SB0167S03.

inserted text shows text that was not in SB0167 but was inserted into SB0167S03.

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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

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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 ~~{a process to allow an individual to teach for an authorized online course provider while the individual is in the process of obtaining an approved license}~~an additional educator license type; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

REPEALS:

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

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

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

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

(1) ~~[To be fully implemented by July 1, 2020, and, if technology and funds are available, the]~~ The state board shall establish in rule made in accordance with Title 63G,

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Chapter 3, Utah Administrative Rulemaking Act, a system for educator licensing that includes:

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

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

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

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

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

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

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

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

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

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

(ii) enrollments are determined by each institution under rules and guidelines established by the Utah Board of Higher Education in accordance with findings of fact that

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space is available for the educator's enrollment.

Section ~~{1}~~2. Section **53F-4-501** is amended to read:

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

As used in this part:

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

~~[(1)]~~ (2) (a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

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

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

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

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

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

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

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

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

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

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

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

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

~~——~~ (b) a student the flexibility to begin or end study at any time, progress through course material at the student's own pace, not subject to any student participation requirement, and demonstrate competency when the student masters the knowledge and skills taught in the course.

~~‡~~ ~~[(7)]~~ ~~[(9)]~~8 "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

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[(8)] (~~(10)~~9) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[(9)] (~~(11)~~10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section ~~(2)~~3. Section 53F-4-502 is amended to read:

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

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

- (a) earn high school graduation credit; or
- (b) earn middle school credit.

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

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

- (a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;
- (b) provide [~~high quality~~] digital learning options for a student regardless of language, residence, family income, or special needs;

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

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

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

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

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

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competency;

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

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

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

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

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

Section ~~{3}~~4. Section **53F-4-503** is amended to read:

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

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

(a) the student meets the course prerequisites;

(b) the course is open for enrollment;

(c) the online course is aligned with the student's plan for college and career readiness;

(d) the online course is consistent with the student's IEP, if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

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

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

(i) does not have a primary LEA of enrollment; and

(ii) is enrolled in a private school.

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

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

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(4) Notwithstanding Subsection (2):

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

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

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

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

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

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

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

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

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

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

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

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

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

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

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

(9) If the program lacks sufficient legislative appropriations to fund the enrollment in online courses for all eligible students who do not have a primary LEA of enrollment, the state

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board shall prioritize funding the enrollment of an eligible student who intends to graduate from high school during the school year in which the student enrolls in an online course.

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

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

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

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

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

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

(i) offers secondary school level courses; and

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

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

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

(a) complies with the application procedures described in Section 53F-4-514;

(b) meets the standards described in Section 53F-4-514; and

(c) has prior experience offering online courses to secondary students.

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

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

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

(c) provides the certified online course provider with at least ~~90~~60 days to remedy the findings of non-compliance;

(d) reevaluates the findings of non-compliance at least ~~90~~60 days after the certified online course provider's remedy period described in Subsection (3)(c); and

(e) finds after reevaluation that the certified online course provider has failed to

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satisfactorily remedy the findings of non-compliance.

~~{ (4) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide a delayed effective date that is after the school year has ended for a change to an administrative rule related to the Statewide Online Education Program if the change would require an authorized online course provider to make program changes during the school year.~~

+ Section ~~{5}~~6. Section **53F-4-505** is amended to read:

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

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

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

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

(b) \$200 for driver education;

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

(d) \$300 for the following courses:

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

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

(e) \$350 for the following courses:

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

(ii) a concurrent enrollment course; and

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

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

(3) [~~Beginning with the 2013-14 school year, the~~] The online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in

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value of the weighted pupil unit from the previous school year.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~67~~7. Section **53F-4-507** is amended to read:

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

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

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

(b) the value of the weighted pupil unit.

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

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

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

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

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

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

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

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

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Section ~~{7}~~8. Section 53F-4-514 is amended to read:

### 53F-4-514. State board -- Rulemaking -- Fees.

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

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

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

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

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

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

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

(d) ~~{a process to allow}~~in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, criteria for an authorized online course provider ~~{described in Subsection 53F-4-504(1)}~~ to submit ~~{a new}~~for approval an online course that does not have an existing state board course code ~~{for approval by the state board}~~;

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

~~{~~ (f) a process for an authorized online course provider that:

~~\_\_\_\_\_~~ (i) allows an individual to teach an online course while the individual is in the process of obtaining a license or endorsement approved by the state board;

~~\_\_\_\_\_~~ (ii) is no more stringent than the process allowed for an LEA; and

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- ~~— (iii) allows a certified online provider licensing options including:~~
- ~~— (A) contracting with a license granting organization, approved by the state board, that is not an LEA;~~
- ~~— (B) partnering with an LEA in utilizing the LEA's existing state-board-approved licensing process; or~~
- ~~— (C) designing a local certification and endorsement process in cooperation with and approved by the state board; and~~

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

- (i) a definition for the term site visit;
- (ii) the minimum amount of time required for:
  - (A) notice to an authorized online course provider of a site visit; and
  - (B) an authorized online course provider to prepare for a site visit;
- (iii) the documents, data, and artifacts subject to inspection during a site visit; and
- (iv) a process to ensure a site visit ~~does not interfere~~ allows for observation of instruction without interfering with ~~student~~ the instruction.

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

- (i) establish rules and minimum standards regarding accreditation;
- (ii) require an online course to be aligned with the core standards described in Section 53E-4-202;

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

- (A) the certified online course provider; or
- (B) the online course that a certified online course provider offers;
- (iv) permit an open-entry, open-exit method of instructional delivery that allows a student the flexibility to:
  - (A) schedule in response to individual needs or requirements;
  - (B) demonstrate competency when the student has mastered knowledge and skills;
  - (C) begin or end study at any time; and
  - (D) progress through course material at the student's own pace; and

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(v) except as provided in Subsection ~~(3)4~~, require an individual who teaches a course for a certified online course provider to hold a teaching license issued by the state board.

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

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

or

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

~~(3) The~~ 4) If an individual possesses a provider specific license described in Section 53E-6-201, the state board may not prohibit ~~that~~ the individual from teaching an online course for an authorized online course provider while the individual is in the process of obtaining ~~a license or~~ an endorsement or additional license issued by the state board.

~~(3)~~ ~~(4)5~~ The state board may establish a fee, in accordance with Section 63J-1-504, in an amount to pay the costs to the state board of the application approval process and the monitoring of a certified online course provider's compliance with the standards described in Subsection ~~[(1)(c)(ii)]~~ (2)(c)(ii).

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

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

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

Section ~~(8)9~~. Section 53F-4-518 is amended to read:

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

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

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

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

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### **Section 10. Repealer.**

This bill repeals:

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