

Representative Nelson T. Abbott proposes the following substitute bill:

STATE BOARD OF EDUCATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends and enacts provisions related to the general control and supervision of the State Board of Education over the public education system.

Highlighted Provisions:

This bill:

- ▶ amends State Board of Education (state board) establishment of minimum standards for public schools;
- ▶ requires the state board to require local education agencies (LEAs) to issue high school diplomas to students who:
 - receive an associate's degree with certain minimum credit hours earned; and
 - receive an industry certificate with certain minimum hours;
- ▶ exempts schools with an assessment opt out rate exceeding 50% from the school accountability system under certain conditions;
- ▶ amends definitions;
- ▶ amends a provision regarding background checks for private school employees; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53E-3-501**, as last amended by Laws of Utah 2021, Chapter 308

31 **53E-4-204**, as last amended by Laws of Utah 2019, Chapters 186, 226

32 **53E-5-203**, as last amended by Laws of Utah 2019, Chapter 186

33 **53G-7-901**, as last amended by Laws of Utah 2020, Chapter 374

34 **53G-9-801**, as last amended by Laws of Utah 2020, Chapter 408

35 **53G-11-402**, as last amended by Laws of Utah 2020, Chapters 285, 374

36

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

38 Section 1. Section **53E-3-501** is amended to read:

39 **53E-3-501. State board to establish miscellaneous minimum standards for public**
40 **schools.**

41 (1) The state board shall establish rules and minimum standards for the public schools
42 that are consistent with this public education code, including rules and minimum standards
43 governing the following:

44 (a) (i) the qualification and certification of educators and ancillary personnel who
45 provide direct student services;

46 (ii) required school administrative and supervisory services; and

47 (iii) the evaluation of instructional personnel;

48 (b) (i) access to programs;

49 (ii) attendance;

50 (iii) competency levels;

51 (iv) graduation requirements; and

52 (v) discipline and control;

53 (c) (i) school accreditation;

54 (ii) the academic year;

55 (iii) alternative and pilot programs;

56 (iv) curriculum and instruction requirements; and

57 (v) school libraries; [~~and~~]
 58 [~~(vi)~~] (d) services to:
 59 [~~(A)~~] (i) persons with a disability as defined by and covered under:
 60 [~~(F)~~] (A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;
 61 [~~(H)~~] (B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and
 62 [~~(H)~~] (C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and
 63 [~~(B)~~] (ii) other special groups;
 64 [~~(d)~~] (e) (i) state reimbursed bus routes;
 65 (ii) bus safety and operational requirements; and
 66 (iii) other transportation needs;
 67 [~~(e)~~] (f) (i) school productivity and cost effectiveness measures;
 68 (ii) federal programs;
 69 (iii) school budget formats; and
 70 (iv) financial, statistical, and student accounting requirements; and
 71 [~~(f)~~] (g) data collection and reporting by LEAs.
 72 (2) [~~The~~] Except as provided in Subsection (3), the state board shall determine if:
 73 (a) the minimum standards have been met; and
 74 (b) required reports are properly submitted.
 75 (3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the
 76 state board shall include:
 77 (a) the justification for the requested information;
 78 (b) a statement confirming that the information is not available elsewhere;
 79 (c) a deadline by which the LEA must provide the information in accordance with state
 80 board rule; and
 81 (d) penalties, including withholding of funds, for non-compliance in accordance with
 82 state and federal law.
 83 [~~(3)~~] (4) The state board may apply for, receive, administer, and distribute to eligible
 84 applicants funds made available through programs of the federal government.
 85 [~~(4)~~] (5) (a) A technical college listed in Section 53B-2a-105 shall provide
 86 competency-based career and technical education courses that fulfill high school graduation
 87 requirements, as requested and authorized by the state board.

88 (b) A school district may grant a high school diploma to a student participating in a
89 course described in Subsection ~~[(4)(a)]~~ (5)(a) that is provided by a technical college listed in
90 Section [53B-2a-105](#).

91 ~~[(5)]~~ (6) (a) As used in this Subsection ~~[(5)]~~ (6), "generally accepted accounting
92 principles" means a common framework of accounting rules and standards for financial
93 reporting promulgated by the Governmental Accounting Standards Board.

94 (b) Subject to Subsections ~~[(5)(e)]~~ (6)(c) and (d), the state board shall ensure ~~[that]~~ the
95 rules and standards described in Subsections ~~[(1)(e) and (f)]~~ (1)(f) and (g) allow for an LEA to
96 make adjustments to the LEA's general entry ledger, in accordance with generally accepted
97 accounting principles, to accurately reflect the LEA's use of funds for allowable costs and
98 activities:

99 (i) during a fiscal year; and

100 (ii) at the close of a fiscal year.

101 (c) If the state board determines under Subsection (2) that an LEA has not met the
102 minimum standards described in Subsection ~~[(1)(e) or (f)]~~ (1)(f) or (g) or has not properly
103 submitted a required report, the state board shall allow the LEA an opportunity to cure the
104 relevant defect through an adjustment described in Subsection ~~[(5)(b).]~~ (6)(b).

105 (d) An LEA may not, in an adjustment described in Subsection ~~[(5)(b).]~~ (6)(b), reflect
106 the use of restricted federal or state funds for a cost or activity that is not an allowable cost or
107 activity for the restricted funds.

108 Section 2. Section **53E-4-204** is amended to read:

109 **53E-4-204. Standards and graduation requirements.**

110 (1) The state board shall establish rigorous core standards for Utah public schools and
111 graduation requirements under Section [53E-3-501](#) for grades 9 through 12 that:

112 (a) are consistent with state law and federal regulations;

113 (b) use competency-based standards and assessments;

114 (c) include instruction that stresses general financial literacy from basic budgeting to
115 financial investments, including bankruptcy education and a general financial literacy test-out
116 option; and

117 (d) include graduation requirements in language arts, mathematics, and science that
118 exceed 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

119 (2) The state board shall establish competency-based standards and assessments for
120 elective courses.

121 (3) The state board shall require all LEAs to issue a high school diploma to students
122 who receive:

123 (a) an associate's degree with at least 60 credit hours from an accredited post-secondary
124 institution; or

125 (b) an industry certification with at least 500 hours of instruction from a business, trade
126 association, or other industry group in accordance with Section [53E-3-501](#).

127 Section 3. Section **53E-5-203** is amended to read:

128 **53E-5-203. Schools included in school accountability system -- Other indicators**
129 **and point distribution for a school that serves a special student population.**

130 (1) Except as provided in Subsection (2), the state board shall include all public
131 schools in the state in the school accountability system established under this part.

132 (2) The state board shall exempt from the school accountability system:

133 (a) a school in which the number of students tested on a statewide assessment for
134 accountability is lower than the minimum sample size necessary, based on acceptable
135 professional practice for statistical reliability, or when release of the information would violate
136 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student
137 data;

138 (b) if the United States Department of Education approves the state's application for a
139 waiver of federal accountability requirements, a school with an opt out rate on statewide
140 assessments for accountability that exceeds 50%;

141 [~~(b)~~] (c) a school in the school's first year of operations if the school's local school
142 board or charter school governing board requests the exemption; or

143 [~~(c)~~] (d) a high school in the school's second year of operations if the school's local
144 school board or charter school governing board requests the exemption.

145 (3) Notwithstanding the provisions of this part, the state board may use[;] to
146 appropriately assess the educational impact of a school that serves a special student population:

147 (a) other indicators in addition to the indicators described in Section [53E-5-205](#) or
148 [53E-5-206](#); or

149 (b) different point distribution than the point distribution described in Section

150 53E-5-207.

151 Section 4. Section 53G-7-901 is amended to read:

152 **53G-7-901. Definitions.**

153 As used in this part:

154 (1) "Cooperating employer" means a public or private entity which, as part of a work
155 experience [~~and~~] or career exploration program offered through a school, provides interns with
156 educational resources, training, and work experience in activities related to the entity's ongoing
157 business activities.

158 (2) "Intern" means a student enrolled in a school-sponsored work experience and career
159 exploration program under Section 53G-7-902 involving both classroom instruction and work
160 experience with a cooperating employer, for which the student receives no compensation.

161 (3) "Internship" means the work experience segment of an intern's school-sponsored
162 work experience and career exploration program, performed under the direct supervision of a
163 cooperating employer.

164 (4) "Internship safety agreement" means the agreement between a public or private
165 school and a cooperating employer in accordance with Section 53G-7-904.

166 (5) "Private school" means a school serving any of grades 7 through 12 which is not
167 part of the public education system.

168 (6) "Public school" means:

169 (a) a public school district;

170 (b) an applied technology center or applied technology service region;

171 (c) the Schools for the Deaf and the Blind; or

172 (d) other components of the public education system authorized by the state board to
173 offer internships.

174 Section 5. Section 53G-9-801 is amended to read:

175 **53G-9-801. Definitions.**

176 As used in Section 53G-9-802:

177 (1) "Attainment goal" means earning:

178 (a) a high school diploma;

179 (b) a Utah High School Completion Diploma, as defined in state board rule made in
180 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

181 (c) an Adult Education Secondary Diploma, as defined in state board rule made in
182 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

183 (d) an employer-recognized, industry-based certificate that is:

184 (i) likely to result in job placement; and

185 (ii) included in the state board's approved career and technical education industry
186 certification list.

187 (2) "Cohort" means a group of students, defined by the year in which the group enters
188 grade 9.

189 (3) "Designated student" means a student:

190 (a) (i) who has withdrawn from an LEA before earning a diploma;

191 (ii) who has been dropped from average daily membership; and

192 (iii) whose cohort has not yet graduated; or

193 (b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined
194 by the student's LEA, using risk factors defined in rules made by the state board in accordance
195 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

196 (4) "Graduation rate" means:

197 (a) for a school district or a charter school that includes grade 12, the graduation rate
198 calculated by the state board for federal accountability and reporting purposes; or

199 (b) for a charter school that does not include grade 12, a proxy graduation rate defined
200 in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative
201 Rulemaking Act.

202 (5) "Local education agency" or "LEA" means a school district or charter school that
203 serves students in grade 9, 10, 11, or 12.

204 (6) "Nontraditional program" means a program, as defined in rules made by the state
205 board under Subsection [~~53E-3-501(1)(e)~~] 53E-3-501(1)(c), in which a student receives
206 instruction through:

207 (a) distance learning;

208 (b) online learning;

209 (c) blended learning; or

210 (d) competency-based learning.

211 (7) "Statewide graduation rate" means:

212 (a) for a school district or a charter school that includes grade 12, the statewide
213 graduation rate, as annually calculated by the state board; or

214 (b) for a charter school that does not include grade 12, the average graduation rate for
215 all charter schools that do not include grade 12.

216 (8) "Third party" means:

217 (a) a private provider; or

218 (b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

219 Section 6. Section 53G-11-402 is amended to read:

220 **53G-11-402. Background checks for non-licensed employees, contract employees,**
221 **volunteers, and charter school governing board members.**

222 (1) An LEA or qualifying private school shall:

223 (a) require [~~each of~~] the following individuals who [~~is~~] are 18 years old or older to
224 submit to a nationwide criminal background check and ongoing monitoring as a condition [~~for~~]
225 of employment or appointment:

226 (i) a non-licensed employee;

227 (ii) a contract employee;

228 (iii) except for an officer or employee of a cooperating employer under an internship
229 safety agreement under Section 53G-7-904, a volunteer who will be given significant
230 unsupervised access to a student in connection with the volunteer's assignment; and

231 (iv) a charter school governing board member;

232 (b) collect the following from an individual required to submit to a background check
233 under Subsection (1)(a):

234 (i) personal identifying information;

235 (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and

236 (iii) consent, on a form specified by the LEA or qualifying private school, for:

237 (A) an initial fingerprint-based background check by the FBI and the bureau upon
238 submission of the application; and

239 (B) retention of personal identifying information for ongoing monitoring through
240 registration with the systems described in Section 53G-11-404;

241 (c) submit the individual's personal identifying information to the bureau for:

242 (i) an initial fingerprint-based background check by the FBI and the bureau; and

243 (ii) ongoing monitoring through registration with the systems described in Section
244 53G-11-404 if the results of the initial background check do not contain disqualifying criminal
245 history information as determined by the LEA or qualifying private school in accordance with
246 Section 53G-11-405; and

247 (d) identify the appropriate privacy risk mitigation strategy ~~[that will]~~ to be used to
248 ensure ~~[that]~~ the LEA or qualifying private school only receives notifications for individuals
249 with whom the LEA or qualifying private school maintains an authorizing relationship.

250 (2) An LEA or qualifying private school may not require an individual to pay the fee
251 described in Subsection (1)(b)(ii) unless the individual:

252 (a) has passed an initial review; and

253 (b) is one of a pool of no more than five candidates for the position.

254 ~~[(3) By September 1, 2018, an LEA or qualifying private school shall:]~~

255 ~~[(a) collect the information described in Subsection (1)(b) from individuals:]~~

256 ~~[(i) who were employed or appointed prior to July 1, 2015; and]~~

257 ~~[(ii) with whom the LEA or qualifying private school currently maintains an~~
258 ~~authorizing relationship; and]~~

259 ~~[(b) submit the information to the bureau for ongoing monitoring through registration~~
260 ~~with the systems described in Section 53G-11-404.]~~

261 ~~[(4)]~~ (3) An LEA or qualifying private school that receives criminal history
262 information about a licensed educator under Subsection 53G-11-403(5) shall assess the
263 employment status of the licensed educator as provided in Section 53G-11-405.

264 ~~[(5)]~~ (4) An LEA or qualifying private school may establish a policy to exempt an
265 individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under
266 Subsection (1) if the individual is being temporarily employed or appointed.