

SB0257S01 compared with SB0257

~~text~~ shows text that was in SB0257 but was deleted in SB0257S01.

text shows text that was not in SB0257 but was inserted into SB0257S01.

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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 ~~definitions;~~

→ ~~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 ~~classroom~~ hours;

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- ▶ exempts schools with an assessment opt out rate exceeding 50% from the school accountability system~~;~~

~~— requires the state board to publish on the state board's website the recorded vote of a school district voting body showing support for or against a school's annual plan;~~

~~‡ 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

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ 53E-3-401, as last amended by Laws of Utah 2020, Chapters 253, 408~~

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

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

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

~~{ 53E-5-211, as last amended by Laws of Utah 2021, Chapter 346~~

~~— 53G-5-401, as renumbered and amended by Laws of Utah 2018, Chapter 3~~

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

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

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

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

Section 1. Section ~~{53E-3-401}~~53E-3-501 is amended to read:

~~{ 53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement --~~

~~Attorney:~~

~~— (1) As used in this section:~~

~~— (a) "Education entity" means:~~

~~— (i) an entity that receives a distribution of state funds through a grant program managed~~

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~~by the state board under this public education code;~~

~~—— (ii) an entity that enters into a contract with the state board to provide an educational good or service;~~

~~—— (iii) a school district;~~

~~—— (iv) a charter school; or~~

~~—— (v) a regional education service agency, as that term is defined in Section 53G-4-410.~~

~~—— (b) "Educational good or service" means a good or service that is required or regulated under:~~

~~—— (i) this public education code; or~~

~~—— (ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and authorized under this public education code.~~

~~—— (2) (a) The state board has general control and supervision of the state's public education system.~~

~~—— (b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.~~

~~—— (c) "General control and supervision" does not mean specific policies and procedures that LEA governing boards adopt and that align with state and federal law.~~

~~—— (3) The state board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.~~

~~—— (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to execute the state board's duties and responsibilities under the Utah Constitution and state law.~~

~~—— (b) The state board may delegate the state board's statutory duties and responsibilities to state board employees.~~

~~—— (5) (a) The state board may sell [any] an interest it holds in real property upon a finding by the state board that the property interest is surplus.~~

~~—— (b) The state board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.~~

~~—— (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the state board, the money may only be used for purposes related to the agency or institution.~~

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~~—— (d) The state board shall advise the Legislature of [any] a sale under Subsection (5)(a) and related matters during the next following session of the Legislature.~~

~~—— (6) The state board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.~~

~~—— [(7) On or before December 31, 2010, the state board shall review mandates or requirements provided for in state board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.]~~

~~—— [(8) (7) (a) If an education entity violates this public education code or rules authorized under this public education code, the state board may, in accordance with the rules described in Subsection [(8)(c)] (7)(c):~~

~~—— (i) require the education entity to enter into a corrective action agreement with the state board;~~

~~—— (ii) temporarily or permanently withhold state funds from the education entity;~~

~~—— (iii) require the education entity to pay a penalty; or~~

~~—— (iv) require the education entity to reimburse specified state funds to the state board.~~

~~—— (b) Except for temporarily withheld funds, if the state board collects state funds under Subsection [(8)(a)] (7)(a), the state board shall pay the funds into the Uniform School Fund.~~

~~—— (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:~~

~~—— (i) that require notice and an opportunity to be heard for an education entity affected by a state board action described in Subsection [(8)(a)] (7)(a); and~~

~~—— (ii) to administer this Subsection [(8)] (7).~~

~~—— (d) (i) An individual may bring a violation of statute or state board rule to the attention of the state board in accordance with a process described in rule adopted by the state board.~~

~~—— (ii) If the state board identifies a violation of statute or state board rule as a result of the process described in Subsection [(8)(d)(i)] (7)(d)(i), the state board may take action in accordance with this section.~~

~~—— (e) The state board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.~~

~~—— [(9)] (8) The state board may audit the use of state funds by an education entity that~~

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~~receives those state funds as a distribution from the state board.~~

~~—— [(10)] (9) The state board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:~~

~~—— (a) this public education code; and~~

~~—— (b) state board rule authorized under this public education code.~~

~~—— [(11)] (10) (a) The state board may appoint an attorney to provide legal advice to the state board and coordinate legal affairs for the state board and the state board's employees:~~

~~—— (b) An attorney described in Subsection [(11)(a)] (10)(a) shall cooperate with the Office of the Attorney General:~~

~~—— (c) An attorney described in Subsection [(11)(a)] (10)(a) may not:~~

~~—— (i) conduct litigation;~~

~~—— (ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201;~~

~~or~~

~~—— (iii) issue formal legal opinions.~~

~~—— [(12)] (11) The state board shall ensure that [any] training or certification [that] an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.~~

~~—— Section 2. Section 53E-3-501 is amended to read:~~

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

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

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

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

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- (ii) attendance;
 - (iii) competency levels;
 - (iv) graduation requirements; and
 - (v) discipline and control;
 - (c) (i) school accreditation;
 - (ii) the academic year;
 - (iii) alternative and pilot programs;
 - (iv) curriculum and instruction requirements; and
 - (v) school libraries; [~~and~~]
 - [~~(vi)~~] (d) services to:
 - [~~(A)~~] (i) persons with a disability as defined by and covered under:
 - [~~(F)~~] (A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;
 - [~~(H)~~] (B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and
 - [~~(H)~~] (C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and
 - [~~(B)~~] (ii) other special groups;
 - [~~(d)~~] (e) (i) state reimbursed bus routes;
 - (ii) bus safety and operational requirements; and
 - (iii) other transportation needs;
 - [~~(e)~~] (f) (i) school productivity and cost effectiveness measures;
 - (ii) federal programs;
 - (iii) school budget formats; and
 - (iv) financial, statistical, and student accounting requirements; and
 - [~~(f)~~] (g) data collection and reporting by LEAs.
- (2) [~~The~~] Except as provided in Subsection (3), the state board shall determine if:
- (a) the minimum standards have been met; and
 - (b) required reports are properly submitted.
- (3) ~~{(a) An LEA governing board member or an LEA employee may decline a request for data}~~ When the state board makes a request of an LEA under Subsection (1)(f) or (g) ~~{~~ unless:
- ~~(i) }~~ the state board {for a state board employee provides evidence, in an LEA governing board public meeting, that there is a significant likelihood the denial is due to} shall

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include:

(a) the justification for the requested information;

(b) a statement confirming that the information is not available elsewhere;

(c) a deadline by which the LEA must provide the information in accordance with state board rule; and

(d) penalties, including withholding of funds, for non-compliance ~~with state or federal law; and~~

~~_____ (ii) the LEA governing board finds by majority vote that the LEA may be in non-compliance} in accordance with state ~~{or}~~ and federal law.†~~

~~_____ (b) If an LEA governing board makes a finding of non-compliance under Subsection (3)(a), the LEA shall respond to the request for data under Subsection (1)(f) or (g) no later than 90 days after the date of the finding of non-compliance.†~~

~~[(3)] (4)~~ The state board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

~~[(4)] (5)~~ (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.

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

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

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

(i) during a fiscal year; and

(ii) at the close of a fiscal year.

(c) If the state board determines under Subsection (2) that an LEA has not met the

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minimum standards described in Subsection [~~(1)(e) or (f)~~] (1)(f) or (g) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection [~~(5)(b)~~] (6)(b).

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

Section ~~{3}~~2. Section **53E-4-204** is amended to read:

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

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

- (a) are consistent with state law and federal regulations;
- (b) use competency-based standards and assessments;
- (c) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and
- (d) include graduation requirements in language arts, mathematics, and science that exceed 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

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

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

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

(b) an industry certification with at least 500 ~~{classroom}~~ hours of instruction from a business, trade association, or other industry group in accordance with Section 53E-3-501.

Section ~~{4}~~3. Section **53E-5-203** is amended to read:

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

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

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

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(a) a school in which the number of students tested on a statewide assessment for accountability is lower than the minimum sample size necessary, based on acceptable professional practice for statistical reliability, ~~{ a school's opt out rate exceeds 50%, }~~ or when release of the information would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student data;

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

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

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

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

(a) other indicators in addition to the indicators described in Section 53E-5-205 or 53E-5-206; or

(b) different point distribution than the point distribution described in Section 53E-5-207.

Section ~~{5}~~4. Section ~~{53E-5-211}~~53G-7-901 is amended to read:

~~{~~ **53E-5-211. Reporting:**

~~_____~~ (1) ~~[Except as provided in Subsection (2), the]~~ The state board shall annually publish on the state board's website a report card ~~[that includes]~~ for each school that includes:

~~_____~~ (a) ~~the school's overall rating described in Subsection 53E-5-204(1);~~

~~_____~~ (b) ~~the school's performance on each indicator described in:~~

~~_____~~ (i) ~~Section 53E-5-205, for an elementary school or a middle school; or~~

~~_____~~ (ii) ~~Section 53E-5-206, for a high school;~~

~~_____~~ (c) ~~information comparing the school's performance on each indicator described in Subsection (1)(b) with:~~

~~_____~~ (i) ~~the average school performance; and~~

~~_____~~ (ii) ~~the school's performance in all previous years for which data is available;~~

~~_____~~ (d) ~~the percentage of students who participated in statewide assessments;~~

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~~_____ (e) for an elementary school, the percentage of students who read on grade level in grades 1 through 3; [and]~~

~~_____ (f) for a high school, performance on Advanced Placement exams[.]; and~~

~~_____ (g) a school district's county, city, or town voting body's recorded vote indicating support for or against the school's annual plan aligned with the characteristics described in Section 53E-2-302.~~

~~_____ [(2) The state board shall collect, but is not required to publish the information described in Subsection (1) related to the 2020-2021 school year.]~~

~~_____ [(3)] (2) A school may include in the school's report card described in Subsection (1) up to two self-reported school quality indicators that:~~

~~_____ (a) are approved by the state board for inclusion; and~~

~~_____ (b) may include process or input indicators.~~

~~_____ [(4)] (3) (a) The state board shall develop an individualized student achievement report that includes:~~

~~_____ (i) information on the student's level of proficiency as measured by a statewide assessment; and~~

~~_____ (ii) a comparison of the student's academic growth target and actual academic growth as measured by a statewide assessment.~~

~~_____ (b) The state board shall, subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, make the individualized student achievement report described in Subsection [(4)(a)] (3)(a) available for a school district or charter school to access electronically.~~

~~_____ (c) A school district or charter school shall distribute an individualized student achievement report to the parent of the student to whom the report applies.~~

~~_____ Section 6. Section **53G-5-401** is amended to read:~~

~~_____ **53G-5-401. Status of charter schools.**~~

~~_____ (1) Charter schools are:~~

~~_____ (a) considered to be public schools within the state's public education system;~~

~~_____ (b) subject to Subsection [53E-3-401(8)] 53E-3-401(7); and~~

~~_____ (c) governed by independent boards and held accountable to a legally binding written contractual agreement.~~

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- ~~(2) A charter school may be established by:~~
- ~~(a) creating a new school; or~~
- ~~(b) converting an existing public school to charter status.~~
- ~~(3) A parochial school or home school is not eligible for charter school status.~~
- ~~Section 7. Section 53G-7-901 is amended to read:~~

‡ **53G-7-901. Definitions.**

As used in this part:

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

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

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

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

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

(6) "Public school" means:

- (a) a public school district;
- (b) an applied technology center or applied technology service region;
- (c) the Schools for the Deaf and the Blind; or
- (d) other components of the public education system authorized by the state board to

offer internships.

Section ~~†8~~5. Section **53G-9-801** is amended to read:

53G-9-801. Definitions.

As used in Section 53G-9-802:

(1) "Attainment goal" means earning:

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- (a) a high school diploma;
 - (b) a Utah High School Completion Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (c) an Adult Education Secondary Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (d) an employer-recognized, industry-based certificate that is:
 - (i) likely to result in job placement; and
 - (ii) included in the state board's approved career and technical education industry certification list.
- (2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.
- (3) "Designated student" means a student:
- (a) (i) who has withdrawn from an LEA before earning a diploma;
 - (ii) who has been dropped from average daily membership; and
 - (iii) whose cohort has not yet graduated; or
 - (b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) "Graduation rate" means:
- (a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the state board for federal accountability and reporting purposes; or
 - (b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.
- (6) "Nontraditional program" means a program, as defined in rules made by the state board under Subsection [~~53E-3-501(1)(e)~~] 53E-3-501(1)(c), in which a student receives instruction through:
- (a) distance learning;
 - (b) online learning;

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- (c) blended learning; or
- (d) competency-based learning.
- (7) "Statewide graduation rate" means:

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

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

- (8) "Third party" means:

(a) a private provider; or

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

Section ~~9~~6. Section **53G-11-402** is amended to read:

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

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

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

(i) a non-licensed employee;

(ii) a contract employee;

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

(iv) a charter school governing board member;

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

(i) personal identifying information;

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

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

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

(B) retention of personal identifying information for ongoing monitoring through

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registration with the systems described in Section 53G-11-404;

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

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

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

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

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

(a) has passed an initial review; and

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

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

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

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

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

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

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

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