

**REPEAL OF EDUCATION MANDATES AND
PROGRAMS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

This act modifies provisions related to the State System of Public Education by eliminating certain categorical spending programs and mandates on school districts. This act repeals provisions regarding the distribution and expenditure of educational technology monies for use by school districts and colleges of education, including matching funds requirements. This act eliminates the Technology Initiative Project Office and the requirement imposed upon school districts and colleges of education to prepare an educational technology plan. This act eliminates the Utah Educational Network (UEN's) responsibility to coordinate certain educational technology programs. This act repeals the duty of the State Board of Education to approve career ladder plans but directs the board to require school districts to report how career ladder monies are spent. This act eliminates certain duties of the State Board of Education and superintendent of public instruction regarding the planning, design, and construction of school buildings. This act eliminates a program that provides state funds to match private funds raised by school districts to enhance educational excellence, a developmental program for the implementation of an extended school year, the Schools for the 21st Century Program, and the School Nursing Services Incentive Program. This act eliminates requirements applicable to the funding and establishment of alternative middle schools. This act eliminates the requirement that each local school board implement a program that provides district employees an opportunity to make anonymous suggestions to the board. This act makes technical corrections. This act takes effect on July 1, 2002.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53-7-103, as last amended by Chapter 25, Laws of Utah 2001

53A-1-706, as last amended by Chapter 76, Laws of Utah 2000

53A-1-707, as last amended by Chapter 151, Laws of Utah 1999

53A-2-103, as last amended by Chapter 48, Laws of Utah 1988
53A-3-422, as enacted by Chapter 172, Laws of Utah 2001
53A-3-701, as enacted by Chapter 335, Laws of Utah 2001
53A-9-102, as last amended by Chapter 233, Laws of Utah 1988
53A-11-204, as enacted by Chapter 229, Laws of Utah 1996
53A-20-103, as last amended by Chapter 73, Laws of Utah 2001
53B-17-104, as enacted by Chapter 33, Laws of Utah 1995
63-55b-153, as last amended by Chapters 219 and 234, Laws of Utah 2000

ENACTS:

53A-9-106, Utah Code Annotated 1953

REPEALS:

53A-1-701, as last amended by Chapter 259, Laws of Utah 1993
53A-1-702, as last amended by Chapters 86 and 335, Laws of Utah 2001
53A-1-704, as last amended by Chapter 86, Laws of Utah 2001
53A-1-705, as last amended by Chapter 86, Laws of Utah 2001
53A-1a-401, as enacted by Chapter 231, Laws of Utah 1998
53A-1a-402, as enacted by Chapter 231, Laws of Utah 1998
53A-1a-403, as last amended by Chapter 86, Laws of Utah 2001
53A-1a-404, as enacted by Chapter 231, Laws of Utah 1998
53A-3-418, as enacted by Chapter 9, Laws of Utah 1994
53A-4-201, as enacted by Chapter 2, Laws of Utah 1988
53A-4-202, as last amended by Chapter 78, Laws of Utah 1990
53A-4-203, as enacted by Chapter 2, Laws of Utah 1988
53A-4-204, as last amended by Chapter 78, Laws of Utah 1990
53A-9-105, as last amended by Chapter 72, Laws of Utah 1991
53A-11-909, as enacted by Chapter 25, Laws of Utah 1999
53A-15-103, as enacted by Chapter 115, Laws of Utah 1997
53A-20-102, as last amended by Chapter 10, Laws of Utah 1997

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

Section 1. Section **53-7-103** is amended to read:

53-7-103. State Fire Marshal Division -- Creation -- State fire marshal -- Appointment, qualifications, duties, and compensation.

(1) There is created within the department the State Fire Marshal Division.

(2) (a) The director of the division is the state fire marshal, who shall be appointed by the commissioner upon the recommendation of the Utah Fire Prevention Board created in Section 53-7-203 and with the approval of the governor.

(b) The state fire marshal is the executive and administrative head of the division, and shall be qualified by experience and education to enforce rules made under this chapter and perform the duties prescribed by the commissioner.

(3) The state fire marshal acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(4) The state fire marshal shall:

(a) enforce rules made under this chapter as provided in accordance with Section 53-7-104;

(b) complete the duties assigned by the commissioner;

(c) examine plans and specifications for school buildings, as required by Section 53A-20-104;

~~[(d) approve modifications or additions to plans and specifications for school building construction adopted by the State Board of Education, as required by Section 53A-20-102;]~~

~~[(e)] (d) approve criteria established by the state superintendent for building inspectors[; as required by Sections 10-9-106 and 17-27-105];~~

~~[(f)] (e) promote and support injury prevention public education programs; and~~

~~[(g)] (f) perform all other duties provided in this chapter.~~

(5) The state fire marshal shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Section 2. Section **53A-1-706** is amended to read:

53A-1-706. Purchases of educational technology.

(1) (a) A school district or college of education shall comply with Title 63, Chapter 56, the Utah Procurement Code, in purchasing technology [~~under this part~~], except as otherwise provided in Subsection (1)(b).

(b) A school district may purchase computers and contract for the repair or refurbishing of computers under the program established in Section 53A-1-707 that involves the Utah Correctional Industries without going through the bidding or competition procedures outlined in Title 63, Chapter 56, Part D, Source Selection and Contract Formation.

(2) A school district or college of education may purchase technology through cooperative purchasing contracts administered by the state Division of Purchasing or through its own established purchasing program.

Section 3. Section **53A-1-707** is amended to read:

53A-1-707. Pilot program for acquisition of computers -- Appropriation -- Administration of program -- Training and technology center -- Security procedures.

(1) (a) [~~In order to enhance the educational technology initiative programs authorized under this chapter, there~~] There is established a pilot program for the acquisition and refurbishing of donated computers to be used in the state's public schools.

(b) If economically feasible, the program may also include a component for the building of new computers.

(c) (i) The Legislature shall provide an appropriation in Title 53A, Chapter 17a, Minimum School Program Act, for the pilot program to the State Board of Education for the purpose of funding the program.

(ii) A representative from the board and the Department of Corrections and the governor's designee shall establish guidelines for distribution of the appropriation.

(iii) The appropriation made under Subsection (1)(c)(i) shall be phased out over the second and third year of the pilot program so that by the end of the third year the program shall be economically self-sufficient.

~~[(d) (i) This pilot program is established to supplement and not supplant the technology programs authorized and funded pursuant to Sections 53A-1-701 and 53A-1-702.]~~

~~(ii)~~ (d) In order for a school district to participate in the pilot program, it must first demonstrate to the satisfaction of the board a sustained effort to meet its existing technology needs by providing related support and training.

(2) (a) The State Board of Education and the Department of Corrections shall administer the program as provided under this section.

(b) The board and department may contract or work with nonprofit organizations to coordinate the overall program, particularly in the areas of obtaining donated computers and publicizing the program.

(c) The individuals designated in Subsection (1)(c)(ii) shall jointly establish policies for the program, to include:

- (i) the selection of schools to receive computers;
- (ii) standards for computers, including warranties;
- (iii) the solicitation of donated computers from the private sector; and
- (iv) the equitable distribution of computers to school districts participating in the program.

(d) Charges for computers to school districts shall reflect the need to keep the program economically viable, taking into account the phase out requirement under Subsection (1)(c)(iii).

(3) (a) The State Board of Education, through the State Superintendent of Public Instruction, shall conduct a survey of computer needs in the state's 40 school districts.

(b) The state superintendent shall complete the survey by July 15 of each year.

(4) (a) In conjunction with the survey, the State Board of Education, in collaboration with the Department of Corrections, shall establish an applied technology training and recycling program to provide inmates with skills to build and refurbish computers in order to increase the number of quality computers in the state's public schools.

(b) The program shall take place at a state correctional facility designated by the Department of Corrections.

(c) (i) As part of the program, the Utah Correctional Industries shall establish a computer facility in industrial space made available at the designated correctional facility.

(ii) The Utah Correctional Industries is responsible for pickup and delivery of the computers

and staffing of the facility.

(d) An applied technology center or correctional educational program shall supply an electronics and computer repair curriculum for the program at the correctional facility.

(5) To ensure that inmates at the designated correctional facility do not have unauthorized access to the hardware and software components of the program, the Department of Corrections and the Utah Correctional Industries shall establish appropriate security policies and procedures.

(6) The State Board of Education and Department of Corrections shall closely monitor the pilot program and present an annual progress report to the Education Interim Committee.

Section 4. Section **53A-2-103** is amended to read:

53A-2-103. Transfer of property to new school district -- Rights and obligations of new school board -- Outstanding indebtedness -- Special tax.

(1) On July 1 following the approval of the creation of a new school district under Section 53A-2-102, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new board.

(2) The new board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.

(3) The new board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

(4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which cannot be reasonably paid from the assets of the former district, shall be paid by a special tax levied by the new board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section 53A-18-102, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.

(5) Bonded indebtedness of a former district which has been refunded shall be paid in the

same manner as that which the new district assumes under Section 53A-18-101.

(6) State funds received by the new district under Section [~~53A-20-103~~] 53A-21-103 may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Section 5. Section **53A-3-422** is amended to read:

53A-3-422. Internet and online access policy required.

[~~No state~~] State funds [~~appropriated in accordance with Section 53A-1-702 shall~~] may not be provided to any local school board that provides access to the Internet or an online service unless the local school board adopts and enforces a policy to restrict access to Internet or online sites that contain obscene material.

Section 6. Section **53A-3-701** is amended to read:

53A-3-701. School and school district professional development plans.

(1) (a) Each public school and school district shall develop and implement a systematic, comprehensive, and long-term plan for staff professional development.

(b) Each school shall use its community council, school directors, or a subcommittee of the community council as described in Subsection 53A-16-101.5(4) to help develop and implement the plan.

(2) Each plan shall include the following components:

(a) an alignment of professional development activities at the school and school district level with:

(i) the School LAND Trust Program authorized under Section 53A-16-101.5;

(ii) the Utah Performance Assessment System for Students under Title 53A, Chapter 1, Part 6, Achievement Tests;

[~~(iii) the Educational Technology Initiative under Title 53A, Chapter 1, Part 7, Educational Technology Programs;~~]

[~~(iv)~~] (iii) Sections 53A-6-101 and 53A-6-104 of the Educator Licensing and Professional Practices Act;

[~~(v)~~] (iv) Title 53A, Chapter 9, Teacher Career Ladders; and

[~~(vi)~~] (v) Title 53A, Chapter 10, Educator Evaluation;

(b) provision for the development of internal instructional leadership and support;

(c) the periodic presence of all stakeholders at the same time in the professional development process, to include administrators, educators, support staff, parents, and students;

(d) provisions for the use of consultants to enhance and evaluators to assess the effectiveness of the plan as implemented; and

(e) the time required for and the anticipated costs of implementing and maintaining the plan.

(3) (a) Each local school board shall review and either approve or recommend modifications for each school plan within its district so that each school's plan is compatible with the district plan.

(b) The board shall:

(i) provide positive and meaningful assistance to a school, if requested by its community council or school directors, in drafting and implementing its plan; and

(ii) monitor the progress of each school plan and hold each school accountable for meeting the objectives of its plan.

(4) (a) The State Board of Education, through the superintendent of public instruction, shall work with school districts to identify the resources required to implement and maintain each school's and school district's professional development plan required under this section.

(b) (i) The state board shall make an annual budget recommendation to the Legislature for state funding of professional development plans under this section.

(ii) The recommendation shall take into account:

(A) monies that could be used for professional development from the programs listed in Subsection (2)(a); and

(B) the professional development block grant program authorized under the Minimum School Program Act.

(5) (a) For the fiscal year beginning July 1, 2001, school districts shall use \$10,000,000 of the school professional development appropriation made in Section 53A-17a-124, for teacher professional development days beyond the regular school year as follows:

(i) each school district shall use its allocation for teacher professional development related to implementing and maintaining the Utah Performance Assessment System for Students and may use such training models as Schools for All and Urban Learning Centers in its professional development program; and

(ii) monies for these two additional days shall be allocated to a school district without requiring matching monies.

(b) For the fiscal year beginning July 1, 2002, the Legislature shall increase the funding for teacher professional development under Section 53A-17a-124 and Subsection (5)(a) to provide for a total of three days of teacher professional development related to implementing and maintaining the Utah Performance Assessment System for Students.

(c) Schools are urged to collaborate with one another in the implementation of the teacher development program under Subsection (5)(a) to maximize the effectiveness of the appropriation.

(d) It is the intent of the Legislature that of the \$10,000,000 allocated to school districts for additional days \$42,305 shall be allocated to the Utah Schools for the Deaf and the Blind per day for each additional day funded.

Section 7. Section **53A-9-102** is amended to read:

53A-9-102. Definitions.

As used in this chapter:

(1) "Career ladder" means a compensation system developed by a school district, with advice and counsel from parents, teachers, and school administrators who represent the various schools throughout the district, which is in accordance with provisions of this chapter and applicable policies and guidelines adopted by the State Board of Education~~[, and approved by the State Board of Education]~~.

(2) "Educator" or "teacher" means certified personnel who are paid on the teacher's salary schedule and whose primary function is to provide instructional or a combination of instructional and counseling services to students in the public schools.

(3) "Evaluation system" means the educator evaluation program developed under Title 53A, Chapter 10, Educator Evaluation.

Section 8. Section **53A-9-106** is enacted to read:

53A-9-106. School district to report on expenditure of money for career ladder program.

The State Board of Education shall require each school district that implements a career ladder program using money distributed to the district under Section 53A-17a-124 to report to the board how the money was spent.

Section 9. Section **53A-11-204** is amended to read:

53A-11-204. Nursing services in the public schools -- Collaborative efforts -- School Nursing Services Incentive Program.

(1) (a) [~~The Legislature finds that students~~] Students in the state's public schools [~~would~~] may be better protected against risks to health and safety if schools were to have registered nurses readily available to assist in providing educational and nursing services in the public schools.

(b) Those services would be further enhanced if they could be offered with the active support and participation of local public health departments and private medical providers, most particularly in those areas of the state without currently functioning collaborative programs.

(c) (i) School districts, local health departments, private medical providers, and parents of students are therefore encouraged to work together in determining needs and risks to student health in the state's public schools and in developing and implementing plans to meet those needs and minimize risks to students.

(ii) School community councils or school directors of affected schools shall review the plans prior to their implementation.

(2) School districts are encouraged to provide nursing services equivalent to the services of one registered nurse for every 5,000 students or, in districts with fewer than 5,000 students, the level of services recommended by the Department of Health.

~~[(3) Funding for school nurse services may come from monies provided by a school district, a local health department, and donations from private medical providers or other persons.]~~

~~[(4) (a) There is established the School Nursing Services Incentive Program to encourage collaborative planning between school districts and local health departments.]~~

~~[(b) The Legislature may make an annual appropriation to help fund the program.]~~

~~[(c) (i) Prior to April 2 of each year, the State Office of Education shall notify school districts of the availability of school nurse incentive monies and request submission of applications for matching monies.]~~

~~[(ii) The Department of Health, in cooperation with the State Office of Education, shall establish minimum operational criteria for approved programs.]~~

~~[(d) (i) Applications shall describe services to be provided and the amount of funding to be provided by the school district, the local health department, and other sources.]~~

~~[(ii) The equivalent value of nursing services to be donated to the program may also be reported.]~~

~~[(iii) The application shall be cooperatively developed by the school district and local health department personnel and approved by both agencies.]~~

~~[(iv) A review committee established jointly by the Department of Health and the State Office of Education shall review each application.]~~

~~[(e) (i) Approved applications shall receive incentive program monies on a matching basis, with 2/3 coming from sources identified in Subsection (3) and 1/3 coming from the state-administered incentive program established under this section.]~~

~~[(ii) Donations received by a school district or local health department may be used in providing all or a part of the entity's share under Subsection (e)(i).]~~

~~[(f) If incentive program monies are insufficient to match requests in all approved applications, the State Office of Education shall disburse the monies proportionately, based on the number of children to be served under each application.]~~

Section 10. Section **53A-20-103** is amended to read:

53A-20-103. School plant capital outlay report.

~~[The State Board of Education has the following duties:]~~

~~[(1) It shall adopt codes to govern the preparation of plans and specifications for public school buildings. The codes shall include minimum standards for:]~~

~~[(a) construction, heating, ventilation, sanitation, lighting, plumbing, structural safety,~~

protection from fire, panic, and other dangers;]

~~[(b) promotion of the safety, health, and comfort of the occupants; and]~~

~~[(c) providing functional adaptability including suitable facilities for persons with a disability.]~~

~~[(2) It shall require local school boards to maintain a current inventory of school plant facilities in conformance with rules established by the board.]~~

~~[(3) It shall establish planning procedures for school districts to determine the need for school plant facilities. The procedures shall include definitions of methods, criteria, and other pertinent information necessary to determine the type, size, location, and cost of school plant facilities eligible for state financial participation.]~~

~~[(4) It shall require local school boards to prepare and maintain surveys of school plant capital outlay needs. The surveys shall include immediate and long-range school plant capital outlay needs in accordance with planning procedures established by the state board and space utilization studies, enrollment projections, district and attendance area organization, class size, conditions of present facilities, financial structure of the district, and other necessary information.]~~

~~[(5) It shall prepare a guide for use by school districts in formulating educational specifications for individual building projects.]~~

~~[(6) It shall recommend minimum requirements for contracts and agreements between architects and engineers and local school boards. As a condition of the contract or agreement, the state board shall require the use of independent licensed consulting engineers for engineering design work.]~~

~~[(7) It shall recommend minimum requirements for advertising, bidding, and contractual procedures for school plant construction.]~~

~~[(8) It shall provide school districts with findings regarding school designs, including flexibility of design and modular planning, new methods of construction, and new material.]~~

~~[(9) It] The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, ~~[including tabulations of facilities available;]~~ which includes information on the number and size of building projects completed and under construction~~[, and~~~~

additional facilities required].

Section 11. Section **53B-17-104** is amended to read:

53B-17-104. Responsibilities of UEN related to telecommunications for education.

(1) Subject to applicable rules of the Federal Communications Commission, the State Board of Regents, the State Board of Education, and the University of Utah, UEN shall:

(a) coordinate statewide services of public radio and television;

(b) develop, maintain, and operate statewide distribution systems for KUED, KUER, KULC, EDNET, and UtahLink including radio and television translator systems, an educational microwave distribution system, data network and other telecommunications services distribution systems appropriate for providing video, audio, and data telecommunication services in support of public and higher education to as many communities as may be economically and technically feasible and lawfully permissible under the various operating licenses, and, in conjunction with these operations, cooperate with state and local governmental and educational agencies and provide leadership and consulting service in regards to signal distribution;

(c) represent the state with privately owned telecommunications systems to gain access to their networks for the delivery of programs and services sponsored or produced by public and higher education;

(d) acquire, produce, coordinate, and distribute a variety of programs and services of an educational, cultural, informative, and entertaining nature designed to promote the public interest and welfare of the state;

(e) coordinate with the state system of higher education to acquire, produce, and distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other instructional and training services;

(f) coordinate with the State Office of Education and school districts to acquire, produce, and distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and training services to the public schools;

(g) act as a clearing house for the materials, courses, publications, media, software, and other applicable information related to the items addressed in Subsections (1)(e) and (f);

(h) coordinate with the State Office of Education to assist in providing the public schools of Utah with the following services:

(i) broadcast during school hours of educational and administrative programs approved and scheduled by the State Board of Education;

(ii) studio production and technical assistance for the creation of educational programs;

(iii) duplication of program masters for broadcast purposes;

(iv) nonstudio production services for the compilation of various production elements into completed programs;

(v) program previewing; and

(vi) shared responsibility with the Utah State Office of Education for ITV awareness and utilization;

(i) cooperate with state and local governmental agencies to provide teleconference and training services;

(j) consult with the steering committee authorized in Section 53B-17-102 and other technology coordinating committees established by the State Board of Education and State Board of Regents in acquiring, producing, and distributing instructional services on all media, and with public advisory committees in acquiring, producing, and distributing public radio and television programs on KUER and KUED;

(k) coordinate the statewide development and implementation of the electronic highway for education, which shall include video, audio, and data interconnections utilizing satellite, microwave, fiber-optic, and other transmission media;

~~[(l) coordinate through the UEN steering committee the technology initiatives for public and higher education which are under the direction of the State Office of Education and the Office of the Commissioner of Higher Education;]~~

~~[(m) coordinate through the UEN steering committee, public education's Educational Technology Initiative authorized under Title 53A, Chapter 1, Part 7;]~~

~~[(n)]~~ (l) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

~~[(6)]~~ (m) assure that public service entities such as educators, public service providers, and public broadcasters are granted access to the telecommunications infrastructures that are developed in the state.

(2) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of education programs.

Section 12. Section **63-55b-153** is amended to read:

63-55b-153. Repeal dates -- Titles 53 and 53A.

(1) Subsection 53-5-710(4) pertaining to restrictions at Olympic venue secure areas is repealed April 1, 2002.

(2) Title 53, Chapter 12, State Olympic Public Safety Command Act, is repealed July 1, 2002.

(3) Section 53-12-301.1 is repealed April 1, 2002.

(4) Section 53A-1-403.5 is repealed July 1, 2007.

(5) Section 53A-3-602 is repealed July 1, 2002.

~~[(6) Section 53A-15-901 is repealed July 1, 2005.]~~

Section 13. **Repealer.**

This act repeals:

Section **53A-1-701, Legislative declaration and authorization.**

Section **53A-1-702, Appropriations -- Allocations -- Contributions from school districts, the business community, and technology vendors.**

Section **53A-1-704, Duties and responsibilities of the project office.**

Section **53A-1-705, Educational technology plans -- Components -- Review and approval -- Reports.**

Section **53A-1a-401, Purpose.**

Section **53A-1a-402, Establishment of Schools for the 21st Century Program -- Qualifications for participation.**

Section **53A-1a-403, Selection of schools -- Funding -- Incentive awards.**

Section **53A-1a-404, Accountability plans -- Reporting and monitoring of program.**

Section 53A-3-418, Program for suggestions by school employees.

Section 53A-4-201, Legislative declaration and authorization.

Section 53A-4-202, Administration by state board -- Allocation of legislative appropriation.

Section 53A-4-203, Guidelines for excellence.

Section 53A-4-204, Certification of matching funds -- Distribution of allocation -- Private funds.

Section 53A-9-105, Administration of state appropriation -- Approval and funding of proposals.

Section 53A-11-909, Alternative middle schools -- Purpose -- Implementation of program -- Components -- Report.

Section 53A-15-103, Developmental program for extended school year -- Objectives -- Participation requirements -- Appropriation -- Evaluation.

Section 53A-20-102, Superintendent to approve school building project plans -- Conditions for approval.

Section 14. **Effective date.**

This act takes effect on July 1, 2002.