

**IMPLEMENTING FEDERAL EDUCATIONAL
PROGRAMS**

2005 FIRST SPECIAL SESSION

STATE OF UTAH

Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill directs public education officials regarding the administration and implementation of federal educational programs.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ directs the State Board of Education, the state superintendent, and other state and local school officials regarding the administration and implementation of federal educational programs;
- ▶ provides specific directions for the state implementation of the federal No Child Left Behind Act; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

53A-1-301 (Effective 07/01/05), as last amended by Chapter 9, Laws of Utah 2005

53A-1-401, as last amended by Chapter 244, Laws of Utah 2002



28 **53A-3-402**, as last amended by Chapter 2, Laws of Utah 2005

29 ENACTS:

30 **53A-1-901**, Utah Code Annotated 1953

31 **53A-1-902**, Utah Code Annotated 1953

32 **53A-1-903**, Utah Code Annotated 1953

33 **53A-1-904**, Utah Code Annotated 1953



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

36 Section 1. Section **53A-1-301 (Effective 07/01/05)** is amended to read:

37 **53A-1-301 (Effective 07/01/05). Appointment -- Qualifications -- Duties.**

38 (1) (a) The State Board of Education shall appoint a superintendent of public
39 instruction, hereinafter called the state superintendent, who is the executive officer of the board
40 and serves at the pleasure of the board.

41 (b) The board shall appoint the state superintendent on the basis of outstanding
42 professional qualifications.

43 (c) The state superintendent shall administer all programs assigned to the State Board
44 of Education in accordance with the policies and the standards established by the board.

45 (2) The superintendent shall develop a statewide education strategy focusing on core
46 academics, including the development of:

47 (a) core curriculum and graduation requirements;

48 (b) a process to select instructional materials that best correlate to the core curriculum
49 and graduation requirements that are supported by generally accepted scientific standards of
50 evidence;

51 (c) professional development programs for teachers, superintendents, and principals;

52 (d) remediation programs;

53 (e) a method for creating individual student learning targets, and a method of
54 measuring an individual student's performance toward those targets;

55 (f) progress-based assessments for ongoing performance evaluations of districts and
56 schools;

57 (g) incentives to achieve the desired outcome of individual student progress in core
58 academics, and which do not create disincentives for setting high goals for the students;

59 (h) an annual report card for school and district performance, measuring learning and
60 reporting progress-based assessments;

61 (i) a systematic method to encourage innovation in schools and school districts as they
62 strive to achieve improvement in their performance; and

63 (j) a method for identifying and sharing best demonstrated practices across districts and
64 schools.

65 (3) The superintendent shall perform duties assigned by the board, including the
66 following:

67 (a) investigating all matters pertaining to the public schools;

68 (b) adopting and keeping an official seal to authenticate the superintendent's official
69 acts;

70 (c) holding and conducting meetings, seminars, and conferences on educational topics;

71 (d) presenting to the governor and the Legislature each December a report of the public
72 school system for the preceding year to include:

73 (i) data on the general condition of the schools with recommendations considered
74 desirable for specific programs;

75 (ii) a complete statement of fund balances;

76 (iii) a complete statement of revenues by fund and source;

77 (iv) a complete statement of adjusted expenditures by fund, the status of bonded
78 indebtedness, the cost of new school plants, and school levies;

79 (v) a complete statement of state funds allocated to each of the state's 40 school
80 districts by source, including supplemental appropriations, and a complete statement of
81 expenditures by each district, including supplemental appropriations, by function and object as
82 outlined in the U.S. Department of Education publication "Financial Accounting for Local and
83 State School Systems";

84 (vi) a complete statement, by school district and charter school, of the amount of and
85 percentage increase or decrease in expenditures from the previous year attributed to:

86 (A) wage increases, with expenditure data for base salary adjustments identified
87 separately from step and lane expenditures;

88 (B) medical and dental premium cost adjustments; and

89 (C) adjustments in the number of teachers and other staff;

90 (vii) a statement that includes such items as fall enrollments, average membership,
91 high school graduates, licensed and classified employees, pupil-teacher ratios, class sizes,
92 average salaries, applicable private school data, and data from standardized norm-referenced
93 tests in grades 5, 8, and 11 on each school and district;

94 (viii) statistical information regarding incidents of delinquent activity in the schools or
95 at school-related activities with separate categories for:

96 (A) alcohol and drug abuse;

97 (B) weapon possession;

98 (C) assaults; and

99 (D) arson;

100 (ix) information about:

101 (A) the development and implementation of the strategy of focusing on core
102 academics;

103 (B) the development and implementation of competency-based education and
104 progress-based assessments; and

105 (C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by
106 individual progress-based assessments and the comparison of Utah Students' progress with the
107 progress of students in other states using standardized norm-referenced tests as benchmarks;
108 and

109 (x) other statistical and financial information about the school system which the
110 superintendent considers pertinent;

111 (e) collecting and organizing education data into an automated decision support system
112 to facilitate school district and school improvement planning, accountability reporting and
113 performance recognition, and the evaluation of educational policy and program effectiveness to
114 include:

115 (i) data that are:

116 (A) comparable across schools and school districts;

117 (B) appropriate for use in longitudinal studies; and

118 (C) comprehensive with regard to the data elements required under applicable state or
119 federal law or state board rule;

120 (ii) features that enable users, most particularly school administrators, teachers, and

121 parents, to:

122 (A) retrieve school and school district level data electronically;

123 (B) interpret the data visually; and

124 (C) draw conclusions that are statistically valid; and

125 (iii) procedures for the collection and management of education data that:

126 (A) require the state superintendent of public instruction to:

127 (I) collaborate with school districts in designing and implementing uniform data
128 standards and definitions;

129 (II) undertake or sponsor research to implement improved methods for analyzing
130 education data;

131 (III) provide for data security to prevent unauthorized access to or contamination of the
132 data; and

133 (IV) protect the confidentiality of data under state and federal privacy laws; and

134 (B) require all school districts to comply with the data collection and management
135 procedures established under Subsection (3)(e); [~~and~~]

136 (f) administering and implementing federal educational programs in accordance with
137 Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and

138 [~~(f)~~] (g) with the approval of the board, preparing and submitting to the governor a
139 budget for the board to be included in the budget that the governor submits to the Legislature.

140 (4) Upon leaving office, the state superintendent shall deliver to his successor all
141 books, records, documents, maps, reports, papers, and other articles pertaining to his office.

142 Section 2. Section **53A-1-401** is amended to read:

143 **53A-1-401. Powers of State Board of Education -- Adoption of rules --**

144 **Enforcement.**

145 (1) (a) The State Board of Education has general control and supervision of the state's
146 public education system.

147 (b) "General control and supervision" as used in Article X, Sec. 3, of the Utah
148 Constitution means directed to the whole system.

149 (2) The board may not govern, manage, or operate school districts, institutions, and
150 programs, unless granted that authority by statute.

151 (3) The board may adopt rules and policies in accordance with its responsibilities under

152 the constitution and state laws, and may interrupt disbursements of state aid to any district
153 which fails to comply with rules adopted in accordance with this Subsection (3).

154 (4) (a) The board may sell any interest it holds in real property upon a finding by the
155 board that the property interest is surplus.

156 (b) The board may use the money it receives from a sale under Subsection (4)(a) for
157 capital improvements, equipment, or materials, but not for personnel or ongoing costs.

158 (c) If the property interest under Subsection (4)(a) was held for the benefit of an agency
159 or institution administered by the board, the money may only be used for purposes related to
160 the agency or institution.

161 (d) The board shall advise the Legislature of any sale under Subsection (4)(a) and
162 related matters during the next following session of the Legislature.

163 (5) The board shall develop policies and procedures related to federal educational
164 programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs
165 Act.

166 Section 3. Section **53A-1-901** is enacted to read:

167 **Part 9. Implementing Federal Programs Act**

168 **53A-1-901. Title.**

169 This part is known as the "Implementing Federal Programs Act."

170 Section 4. Section **53A-1-902** is enacted to read:

171 **53A-1-902. Definitions.**

172 As used in this part:

173 (1) "Federal programs" include:

174 (a) the No Child Left Behind Act;

175 (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law
176 105-17, and subsequent amendments; and

177 (c) other federal educational programs.

178 (2) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20
179 U.S.C. Sec. 6301 et seq.

180 (3) "School official" includes:

181 (a) the State Board of Education;

182 (b) the state superintendent;

- 183 (c) employees of the State Board of Education and the state superintendent;
- 184 (d) local school boards;
- 185 (e) school district superintendents and employees; and
- 186 (f) charter school board members, administrators, and employees.

187 Section 5. Section **53A-1-903** is enacted to read:

188 **53A-1-903. Federal programs -- School official duties.**

189 (1) School officials may:

190 (a) apply for, receive, and administer funds made available through programs of the
191 federal government;

192 (b) only expend federal funds for the purposes for which they are received and are
193 accounted for by the state, school district, or charter school; and

194 (c) reduce or eliminate a program created with or expanded by federal funds to the
195 extent allowed by law when federal funds for that program are subsequently reduced or
196 eliminated.

197 (2) School officials shall:

198 (a) prioritize resources, especially to resolve conflicts between federal provisions or
199 between federal and state programs, including:

200 (i) providing first priority to meeting state goals, objectives, program needs, and
201 accountability systems as they relate to federal programs; and

202 (ii) providing second priority to implementing federal goals, objectives, program needs,
203 and accountability systems that do not directly and simultaneously advance state goals,
204 objectives, program needs, and accountability systems;

205 (b) interpret the provisions of federal programs in the best interest of students in this
206 state;

207 (c) maximize local control and flexibility;

208 (d) minimize additional state resources that are diverted to implement federal programs
209 beyond the federal monies that are provided to fund the programs;

210 (e) request changes to federal educational programs, especially programs that are
211 underfunded or provide conflicts with other state or federal programs, including:

212 (i) federal statutes;

213 (ii) federal regulations; and

214 (iii) other federal policies and interpretations of program provisions; and
215 (f) seek waivers from all possible federal statutes, requirements, regulations, and
216 program provisions from federal education officials to:
217 (i) maximize state flexibility in implementing program provisions; and
218 (ii) receive reasonable time to comply with federal program provisions.
219 (3) The requirements of school officials under this part, including the responsibility to
220 lobby federal officials, are not intended to mandate school officials to incur costs or require the
221 hiring of lobbyists, but are intended to be performed in the course of school officials' normal
222 duties.

223 Section 6. Section **53A-1-904** is enacted to read:

224 **53A-1-904. No Child Left Behind -- State implementation.**

225 (1) (a) In accordance with the No Child Left Behind Act, including Section 9527,
226 school officials shall determine, as applied to their responsibilities, if the No Child Left Behind
227 Act:

228 (i) requires the state to spend state or local resources in order to comply with the No
229 Child Left Behind Act; or

230 (ii) causes the state, local education agencies, or schools to change curriculum in order
231 to comply.

232 (b) School officials shall request a waiver under Section 9401 of the No Child Left
233 Behind Act of any provision of the No Child Left Behind Act that violates Section 9527.

234 (2) In addition to the duties described under Subsection (1), school officials shall:

235 (a) request reasonable time to comply with the provisions of the No Child Left Behind
236 Act;

237 (b) lobby congress for needed changes to the No Child Left Behind Act; and

238 (c) lobby federal education officials for relief from the provisions of the No Child Left
239 Behind Act, including waivers from federal requirements, regulations, and administrative
240 burdens.

241 (3) School officials shall lobby Congress and federal education officials for needed
242 resolution and clarification for conflicts between the No Child Left Behind Act and the
243 Individuals with Disabilities Education Act.

244 (4) In the case of conflicts between the No Child Left Behind Act and the Individuals

245 with Disabilities Education Act, the parents, in conjunction with school officials, shall
246 determine which program best meets the educational needs of the student.

247 Section 7. Section **53A-3-402** is amended to read:

248 **53A-3-402. Powers and duties generally.**

249 (1) Each local school board shall:

250 (a) implement the core curriculum utilizing instructional materials that best correlate to
251 the core curriculum and graduation requirements;

252 (b) administer tests, required by the State Board of Education, which measure the
253 progress of each student, and coordinate with the state superintendent and State Board of
254 Education to assess results and create plans to improve the student's progress which shall be
255 submitted to the State Office of Education for approval;

256 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
257 students that need remediation and determine the type and amount of federal, state, and local
258 resources to implement remediation;

259 (d) develop early warning systems for students or classes failing to make progress;

260 (e) work with the State Office of Education to establish a library of documented best
261 practices, consistent with state and federal regulations, for use by the local districts; and

262 (f) implement training programs for school administrators, including basic
263 management training, best practices in instructional methods, budget training, staff
264 management, managing for learning results and continuous improvement, and how to help
265 every child achieve optimal learning in core academics.

266 (2) Local school boards shall spend minimum school program funds for programs and
267 activities for which the State Board of Education has established minimum standards or rules
268 under Section 53A-1-402.

269 (3) (a) A board may purchase, sell, and make improvements on school sites, buildings,
270 and equipment and construct, erect, and furnish school buildings.

271 (b) School sites or buildings may only be conveyed or sold on board resolution
272 affirmed by at least two-thirds of the members.

273 (4) (a) A board may participate in the joint construction or operation of a school
274 attended by children residing within the district and children residing in other districts either
275 within or outside the state.

276 (b) Any agreement for the joint operation or construction of a school shall:
277 (i) be signed by the president of the board of each participating district;
278 (ii) include a mutually agreed upon pro rata cost; and
279 (iii) be filed with the State Board of Education.
280 (5) A board may establish, locate, and maintain elementary, secondary, and applied
281 technology schools.
282 (6) A board may enroll children in school who are at least five years of age before
283 September 2 of the year in which admission is sought.
284 (7) A board may establish and support school libraries.
285 (8) A board may collect damages for the loss, injury, or destruction of school property.
286 (9) A board may authorize guidance and counseling services for children and their
287 parents or guardians prior to, during, or following enrollment of the children in schools.
288 (10) (a) A board [~~may apply for, receive, and administer funds made available through~~
289 ~~programs of the federal government.~~] shall administer and implement federal educational
290 programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs
291 Act.
292 (b) Federal funds are not considered funds within the school district budget under Title
293 53A, Chapter 19, School District Budgets.
294 [~~(c) Federal funds may only be expended for the purposes for which they are received~~
295 ~~and are accounted for by the board.]~~
296 [~~(d) A program created with or expanded by federal funds may be reduced to the extent~~
297 ~~allowed by law when federal funds for that program are subsequently reduced or eliminated.]~~
298 (11) (a) A board may organize school safety patrols and adopt rules under which the
299 patrols promote student safety.
300 (b) A student appointed to a safety patrol shall be at least ten years old and have written
301 parental consent for the appointment.
302 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
303 of a highway intended for vehicular traffic use.
304 (d) Liability may not attach to a school district, its employees, officers, or agents or to a
305 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting
306 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

307 (12) (a) A board may on its own behalf, or on behalf of an educational institution for
308 which the board is the direct governing body, accept private grants, loans, gifts, endowments,
309 devises, or bequests that are made for educational purposes.

310 (b) These contributions are not subject to appropriation by the Legislature.

311 (13) (a) A board may appoint and fix the compensation of a compliance officer to issue
312 citations for violations of Subsection 76-10-105(2).

313 (b) A person may not be appointed to serve as a compliance officer without the
314 person's consent.

315 (c) A teacher or student may not be appointed as a compliance officer.

316 (14) A board shall adopt bylaws and rules for its own procedures.

317 (15) (a) A board shall make and enforce rules necessary for the control and
318 management of the district schools.

319 (b) All board rules and policies shall be in writing, filed, and referenced for public
320 access.

321 (16) A board may hold school on legal holidays other than Sundays.

322 (17) (a) Each board shall establish for each school year a school traffic safety
323 committee to implement this Subsection (17).

324 (b) The committee shall be composed of one representative of:

325 (i) the schools within the district;

326 (ii) the Parent Teachers' Association of the schools within the district;

327 (iii) the municipality or county;

328 (iv) state or local law enforcement; and

329 (v) state or local traffic safety engineering.

330 (c) The committee shall:

331 (i) receive suggestions from parents, teachers, and others and recommend school traffic
332 safety improvements, boundary changes to enhance safety, and school traffic safety program
333 measures;

334 (ii) review and submit annually to the Department of Transportation and affected
335 municipalities and counties a child access routing plan for each elementary, middle, and junior
336 high school within the district;

337 (iii) consult the Utah Safety Council and the Division of Family Health Services and

338 provide training to all school children in kindergarten through grade six, within the district, on
339 school crossing safety and use; and

340 (iv) help ensure the district's compliance with rules made by the Department of
341 Transportation under Section 41-6a-303.

342 (d) The committee may establish subcommittees as needed to assist in accomplishing
343 its duties under Subsection (17)(c).

344 (e) The board shall require the school community council of each elementary, middle,
345 and junior high school within the district to develop and submit annually to the committee a
346 child access routing plan.

347 (18) (a) Each school board shall adopt and implement a comprehensive emergency
348 response plan to prevent and combat violence in its public schools, on school grounds, on its
349 school vehicles, and in connection with school-related activities or events.

350 (b) The board shall implement its plan by July 1, 2000.

351 (c) The plan shall:

352 (i) include prevention, intervention, and response components;

353 (ii) be consistent with the student conduct and discipline polices required for school
354 districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

355 (iii) require inservice training for all district and school building staff on what their
356 roles are in the emergency response plan; and

357 (iv) provide for coordination with local law enforcement and other public safety
358 representatives in preventing, intervening, and responding to violence in the areas and activities
359 referred to in Subsection (18)(a).

360 (d) The State Board of Education, through the state superintendent of public
361 instruction, shall develop comprehensive emergency response plan models that local school
362 boards may use, where appropriate, to comply with Subsection (18)(a).

363 (e) Each local school board shall, by July 1 of each year, certify to the State Board of
364 Education that its plan has been practiced at the school level and presented to and reviewed by
365 its teachers, administrators, students, and their parents and local law enforcement and public
366 safety representatives.

367 (19) (a) Each local school board may adopt an emergency response plan for the
368 treatment of sports-related injuries that occur during school sports practices and events.

369 (b) The plan may be implemented by each secondary school in the district that has a
370 sports program for students.

371 (c) The plan may:

372 (i) include emergency personnel, emergency communication, and emergency
373 equipment components;

374 (ii) require inservice training on the emergency response plan for school personnel who
375 are involved in sports programs in the district's secondary schools; and

376 (iii) provide for coordination with individuals and agency representatives who:

377 (A) are not employees of the school district; and

378 (B) would be involved in providing emergency services to students injured while
379 participating in sports events.

380 (d) The board, in collaboration with the schools referred to in Subsection (19)(b), may
381 review the plan each year and make revisions when required to improve or enhance the plan.

382 (e) The State Board of Education, through the state superintendent of public
383 instruction, shall provide local school boards with an emergency plan response model that local
384 boards may use to comply with the requirements of this Subsection (19).

385 (20) A board shall do all other things necessary for the maintenance, prosperity, and
386 success of the schools and the promotion of education.

387 Section 8. **Effective date.**

388 If approved by two-thirds of all the members elected to each house, this bill takes effect
389 upon approval by the governor, or the day following the constitutional time limit of Utah
390 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
391 the date of veto override, except that Section 53A-1-301 (Effective 07/01/05) takes effect on
392 July 1, 2005.

Legislative Review Note

as of 4-14-05 7:25 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel