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SCHOOLS FOR THE DEAF AND BLIND

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: _____

Cosponsor: Jennifer M. Seelig



LONG TITLE

General Description:

This bill recodifies the Utah Schools for the Deaf and the Blind, including modifying provisions regarding its employees and a student's eligibility for services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Schools for the Deaf and the Blind as a single public school agency and a public corporation;
- ▶ allows the Utah Schools for the Deaf and the Blind to serve as the designated local education agency (LEA) for a student;
- ▶ clarifies that the Utah Schools for the Deaf and the Blind, with certain exceptions, is subject to state laws applicable to public schools and state government agencies;
- ▶ provides that the State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind;
- ▶ directs the State Board of Education to appoint:
 - a superintendent for the Utah Schools for the Deaf and the Blind; and
 - members of the Advisory Council for the Utah Schools for the Deaf and the

Blind;



- 28 ▶ directs the superintendent to appoint, subject to approval by the State Board of
- 29 Education:
- 30 • an associate superintendent to administer the Utah School for the Deaf; and
- 31 • an associate superintendent to administer the Utah School for the Blind;
- 32 ▶ establishes the power and duties of the superintendent and the advisory council;
- 33 ▶ establishes eligibility criteria for services of the Utah Schools for the Deaf and the
- 34 Blind;
- 35 ▶ specifies educational program, assessment, and reporting requirements;
- 36 ▶ provides that certain educators employed by the Utah Schools for the Deaf and the
- 37 Blind are exempt from classified service, state pay plan, and career service
- 38 provisions of the Utah Personnel Management Act and rules of the Department of
- 39 Human Resource Management;
- 40 ▶ requires the State Board of Education to make rules to establish and specify
- 41 procedures for the operation of the Utah State Instructional Materials Accessibility
- 42 Center;
- 43 ▶ repeals a requirement that interest and dividends from the investment of the
- 44 permanent funds created for the Utah Schools for the Deaf and the Blind be used for
- 45 certain enrichment programs; and
- 46 ▶ makes technical corrections.

47 Monies Appropriated in this Bill:

48 None

49 Other Special Clauses:

50 None

51 Utah Code Sections Affected:

52 AMENDS:

53 **53A-25a-105**, as last amended by Laws of Utah 2002, Chapter 299

54 **63I-4-102**, as renumbered and amended by Laws of Utah 2008, Chapter 147

55 **67-19-12**, as last amended by Laws of Utah 2007, Chapter 166

56 **67-19-15**, as last amended by Laws of Utah 2008, Chapter 3

57 ENACTS:

58 **53A-25b-101**, Utah Code Annotated 1953

- 59 **53A-25b-102**, Utah Code Annotated 1953
- 60 **53A-25b-103**, Utah Code Annotated 1953
- 61 **53A-25b-104**, Utah Code Annotated 1953
- 62 **53A-25b-105**, Utah Code Annotated 1953
- 63 **53A-25b-201**, Utah Code Annotated 1953
- 64 **53A-25b-202**, Utah Code Annotated 1953
- 65 **53A-25b-203**, Utah Code Annotated 1953
- 66 **53A-25b-301**, Utah Code Annotated 1953
- 67 **53A-25b-302**, Utah Code Annotated 1953
- 68 **53A-25b-303**, Utah Code Annotated 1953
- 69 **53A-25b-304**, Utah Code Annotated 1953
- 70 **53A-25b-305**, Utah Code Annotated 1953
- 71 **53A-25b-306**, Utah Code Annotated 1953
- 72 **53A-25b-401**, Utah Code Annotated 1953
- 73 **53A-25b-402**, Utah Code Annotated 1953
- 74 **53A-25b-501**, Utah Code Annotated 1953

75 REPEALS:

- 76 **53A-25-101**, as enacted by Laws of Utah 1988, Chapter 2
- 77 **53A-25-102**, as enacted by Laws of Utah 1988, Chapter 2
- 78 **53A-25-103**, as enacted by Laws of Utah 1988, Chapter 2
- 79 **53A-25-104**, as last amended by Laws of Utah 1996, Chapter 37
- 80 **53A-25-105**, as enacted by Laws of Utah 1988, Chapter 2
- 81 **53A-25-107**, as enacted by Laws of Utah 1988, Chapter 2
- 82 **53A-25-108**, as enacted by Laws of Utah 1988, Chapter 2
- 83 **53A-25-109**, as enacted by Laws of Utah 1988, Chapter 2
- 84 **53A-25-110**, as enacted by Laws of Utah 1988, Chapter 2
- 85 **53A-25-111**, as last amended by Laws of Utah 2007, Chapter 380
- 86 **53A-25-201**, as enacted by Laws of Utah 1988, Chapter 2
- 87 **53A-25-202**, as enacted by Laws of Utah 1988, Chapter 2
- 88 **53A-25-203**, as last amended by Laws of Utah 1996, Chapter 37
- 89 **53A-25-204**, as enacted by Laws of Utah 1988, Chapter 2

- 90 **53A-25-205**, as enacted by Laws of Utah 1988, Chapter 2
- 91 **53A-25-206**, as last amended by Laws of Utah 2001, Chapter 73
- 92 **53A-25-301**, as last amended by Laws of Utah 1995, Chapter 223
- 93 **53A-25-302**, as last amended by Laws of Utah 1995, Chapter 223
- 94 **53A-25-303**, as last amended by Laws of Utah 1995, Chapter 223
- 95 **53A-25-304**, as last amended by Laws of Utah 1995, Chapter 223
- 96 **53A-25-305**, as last amended by Laws of Utah 1995, Chapter 223
- 97 **53A-25-306**, as enacted by Laws of Utah 2001, Chapter 312

98

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

100 Section 1. Section **53A-25a-105** is amended to read:

101 **53A-25a-105. Braille versions of textbooks.**

102 (1) As a condition of the annual contract for instructional materials process and as a
103 condition of textbook acceptance, the State Board of Education [~~through the State Office of~~
104 ~~Education~~] shall require publishers of textbooks recommended by the [~~state~~] board to furnish,
105 on request, their textbooks [~~on computer diskettes, on request, for literary subjects in the~~
106 ~~American Standard Code for Information Interchange (ASCH)~~] and related instructional
107 materials in an electronic file set, in conformance with the National Instructional Materials
108 Accessibility Standard, from which Braille versions of all or part of the textbook and related
109 instructional materials can be produced.

110 (2) When Braille translation software for specialty code translation becomes available,
111 publishers shall [~~make computer diskettes available, on request, in ASCH~~] furnish, on request,
112 electronic file sets, in conformance with the National Instructional Materials Accessibility
113 Standard, for nonliterary subjects such as mathematics and science.

114 Section 2. Section **53A-25b-101** is enacted to read:

115 **CHAPTER 25b. UTAH SCHOOLS FOR THE DEAF AND THE BLIND**

116 **Part 1. General Provisions**

117 **53A-25b-101. Title.**

118 This chapter is known as the "Utah Schools for the Deaf and the Blind."

119 Section 3. Section **53A-25b-102** is enacted to read:

120 **53A-25b-102. Definitions.**

121 As used in this chapter:

122 (1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf
123 and the Blind.

124 (2) "Alternate format" includes braille, audio, or digital text, or large print.

125 (3) "Associate superintendent" means:

126 (a) the associate superintendent of the Utah School for the Deaf; or

127 (b) the associate superintendent of the Utah School for the Blind.

128 (4) "Blind" means:

129 (a) if the person is three years of age or older but younger than 22 years of age, having
130 a visual impairment that, even with correction, adversely affects educational performance or
131 substantially limits one or more major life activities; and

132 (b) if the person is younger than three years of age, having a visual impairment.

133 (5) "Blindness" means an impairment in vision in which central visual acuity:

134 (a) does not exceed 20/200 in the better eye with correcting lenses; or

135 (b) is accompanied by a limit to the field of vision in the better eye to such a degree
136 that its widest diameter subtends an angle of no greater than 20 degrees.

137 (6) "Board" means the State Board of Education.

138 (7) "Cortical visual impairment" or "functional blindness" means a neurological visual
139 disorder as described in Section 53A-25b-301.

140 (8) "Deaf" means:

141 (a) if the person is three years of age or older but younger than 22 years of age, having
142 a hearing impairment, whether permanent or fluctuating, that, even with amplification,
143 adversely affects educational performance or substantially limits one or more major life
144 activities; and

145 (b) if the person is younger than three years of age, having a hearing impairment.

146 (9) "Deafblind" means:

147 (a) if the person is three years of age or older but younger than 22 years of age:

148 (i) deaf;

149 (ii) blind; and

150 (iii) having hearing and visual impairments that cause such severe communication and
151 other developmental and educational needs that the person cannot be accommodated in special

152 education programs solely for students who are deaf or blind; or

153 (b) if the person is younger than three years of age, having both hearing and vision
154 impairments that are diagnosed as provided in Section 53A-25b-301.

155 (10) "Deafness" means a hearing loss so severe that the person is impaired in
156 processing linguistic information through hearing, with or without amplification.

157 (11) "Educator" means a person who holds:

158 (a) (i) a license issued under Title 53A, Chapter 6, Educator Licensing and Professional
159 Practices Act; and

160 (ii) a position as:

161 (A) a classroom teacher;

162 (B) a speech pathologist;

163 (C) a librarian or media specialist;

164 (D) a preschool teacher;

165 (E) a guidance counselor;

166 (F) a school psychologist; or

167 (G) an audiologist; or

168 (b) (i) a bachelor's degree or higher;

169 (ii) credentials from the governing body of the professional's area of practice; and

170 (iii) a position as:

171 (A) a Parent Infant Program consultant;

172 (B) a deafblind consultant;

173 (C) an orientation and mobility specialist;

174 (D) a physical therapist; or

175 (E) an occupational therapist.

176 (12) "Functional blindness" means cortical visual impairment.

177 (13) "Functional hearing loss" means a central nervous system impairment, auditory
178 processing disorder, or auditory neuropathy/dys-synchrony described in Section 53A-25b-301.

179 (14) "Hard of hearing" means having a hearing loss, excluding deafness.

180 (15) "Hearing impairment" includes hard of hearing, deafness, or functional hearing
181 loss.

182 (16) "Individualized education program" or "IEP" means:

183 (a) a written statement for a student with a disability that is developed, reviewed, and
 184 revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec.
 185 1400 et seq.; or

186 (b) an individualized family service plan developed:

187 (i) for a child with a disability who is younger than three years of age; and

188 (ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec.
 189 1400 et seq.

190 (17) (a) "LEA" means a local education agency that has administrative control and
 191 direction for public education.

192 (b) "LEA" includes:

193 (i) a school district;

194 (ii) a charter school with an independent governing board; and

195 (iii) the Utah Schools for the Deaf and the Blind.

196 (18) "Low vision" means an impairment in vision in which:

197 (a) visual acuity is at 20/70 or worse; or

198 (b) the visual field is greatly reduced.

199 (19) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the
 200 Blind that provides services through an interagency agreement with the Department of Health
 201 to children younger than three years of age who are deaf, blind, or deafblind.

202 (20) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

203 (21) "Section 504 accommodation plan" means a plan developed pursuant to Section
 204 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to
 205 an individual with a disability to ensure access to major life activities.

206 (22) "Superintendent" means the superintendent of the Utah Schools for the Deaf and
 207 the Blind.

208 (23) "Visual impairment" includes partial sightedness, low vision, blindness, cortical
 209 visual impairment, and degenerative conditions that lead to blindness or severe loss of vision.

210 Section 4. Section **53A-25b-103** is enacted to read:

211 **53A-25b-103. Utah Schools for the Deaf and the Blind created -- Designated LEA**
 212 **-- Services statewide.**

213 (1) The Utah Schools for the Deaf and the Blind is created as a single public school

214 agency that includes:

- 215 (a) the Utah School for the Deaf;
- 216 (b) the Utah School for the Blind;
- 217 (c) programs for students who are deafblind; and
- 218 (d) the Parent Infant Program.

219 (2) Under the general control and supervision of the board, consistent with the board's
220 constitutional authority, the Utah Schools for the Deaf and the Blind:

- 221 (a) may provide services to students statewide:
- 222 (i) who are deaf, blind, or deafblind; or
- 223 (ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the board
- 224 established pursuant to Section 53A-25b-301; and
- 225 (b) shall serve as the designated LEA for a student and assume the responsibilities of
- 226 the student's LEA of record when the student's LEA of record and the Utah Schools for the
- 227 Deaf and the Blind determine that the student be placed at the Utah Schools for the Deaf and
- 228 the Blind.

229 Section 5. Section **53A-25b-104** is enacted to read:

230 **53A-25b-104. Corporate powers.**

231 (1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual
232 succession and a corporate seal.

233 (2) The Utah Schools for the Deaf and the Blind may:

- 234 (a) sue and be sued;
- 235 (b) contract and be contracted with;
- 236 (c) take and hold by purchase, gift, devise, or bequest real and personal property
- 237 required for its uses; and
- 238 (d) convert property, if not suitable for its use, into other property or money.

239 (3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes
240 and assessments.

241 Section 6. Section **53A-25b-105** is enacted to read:

242 **53A-25b-105. Applicability of statutes to the Utah Schools for the Deaf and the**
243 **Blind.**

244 (1) The Utah Schools for the Deaf and the Blind is subject to Title 53A, State System

245 of Public Education, and other state laws applicable to public schools, except as otherwise
246 provided by this chapter.

247 (2) The following provisions of Title 53A, State System of Public Education, do not
248 apply to the Utah Schools for the Deaf and the Blind:

249 (a) provisions governing the budgets, funding, or finances of school districts or charter
250 schools; and

251 (b) provisions governing school construction.

252 (3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is
253 subject to state laws governing state agencies, including:

254 (a) Title 51, Chapter 5, Funds Consolidation Act;

255 (b) Title 51, Chapter 7, State Money Management Act;

256 (c) Title 52, Chapter 4, Open and Public Meetings Act;

257 (d) Title 63A, Utah Administrative Services Code;

258 (e) Title 63G, Chapter 2, Government Records Access and Management Act;

259 (f) Title 63G, Chapter 4, Administrative Procedures Act;

260 (g) Title 63G, Chapter 6, Utah Procurement Code;

261 (h) Title 63J, Chapter 1, Budgetary Procedures Act;

262 (i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

263 (j) Title 67, Chapter 19, Utah State Personnel Management Act;

264 Section 7. Section **53A-25b-201** is enacted to read:

Part 2. Governance

53A-25b-201. Authority of the State Board of Education.

267 (1) The State Board of Education is the governing board of the Utah Schools for the
268 Deaf and the Blind.

269 (2) (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and
270 the Blind.

271 (b) (i) Except as provided in Subsection (2)(b)(ii), the superintendent shall:

272 (A) hold an administrative/supervisory license;

273 (B) have demonstrated success in administration of education programs;

274 (C) have demonstrated skill in organizational management; and

275 (D) have a knowledge of special education practice and law.

276 (ii) The board may grant a letter of authorization permitting a person with outstanding
277 professional qualifications, including management experience and skills consistent with the
278 mission of the Utah Schools for the Deaf and the Blind, to be appointed as superintendent.

279 (c) The board shall establish the salary for the superintendent in accordance with
280 standards adopted by the Department of Human Resource Management.

281 (3) (a) The board shall:

282 (i) appoint members of the Advisory Council for the Utah Schools for the Deaf and the
283 Blind; and

284 (ii) receive and consider the recommendations and advice of the advisory council.

285 (b) The board is not obligated to follow the recommendations of the advisory council.

286 (4) The board shall approve the annual budget and expenditures of the Utah Schools
287 for the Deaf and the Blind.

288 Section 8. Section **53A-25b-202** is enacted to read:

289 **53A-25b-202. Authority and duties of the superintendent.**

290 The superintendent shall:

291 (1) serve as the chief executive officer of the Utah Schools for the Deaf and the Blind;

292 (2) subject to the approval of the board, appoint an associate superintendent to
293 administer the Utah School for the Deaf based on:

294 (a) demonstrated competency as an expert educator of deaf persons; and

295 (b) knowledge of school management and the instruction of deaf persons;

296 (3) subject to the approval of the board, appoint an associate superintendent to
297 administer the Utah School for the Blind based on:

298 (a) demonstrated competency as an expert educator of blind persons; and

299 (b) knowledge of school management and the instruction of blind persons, including an
300 understanding of the unique needs and education of deafblind persons;

301 (4) establish policies for student conduct and procedures for due process, consistent
302 with federal and state statutes;

303 (5) establish policies and procedures for reporting child abuse in accordance with
304 Section 62A-4a-403; and

305 (6) establish procedures to ensure effective communication and relationships with
306 school districts, charter schools, other state agencies, and the community.

307 Section 9. Section **53A-25b-203** is enacted to read:

308 **53A-25b-203. Advisory Council for the Utah Schools for the Deaf and the Blind.**

309 (1) (a) There is created the Advisory Council for the Utah Schools for the Deaf and the
310 Blind composed of at least six, but no more than 11, voting members appointed by the board.

311 (b) The advisory council shall include:

312 (i) two members who are blind;

313 (ii) two members who are deaf; and

314 (iii) two members who are deafblind or parents of a deafblind child.

315 (c) The board may appoint other advisory council members who have an interest in and
316 knowledge of the needs and education of students who are deaf, blind, or deafblind.

317 (2) The board may remove a council member for cause.

318 (3) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
319 Administrative Rulemaking Act, regarding the operation of the advisory council, including
320 rules:

321 (a) specifying the term of membership for advisory council members;

322 (b) establishing procedures for filling a vacancy on the advisory council; and

323 (c) establishing procedures for dismissing an advisory council member.

324 (4) An advisory council member may receive per diem and expenses incurred in the
325 performance of the member's official duties at the rates established by the Division of Finance
326 under Sections 63A-3-106 and 63A-3-107.

327 (5) The advisory council shall meet at least ten times per year.

328 (6) (a) The advisory council shall elect a chair and vice chair from its membership.

329 (b) The advisory council may elect other officers from its membership.

330 (c) The advisory council officers shall serve one-year terms.

331 (7) A majority of the advisory council constitutes a quorum for the transaction of
332 business.

333 (8) The board shall assign a staff member from the Utah State Office of Education and
334 the superintendent to act as liaisons between the board and the advisory council.

335 (9) The advisory council shall:

336 (a) advise and make recommendations to the board, superintendent, and associate
337 superintendents regarding:

- 338 (i) staff positions;
- 339 (ii) policy;
- 340 (iii) budgets; and
- 341 (iv) operations;
- 342 (b) advise the board, superintendent, and associate superintendents as to the needs of
- 343 those who are deaf, blind, or deafblind and of appropriate programs and services to address
- 344 individual needs consistent with state and federal laws, rules, and regulations; and
- 345 (c) advise and make recommendations to the board regarding the continued
- 346 employment of the superintendent and associate superintendents.

347 (10) The board shall receive and consider the advice and recommendations of the
 348 advisory council but is not obligated to follow that advice or adopt the recommendations.

349 Section 10. Section **53A-25b-301** is enacted to read:

350 **Part 3. Services and Educational Programs**

351 **53A-25b-301. Eligibility for services of the Utah Schools for the Deaf and the**
 352 **Blind.**

353 (1) Except as provided in Subsections (3) and (4), a person is eligible to receive
 354 services of the Utah Schools for the Deaf and the Blind if the person is:

- 355 (a) a resident of Utah;
- 356 (b) younger than 22 years of age;
- 357 (c) referred to the Utah Schools for the Deaf and the Blind by the person's school
- 358 district of residence or a local early intervention program; and
- 359 (d) identified as deaf, blind, or deafblind through:
 - 360 (i) the special education eligibility determination process; or
 - 361 (ii) the Section 504 eligibility determination process.

362 (2) (a) A student who qualifies for special education shall have services and placement
 363 determinations made through the IEP process.

364 (b) A student who qualifies for accommodations under Section 504 shall have services
 365 and placement determinations made through the Section 504 team process.

366 (3) (a) A nonresident may receive services of the Utah Schools for the Deaf and the
 367 Blind in accordance with rules of the board.

368 (b) The rules shall require the payment of tuition for services provided to a

369 nonresident.

370 (4) (a) The board shall make rules in accordance with this chapter and Title 63G,
371 Chapter 3, Utah Administrative Rulemaking Act, that determine the eligibility of students to be
372 served by the Utah Schools for the Deaf and the Blind.

373 (b) For the purpose of determining the eligibility of students for services of the Utah
374 Schools for the Deaf and the Blind, the rules shall include the items described in this
375 Subsection (4)(b).

376 (i) (A) A cortical visual impairment is a neurological visual disorder that affects the
377 visual cortex or visual tracts in the brain.

378 (B) The eyes and optic nerves of a person with a cortical visual impairment appear
379 normal and the person's pupil responses are normal.

380 (C) A cortical visual impairment is caused by damage to the visual pathways to the
381 brain.

382 (D) A cortical visual impairment affects a person's visual discrimination, acuity,
383 processing, and interpretation.

384 (E) A cortical visual impairment is often present in conjunction with other disabilities
385 or eye conditions that cause visual impairment.

386 (ii) (A) A functional hearing loss is a central nervous system impairment, auditory
387 processing disorder, or auditory neuropathy/dys-synchrony.

388 (B) Although parts of the auditory system may be functioning, a person with a
389 functional hearing loss does not attend to, respond to, localize, or accurately process
390 information, causing the person to appear as a person with deafness or who is hard of hearing.

391 (iii) (A) In diagnosing a person younger than age three who is deafblind, the following
392 information may be used:

393 (I) ophthalmological and audiological documentation;

394 (II) functional vision or hearing assessments and evaluations; or

395 (III) informed clinical opinion conducted by a person with expertise in deafness,
396 blindness, or deafblindness.

397 (B) Informed clinical opinion shall be:

398 (I) included in the determination of eligibility when documentation is incomplete or not
399 conclusive; and

400 (II) based on pertinent records related to the person's current health status and medical
401 history, an evaluation and observations of the person's level of sensory functioning, and the
402 needs of the family.

403 (c) The board may make rules to allow a resident of Utah who is younger than 22 years
404 of age and who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for
405 the Deaf and the Blind.

406 Section 11. Section **53A-25b-302** is enacted to read:

407 **53A-25b-302. Entrance policies and procedures.**

408 With input from the Utah Schools for the Deaf and the Blind, school districts, parents,
409 and the advisory council, the board shall establish entrance policies and procedures that IEP
410 teams and Section 504 teams are to consider in making placement recommendations at the
411 Utah Schools for the Deaf and the Blind.

412 Section 12. Section **53A-25b-303** is enacted to read:

413 **53A-25b-303. Educational programs.**

414 (1) The Utah Schools for the Deaf and the Blind shall provide an educational program
415 for a student:

416 (a) based on assessments of the student's abilities; and

417 (b) in accordance with the student's IEP or Section 504 accommodation plan.

418 (2) If a student's ability to access the core curriculum is impaired primarily due to a
419 severe sensory loss, the Utah Schools for the Deaf and the Blind shall provide an educational
420 program that will enable the student, with accommodations, to access the core curriculum.

421 (3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to
422 students who are blind as required by Chapter 25a, Blind Persons' Literacy Rights and
423 Education Act.

424 Section 13. Section **53A-25b-304** is enacted to read:

425 **53A-25b-304. U-PASS testing and reporting.**

426 (1) The Utah Schools for the Deaf and the Blind shall annually administer, as
427 applicable, the U-PASS tests specified in Section 53A-1-602, except a student may take an
428 alternative test in accordance with the student's IEP.

429 (2) By November 30 of each year, through 2011, the Utah Schools for the Deaf and the
430 Blind shall report to the board and the Education Interim Committee the following data:

- 431 (a) number of students served;
- 432 (b) services provided;
- 433 (c) student participation in state assessments;
- 434 (d) academic achievement of students; and
- 435 (e) the impact on enrollment at the Utah Schools for the Deaf and the Blind resulting
- 436 from statutory changes regarding eligibility.

437 Section 14. Section **53A-25b-305** is enacted to read:

438 **53A-25b-305. Collaboration with Department of Health.**

439 The Utah Schools for the Deaf and the Blind shall collaborate with the Department of

440 Health to provide services to children with disabilities who are younger than three years of age

441 in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

442 Section 15. Section **53A-25b-306** is enacted to read:

443 **53A-25b-306. Programs for deafblind individuals -- State deafblind education**

444 **specialist.**

445 (1) The board shall adopt policies and programs for providing appropriate educational

446 services to individuals who are deafblind.

447 (2) Except as provided in Subsection (4), the board shall designate an employee of the

448 Utah State Office of Education who holds a deafblind certification or equivalent training and

449 expertise to:

450 (a) act as a resource coordinator for the board on public education programs designed

451 for individuals who are deafblind;

452 (b) facilitate the design and implementation of professional development programs to

453 assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in

454 meeting the educational needs of those who are deafblind; and

455 (c) facilitate the design of and assist with the implementation of one-on-one

456 intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf

457 and the Blind for those who are deafblind, serving as a resource for, or team member of,

458 individual IEP teams.

459 (3) The board may authorize and approve the costs of an employee of the Utah State

460 Office of Education to obtain a deafblind certification or equivalent training and expertise to

461 qualify for the position described in Subsection (2).

493 (4) From money appropriated to the board for salary adjustments, the board shall adjust
494 the salary schedule applicable to educators at the school each year.

495 Section 18. Section **53A-25b-501** is enacted to read:

496 **Part 5. Utah State Instructional Materials Access Center**

497 **53A-25b-501. Instructional Materials Access Center -- Board to make rules.**

498 (1) The Utah State Office of Education shall collaborate with the Utah Schools for the
499 Deaf and the Blind, school districts, and charter schools in establishing the Utah State
500 Instructional Materials Access Center to provide students with print disabilities access to
501 instructional materials in alternate formats in a timely manner.

502 (2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
503 Administrative Rulemaking Act, to:

504 (a) establish the Utah State Instructional Materials Access Center;

505 (b) define how the Educational Resource Center at the Utah Schools for the Deaf and
506 the Blind shall collaborate in the operation of the Utah State Instructional Materials Access
507 Center;

508 (c) specify procedures for the operation of the Utah State Instructional Materials
509 Access Center, including procedures to:

510 (i) identify students who qualify for instructional materials in alternate formats; and

511 (ii) distribute and store instructional materials in alternate formats;

512 (d) establish the contribution of school districts and charter schools towards the cost of
513 instructional materials in alternate formats; and

514 (e) require textbook publishers, as a condition of contract, to provide electronic file sets
515 in conformance with the National Instructional Materials Accessibility Standard.

516 Section 19. Section **63I-4-102** is amended to read:

517 **63I-4-102. Definitions.**

518 (1) (a) "Activity" means to provide a good or service.

519 (b) "Activity" includes to:

520 (i) manufacture a good or service;

521 (ii) process a good or service;

522 (iii) sell a good or service;

523 (iv) offer for sale a good or service;

- 524 (v) rent a good or service;
- 525 (vi) lease a good or service;
- 526 (vii) deliver a good or service;
- 527 (viii) distribute a good or service; or
- 528 (ix) advertise a good or service.
- 529 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 530 (i) the state; or
- 531 (ii) an entity of the state including a department, office, division, authority,
- 532 commission, or board.
- 533 (b) "Agency" does not include:
- 534 (i) the Legislature;
- 535 (ii) an entity or agency of the Legislature;
- 536 (iii) the state auditor;
- 537 (iv) the state treasurer;
- 538 (v) the Office of the Attorney General;
- 539 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 540 (vii) the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber
- 541 Valley Historic Railroad Authority;
- 542 (viii) the Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah
- 543 Science Center Authority;
- 544 (ix) the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
- 545 Corporation Act;
- 546 (x) the Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State
- 547 Fair Corporation Act;
- 548 (xi) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
- 549 Compensation Fund;
- 550 (xii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State
- 551 Retirement Systems Administration;
- 552 [~~xviii~~] (xiii) a charter school chartered by the State Charter School Board under Title
- 553 53A, Chapter 1a, Part 5, The Utah Charter Schools Act[-];
- 554 (xiv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,

555 Utah Schools for the Deaf and the Blind; or

556 [~~(xvi)~~] (xv) an institution of higher education as defined in Section 53B-3-102;

557 [~~(xiii)~~] (xvi) the School and Institutional Trust Lands Administration created in Title

558 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

559 [~~(xiv)~~] (xvii) the Utah Communications Agency Network created in Title 63C, Chapter

560 7, Utah Communications Agency Network Act;

561 [~~(xv)~~] (xviii) the Utah Capital Investment Corporation created in Title 63M, Chapter 1,

562 Part 12, Utah Venture Capital Enhancement Act;

563 [~~(xvii) a school established under Title 53A, Chapter 25, Schools for the Deaf and~~

564 ~~Blind; or]~~

565 (3) "Agency head" means the chief administrative officer of an agency.

566 (4) "Board" means the Privatization Policy Board created in Section 63I-4-201.

567 (5) "Commercial activity" means to engage in an activity that can be obtained in whole

568 or in part from a private enterprise.

569 (6) "Local entity" means:

570 (a) a political subdivision of the state, including a:

571 (i) county;

572 (ii) city;

573 (iii) town;

574 (iv) local school district;

575 (v) local district; or

576 (vi) special service district;

577 (b) an agency of an entity described in this Subsection (6), including a department,

578 office, division, authority, commission, or board; and

579 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,

580 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

581 (7) "Private enterprise" means a person that for profit:

582 (a) manufactures a good or service;

583 (b) processes a good or service;

584 (c) sells a good or service;

585 (d) offers for sale a good or service;

- 586 (e) rents a good or service;
- 587 (f) leases a good or service;
- 588 (g) delivers a good or service;
- 589 (h) distributes a good or service; or
- 590 (i) advertises a good or service.

591 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
 592 private enterprise engages in the activity including a transfer by:

- 593 (a) contract;
- 594 (b) transfer of property; or
- 595 (c) another arrangement.

596 Section 20. Section **67-19-12** is amended to read:

597 **67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of the**
 598 **executive director.**

599 (1) (a) This section, and the rules adopted by the department to implement this section,
 600 apply to each career and noncareer employee not specifically exempted under Subsection (2).

601 (b) If not exempted under Subsection (2), an employee is considered to be in classified
 602 service.

603 (2) The following employees are exempt from this section:

- 604 (a) members of the Legislature and legislative employees;
- 605 (b) members of the judiciary and judicial employees;
- 606 (c) elected members of the executive branch and their direct staff who meet career
 607 service exempt criteria as defined in Subsection 67-19-15(1)(k);

608 (d) [~~certificated~~] employees of the State Board of Education who are licensed by the
 609 State Board of Education;

610 (e) officers, faculty, and other employees of state institutions of higher education;

611 (f) employees in any position that is determined by statute to be exempt from this
 612 Subsection (2);

613 (g) employees in the Office of the Attorney General;

614 (h) department heads and other persons appointed by the governor pursuant to statute;

615 (i) employees of the Department of Community and Culture whose positions are
 616 designated as executive/professional positions by the executive director of the Department of

617 Community and Culture with the concurrence of the executive director;

618 (j) employees of the Governor's Office of Economic Development whose positions are
619 designated as executive/professional positions by the director of the office; ~~and~~

620 (k) employees of the Medical Education Council~~[-]; and~~

621 (l) educators as defined by Section 53A-25b-102 who are employed by the Utah
622 Schools for the Deaf and the Blind.

623 (3) (a) The executive director shall prepare, maintain, and revise a position
624 classification plan for each employee position not exempted under Subsection (2) to provide
625 equal pay for equal work.

626 (b) Classification of positions shall be based upon similarity of duties performed and
627 responsibilities assumed, so that the same job requirements and the same salary range may be
628 applied equitably to each position in the same class.

629 (c) The executive director shall allocate or reallocate the position of each employee in
630 classified service to one of the classes in the classification plan.

631 (d) (i) The department shall conduct periodic studies and desk audits to provide that the
632 classification plan remains reasonably current and reflects the duties and responsibilities
633 assigned to and performed by employees.

634 (ii) The executive director shall determine the schedule for studies and desk audits after
635 considering factors such as changes in duties and responsibilities of positions or agency
636 reorganizations.

637 (4) (a) With the approval of the governor, the executive director shall develop and
638 adopt pay plans for each position in classified service.

639 (b) The executive director shall design each pay plan to achieve, to the degree that
640 funds permit, comparability of state salary ranges to salary ranges used by private enterprise
641 and other public employment for similar work.

642 (c) The executive director shall adhere to the following in developing each pay plan:

643 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
644 differential among the various classes of positions in the classification plan.

645 (ii) (A) The executive director shall assign each class of positions in the classification
646 plan to a salary range and shall set the width of the salary range to reflect the normal growth
647 and productivity potential of employees in that class.

648 (B) The width of the ranges need not be uniform for all classes of positions in the plan,
649 but each range shall contain merit steps in increments of 2.75% salary increases.

650 (iii) (A) The executive director shall issue rules for the administration of pay plans.

651 (B) The rules may provide for exceptional performance increases and for a program of
652 incentive awards for cost-saving suggestions and other commendable acts of employees.

653 (C) The executive director shall issue rules providing for salary adjustments.

654 (iv) Merit step increases shall be granted, if funds are available, to employees who
655 receive a rating of "successful" or higher in an annual evaluation of their productivity and
656 performance.

657 (v) By October 31 of each year, the executive director shall submit market
658 comparability adjustments to the director of the Governor's Office of Planning and Budget for
659 consideration to be included as part of the affected agency's base budgets.

660 (vi) By October 31 of each year, the executive director shall recommend a
661 compensation package to the governor.

662 (vii) (A) Adjustments shall incorporate the results of a total compensation market
663 survey of salary ranges and benefits of a reasonable cross section of comparable benchmark
664 positions in private and public employment in the state.

665 (B) The survey may also study comparable unusual positions requiring recruitment in
666 other states.

667 (C) The executive director may cooperate with other public and private employers in
668 conducting the survey.

669 (viii) (A) The executive director shall establish criteria to assure the adequacy and
670 accuracy of the survey and shall use methods and techniques similar to and consistent with
671 those used in private sector surveys.

672 (B) Except as provided under Section 67-19-12.3, the survey shall include a reasonable
673 cross section of employers.

674 (C) The executive director may cooperate with or participate in any survey conducted
675 by other public and private employers.

676 (D) The executive director shall obtain information for the purpose of constructing the
677 survey from the Division of Workforce Information and Payment Services and shall include
678 employer name, number of persons employed by the employer, employer contact information

679 and job titles, county code, and salary if available.

680 (E) The department shall acquire and protect the needed records in compliance with the
681 provisions of Section 35A-4-312.

682 (ix) The establishing of a salary range is a nondelegable activity and is not appealable
683 under the grievance procedures of Sections 67-19-30 through 67-19-32, Title 67, Chapter 19a,
684 Grievance and Appeal Procedures, or otherwise.

685 (x) The governor shall:

686 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
687 the executive budget and shall recommend the method of distributing the adjustments;

688 (B) submit compensation recommendations to the Legislature; and

689 (C) support the recommendation with schedules indicating the cost to individual
690 departments and the source of funds.

691 (xi) If funding is approved by the Legislature in a general appropriations act, the
692 adjustments take effect on the July 1 following the enactment.

693 (5) (a) The executive director shall regularly evaluate the total compensation program
694 of state employees in the classified service.

695 (b) The department shall determine if employee benefits are comparable to those
696 offered by other private and public employers using information from:

697 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
698 Chamber of Commerce Research Center; or

699 (ii) the most recent edition of a nationally recognized benefits survey.

700 (6) (a) The executive director shall submit proposals for a state employee
701 compensation plan to the governor by October 31 of each year, setting forth findings and
702 recommendations affecting employee compensation.

703 (b) The governor shall consider the executive director's proposals in preparing budget
704 recommendations for the Legislature.

705 (c) The governor's budget proposals to the Legislature shall include a specific
706 recommendation on employee compensation.

707 Section 21. Section **67-19-15** is amended to read:

708 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
709 **positions -- Coverage of career service provisions.**

710 (1) Except as otherwise provided by law or by rules and regulations established for
711 federally aided programs, the following positions are exempt from the career service provisions
712 of this chapter:

713 (a) the governor, members of the Legislature, and all other elected state officers,
714 designated as Schedule AA;

715 (b) appointed executives and board or commission executives enumerated in Section
716 67-22-2, and commissioners designated as Schedule AB;

717 (c) all employees and officers in the office and at the residence of the governor,
718 designated as Schedule AC;

719 (d) employees who are in a confidential relationship to an agency head or
720 commissioner and who report directly to, and are supervised by, a department head,
721 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;

722 (e) unskilled employees in positions requiring little or no specialized skill or training,
723 designated as Schedule AE;

724 (f) part-time professional noncareer persons who are paid for any form of medical and
725 other professional service and who are not engaged in the performance of administrative duties,
726 designated as Schedule AF;

727 (g) employees in the Office of the Attorney General who are under their own career
728 service pay plan under Sections 67-5-7 through 67-5-13, designated as Schedule AG;

729 (h) teaching staff of all state institutions, including educators as defined by Section
730 53A-25b-102 who are employed by the Utah Schools for the Deaf and the Blind, and patients
731 and inmates employed in state institutions, designated as Schedule AH;

732 (i) persons appointed to a position vacated by an employee who has a right to return
733 under federal or state law or policy, designated as Schedule AI;

734 (j) noncareer employees compensated for their services on a seasonal or contractual
735 basis who are hired for limited periods of less than nine consecutive months or who are
736 employed on less than 1/2 time basis, designated as Schedule AJ;

737 (k) those employees in a personal and confidential relationship to elected officials,
738 designated as Schedule AK;

739 (l) employees appointed to perform work of a limited duration not exceeding two years
740 or to perform work with time-limited funding, designated as Schedule AL;

741 (m) employees of the Department of Community and Culture whose positions are
742 designated as executive/professional positions by the executive director of the Department of
743 Community and Culture with the concurrence of the executive director, and employees of the
744 Governor's Office of Economic Development whose positions are designated as
745 executive/professional positions by the director of the office, designated as Schedule AM;

746 (n) employees of the Legislature, designated as Schedule AN;

747 (o) employees of the judiciary, designated as Schedule AO;

748 (p) all judges in the judiciary, designated as Schedule AP;

749 (q) members of state and local boards and councils appointed by the governor and
750 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
751 faculty, and other employees of state universities and other state institutions of higher
752 education, designated as Schedule AQ;

753 (r) employees who make statewide policy, designated as Schedule AR;

754 (s) any other employee whose appointment is required by statute to be career service
755 exempt, designated as Schedule AS; and

756 (t) employees of the Department of Technology Services, designated as
757 executive/professional positions by the executive director of the Department of Technology
758 Services with the concurrence of the executive director, designated as Schedule AT.

759 (2) The civil service shall consist of two schedules as follows:

760 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).

761 (ii) Removal from any appointive position under Schedule A, unless otherwise
762 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

763 (b) Schedule B is the competitive career service schedule, consisting of all positions
764 filled through competitive selection procedures as defined by the executive director.

765 (3) (a) The executive director, after consultation with the heads of concerned executive
766 branch departments and agencies and with the approval of the governor, shall allocate positions
767 to the appropriate schedules under this section.

768 (b) Agency heads shall make requests and obtain approval from the executive director
769 before changing the schedule assignment and tenure rights of any position.

770 (c) Unless the executive director's decision is reversed by the governor, when the
771 executive director denies an agency's request, the executive director's decision is final.

772 (4) (a) Compensation for employees of the Legislature shall be established by the
773 directors of the legislative offices in accordance with Section 36-12-7.

774 (b) Compensation for employees of the judiciary shall be established by the state court
775 administrator in accordance with Section 78A-2-107.

776 (c) Compensation for officers, faculty, and other employees of state universities and
777 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
778 Governance, Powers, Rights, and Responsibilities, and 2, Institutions of Higher Education.

779 (d) Unless otherwise provided by law, compensation for all other Schedule A
780 employees shall be established by their appointing authorities, within ranges approved by, and
781 after consultation with the executive director of the Department of Human Resource
782 Management.

783 (5) All employees of the Office of State Auditor, the Office of State Treasurer, and
784 employees who are not exempt under this section are covered by the career service provisions
785 of this chapter.

786 Section 22. **Repealer.**

787 This bill repeals:

788 Section **53A-25-101, School for the Deaf.**

789 Section **53A-25-102, Corporate powers.**

790 Section **53A-25-103, Purposes -- Qualifications of pupils.**

791 Section **53A-25-104, Governance and control by board of trustees -- Initial**
792 **placement of children -- Individualized education programs.**

793 Section **53A-25-105, Meetings of board.**

794 Section **53A-25-107, Board powers -- Bylaws -- Contracts with instructors --**
795 **Religious and political doctrine.**

796 Section **53A-25-108, Appointment of superintendent and treasurer.**

797 Section **53A-25-109, Qualifications and duties of superintendent -- Removal.**

798 Section **53A-25-110, Fiscal year.**

799 Section **53A-25-111, Annual salary adjustments for school employees -- Benefits.**

800 Section **53A-25-201, School for the Blind.**

801 Section **53A-25-202, Corporate powers.**

802 Section **53A-25-203, Governance and control by board of trustees -- Initial**

- 803 **placement of children -- Individualized education programs.**
- 804 Section 53A-25-204, Subject to same laws as School for Deaf.
- 805 Section 53A-25-205, Purposes -- Qualifications of pupils.
- 806 Section 53A-25-206, Instruction of adults with visual impairments.
- 807 Section 53A-25-301, Establishment of council -- Membership.
- 808 Section 53A-25-302, Appointment and terms of council members -- Powers --
- 809 **Expenses.**
- 810 Section 53A-25-303, Council meetings -- Officers.
- 811 Section 53A-25-304, Duties of council.
- 812 Section 53A-25-305, Dual sensory impairment disability education specialist.
- 813 Section 53A-25-306, Educational Enrichment Program for Hearing and Visually
- 814 **Impaired Students -- Funding for the program.**
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Legislative Review Note
as of 1-27-09 12:00 PM

Office of Legislative Research and General Counsel

H.B. 296 - Schools for the Deaf and Blind Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will require an ongoing appropriation of approximately \$120,000 in salary and benefits for one additional associate superintendent for the Schools for the Deaf and the Blind. It will also require an ongoing appropriation estimated at \$490,000 to fund the Utah State Instructional Materials Access Center.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Uniform School Fund	\$0	\$610,000	\$610,000	\$0	\$0	\$0
Total	\$0	\$610,000	\$610,000	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.