

**Representative Bradley G. Last** proposes the following substitute bill:

**EARLY CHILDHOOD EDUCATION PROGRAMS AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: Bradley G. Last

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**LONG TITLE**

**General Description:**

This bill amends provisions related to public school early education programs.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to develop uniform standards for acceptable growth goals that a school district or charter school adopts in its K-3 Reading Improvement Program plan;
- ▶ provides what K-3 reading program money may be used for;
- ▶ amends provisions related to the K-3 Reading Improvement Program;
- ▶ modifies the distribution of funds for enhanced kindergarten programs to school districts and charter schools;
- ▶ requires the State Board of Education to select technology providers for the early intervention interactive computer software program by June 30 of each year;
- ▶ in addition to kindergarten and grade 1, provides that the early intervention interactive software program shall include instruction for grades 2 and 3; and
- ▶ provides that a school district or charter school that received a license during the prior year for the early intervention interactive computer software program shall be



26 given first priority to receive a license during the current year.

27 **Money Appropriated in this Bill:**

28 This bill appropriates in fiscal year 2014:

29 ▶ to the State Board of Education - State Office of Education - Contracts and Grants -  
30 K-3 Reading Diagnostic Assessment System, as an ongoing appropriation:

31 • from the Education Fund, (\$2,200,000); and

32 ▶ to the State Board of Education - State Office of Education - Contracts and Grants -  
33 Early Intervention, as an ongoing appropriation:

34 • from the Education Fund, \$4,700,000.

35 **Other Special Clauses:**

36 This bill provides an effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **53A-1-606.5**, as last amended by Laws of Utah 2011, Chapter 372

40 **53A-1-606.6**, as repealed and reenacted by Laws of Utah 2011, Chapter 372

41 **53A-17a-150**, as last amended by Laws of Utah 2011, Chapters 342, 359, 371, 372, 418  
42 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 372

43 **53A-17a-167**, as enacted by Laws of Utah 2012, Chapter 420



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

46 Section 1. Section **53A-1-606.5** is amended to read:

47 **53A-1-606.5. State reading goal -- Reading achievement plan.**

48 (1) As used in this section~~[, the]~~:

49 (a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or  
50 ability that has been organized into a hierarchical arrangement leading to higher levels of  
51 knowledge, skill, or ability.

52 (b) "Five domains of reading" include phonological awareness, phonics, fluency,  
53 comprehension, and vocabulary.

54 (2) (a) The Legislature recognizes that:

55 (i) reading is the most fundamental skill, the gateway to knowledge and lifelong  
56 learning;

57 (ii) there is an ever increasing demand for literacy in the highly technological society  
58 we live in;

59 (iii) students who do not learn to read will be economically and socially disadvantaged;

60 (iv) reading problems exist in almost every classroom;

61 (v) almost all reading failure is preventable if reading difficulties are diagnosed and  
62 treated early; and

63 (vi) early identification and treatment of reading difficulties can result in students  
64 learning to read by the end of the third grade.

65 (b) It is therefore the goal of the state to have every student in the state's public  
66 education system reading on or above grade level by the end of the third grade.

67 (3) (a) Each public school containing kindergarten, grade one, grade two, or grade  
68 three, including charter schools, shall develop, in conjunction with all other school planning  
69 processes and requirements, a reading achievement plan for its students in kindergarten through  
70 grade three to reach the reading goal set in Subsection (2)(b).

71 (b) The reading achievement plan shall be:

72 (i) created under the direction of:

73 (A) the school community council or a subcommittee or task force created by the  
74 school community council, in the case of a school district school; or

75 (B) the charter school governing board or a subcommittee or task force created by the  
76 governing board, in the case of a charter school; and

77 (ii) implemented by the school's principal, teachers, and other appropriate school staff.

78 (c) The school principal shall take primary responsibility to provide leadership and  
79 allocate resources and support for teachers and students, most particularly for those who are  
80 reading below grade level, to achieve the reading goal.

81 (d) Each reading achievement plan shall include:

82 (i) an assessment component that:

83 (A) focuses on ongoing formative assessment to measure the five domains of reading,  
84 as appropriate, and inform individualized instructional decisions; and

85 (B) includes a benchmark assessment of reading approved by the State Board of  
86 Education pursuant to Section 53A-1-606.6;

87 (ii) an intervention component:

88 (A) that provides adequate and appropriate interventions focused on each student  
89 attaining [~~proficiency~~] competency in reading skills;

90 (B) based on best practices identified through proven researched-based methods;

91 (C) that provides intensive intervention, such as focused instruction in small groups  
92 and individualized data driven instruction, implemented at the earliest possible time for  
93 students having difficulty in reading;

94 (D) that provides an opportunity for parents to receive materials and guidance so that  
95 they will be able to assist their children in attaining [~~proficiency~~] competency in reading skills;  
96 and

97 (E) that, as resources allow, may involve a reading specialist; and

98 (iii) a reporting component that includes reporting to parents:

99 (A) at the beginning, in the middle, and at the end of grade one, grade two, and grade  
100 three, their child's benchmark assessment results as required by Section 53A-1-606.6; and

101 (B) at the end of third grade, their child's reading level.

102 (e) In creating or reviewing a reading achievement plan as required by this section, a  
103 school community council, charter school governing board, or a subcommittee or task force of  
104 a school community council or charter school governing board may not have access to data that  
105 reveal the identity of students.

106 (4) (a) The school district shall approve each plan developed by schools within the  
107 district prior to its implementation and review each plan annually.

108 (b) The charter school governing board shall approve each plan developed by schools  
109 under its control and review each plan annually.

110 (c) A school district and charter school governing board shall:

111 (i) monitor the learning gains of a school's students as reported by the benchmark  
112 assessments administered pursuant to Section 53A-1-606.6; and

113 (ii) require a reading achievement plan to be revised, if the school district or charter  
114 school governing board determines a school's students are not making adequate learning gains.

115 Section 2. Section **53A-1-606.6** is amended to read:

116 **53A-1-606.6. Benchmark assessments in reading -- Report to parent or guardian.**

117 (1) As used in this section:

118 (a) "Board" means the State Board of Education.

119 (b) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or  
120 ability that has been organized into a hierarchical arrangement leading to higher levels of  
121 knowledge, skill, or ability.

122 [~~(1)~~] (2) The [~~State Board of Education~~] board shall approve a benchmark assessment  
123 for use statewide by school districts and charter schools to assess the reading [~~proficiency~~]  
124 competency of students in grades one, two, and three as provided by this section.

125 [~~(2)~~] (3) A school district or charter school shall:

126 (a) administer benchmark assessments to students in grades one, two, and three at the  
127 beginning, middle, and end of the school year using the benchmark assessment approved by the  
128 [~~State Board of Education~~] board; and

129 (b) after administering a benchmark assessment, report the results to a student's parent  
130 or guardian.

131 [~~(3)~~] (4) If a benchmark assessment or supplemental reading assessment indicates a  
132 student lacks [~~proficiency~~] competency in a reading skill, or is lagging behind other students in  
133 the student's grade in acquiring a reading skill, the school district or charter school shall:

134 (a) provide focused individualized intervention to develop the reading skill;

135 (b) administer formative assessments to measure the success of the focused  
136 intervention;

137 (c) inform the student's parent or guardian of activities that the parent or guardian may  
138 engage in with the student to assist the student in improving reading proficiency; and

139 (d) provide information to the parent or guardian regarding appropriate interventions  
140 available to the student outside of the regular school day that may include tutoring, before and  
141 after school programs, or summer school.

142 Section 3. Section **53A-17a-150** is amended to read:

143 **53A-17a-150. K-3 Reading Improvement Program.**

144 (1) As used in this section:

145 (a) "Board" means the State Board of Education.

146 (b) "Five domains of reading" include phonological awareness, phonics, fluency,  
147 comprehension, and vocabulary.

148 [~~(a)~~] (c) "Program" means the K-3 Reading Improvement Program.

149 [~~(b)~~] (d) "Program money" means:

150 (i) school district revenue allocated to the program from other money available to the  
151 school district, except money provided by the state, for the purpose of receiving state funds  
152 under this section; and

153 (ii) money appropriated by the Legislature to the program.

154 (2) The K-3 Reading Improvement Program consists of program money and is created  
155 to supplement other school resources to achieve the state's goal of having third graders reading  
156 at or above grade level.

157 (3) Subject to future budget constraints, the Legislature may annually appropriate  
158 money to the K-3 Reading Improvement Program.

159 (4) (a) To receive program money, a school district or charter school must submit a plan  
160 to the [~~State Board of Education~~] board for reading proficiency improvement that incorporates  
161 the following components:

162 (i) assessment;

163 (ii) intervention strategies;

164 (iii) professional development for classroom teachers in kindergarten through grade  
165 three;

166 (iv) reading performance standards; and

167 (v) specific measurable goals that include the following:

168 (A) a growth goal for each school within a school district and each charter school  
169 based upon student learning gains as measured by benchmark assessments administered  
170 pursuant to Section 53A-1-606.6; and

171 (B) a growth goal for each school district and charter school to increase the percentage  
172 of third grade students who read on grade level from year to year as measured by the third  
173 grade reading test administered pursuant to Section 53A-1-603.

174 (b) The [~~State Board of Education~~] board shall provide model plans which a school  
175 district or charter school may use, or the school district or charter school may develop its own  
176 plan.

177 (c) Plans developed by a school district or charter school shall be approved by the  
178 [~~State Board of Education~~] board.

179 (d) The board shall develop uniform standards for acceptable growth goals that a  
180 school district or charter school adopts as described in this Subsection (4).

181 (5) (a) There is created within the K-3 Reading Achievement Program three funding  
182 programs:

- 183 (i) the Base Level Program;
- 184 (ii) the Guarantee Program; and
- 185 (iii) the Low Income Students Program.

186 (b) The [~~State Board of Education~~] board may use no more than \$7,500,000 from an  
187 appropriation described in Subsection (3) for computer-assisted instructional learning and  
188 assessment programs.

189 (6) Money appropriated to the [~~State Board of Education~~] board for the K-3 Reading  
190 Improvement Program and not used by the [~~State Board of Education~~] board for  
191 computer-assisted instructional learning and assessments as described in Subsection (5)(b),  
192 shall be allocated to the three funding programs as follows:

- 193 (a) 8% to the Base Level Program;
- 194 (b) 46% to the Guarantee Program; and
- 195 (c) 46% to the Low Income Students Program.

196 (7) (a) To participate in the Base Level Program, a school district or charter school  
197 shall submit a reading proficiency improvement plan to the [~~State Board of Education~~] board as  
198 provided in Subsection (4) and must receive approval of the plan from the [~~State Board of~~  
199 ~~Education~~] board.

200 (b) (i) Each school district qualifying for Base Level Program funds and the qualifying  
201 elementary charter schools combined shall receive a base amount.

202 (ii) The base amount for the qualifying elementary charter schools combined shall be  
203 allocated among each school in an amount proportionate to:

- 204 (A) each existing charter school's prior year fall enrollment in grades kindergarten  
205 through grade three; and
- 206 (B) each new charter school's estimated fall enrollment in grades kindergarten through  
207 grade three.

208 (8) (a) A school district that applies for program money in excess of the Base Level  
209 Program funds shall choose to first participate in either the Guarantee Program or the Low  
210 Income Students Program.

211 (b) A school district must fully participate in either the Guarantee Program or the Low

212 Income Students Program before it may elect to either fully or partially participate in the other  
213 program.

214 (c) To fully participate in the Guarantee Program, a school district shall allocate to the  
215 program money available to the school district, except money provided by the state, equal to  
216 the amount of revenue that would be generated by a tax rate of .000056.

217 (d) To fully participate in the Low Income Students Program, a school district shall  
218 allocate to the program money available to the school district, except money provided by the  
219 state, equal to the amount of revenue that would be generated by a tax rate of .000065.

220 (e) (i) The [~~State Board of Education~~] board shall verify that a school district allocates  
221 the money required in accordance with Subsections (8)(c) and (d) before it distributes funds in  
222 accordance with this section.

223 (ii) The State Tax Commission shall provide the [~~State Board of Education~~] board the  
224 information the [~~State Board of Education~~] board needs in order to comply with Subsection  
225 (8)(e)(i).

226 (9) (a) Except as provided in (9)(c), a school district that fully participates in the  
227 Guarantee Program shall receive state funds in an amount that is:

228 (i) equal to the difference between \$21 times the district's total WPU's and the revenue  
229 the school district is required to allocate under Subsection (8)(c) to fully participate in the  
230 Guarantee Program; and

231 (ii) not less than \$0.

232 (b) Except as provided in (9)(c), an elementary charter school shall receive under the  
233 Guarantee Program an amount equal to \$21 times the school's total WPU's.

234 (c) The [~~State Board of Education~~] board may adjust the \$21 guarantee amount  
235 described in Subsections (9)(a) and (b) to account for actual appropriations and money used by  
236 the [~~State Board of Education~~] board for computer-assisted instructional learning and  
237 assessments.

238 (10) The [~~State Board of Education~~] board shall distribute Low Income Students  
239 Program funds in an amount proportionate to the number of students in each school district or  
240 charter school who qualify for free or reduced price school lunch multiplied by two.

241 (11) A school district that partially participates in the Guarantee Program or Low  
242 Income Students Program shall receive program funds based on the amount of school district

243 revenue allocated to the program as a percentage of the amount of revenue that could have been  
244 allocated if the school district had fully participated in the program.

245 (12) (a) A school district or charter school shall use program money for reading  
246 proficiency improvement interventions in grades kindergarten through grade [~~three~~] 3 that have  
247 proven to significantly increase the percentage of students reading at grade level, including:

- 248 (i) reading assessments; and
- 249 (ii) focused reading remediations that may include:
  - 250 (A) the use of reading specialists;
  - 251 (B) tutoring;
  - 252 (C) before or after school programs;
  - 253 (D) summer school programs; or
  - 254 (E) the use of reading software[-]; or
  - 255 (F) the use of interactive computer software programs for literacy instruction and  
256 assessments for students.

257 (b) A school district or charter school may use program money for portable technology  
258 devices used to administer reading assessments.

259 (c) Program money may not be used to supplant funds for existing programs, but may  
260 be used to augment existing programs.

261 (13) (a) Each school district and charter school shall annually submit a report to the  
262 [~~State Board of Education~~] board accounting for the expenditure of program money in  
263 accordance with its plan for reading proficiency improvement.

264 (b) On or before the November meeting of the Education Interim Committee of each  
265 year, the [~~State Board of Education~~] board shall report a summary of the reading improvement  
266 program expenditures of each school district and charter school.

267 (c) If a school district or charter school uses program money in a manner that is  
268 inconsistent with Subsection (12), the school district or charter school is liable for reimbursing  
269 the [~~State Board of Education~~] board for the amount of program money improperly used, up to  
270 the amount of program money received from the [~~State Board of Education~~] board.

271 (14) (a) The [~~State Board of Education~~] board shall make rules to implement the  
272 program.

273 (b) (i) The rules under Subsection (14)(a) shall require each school district or charter

274 school to annually report progress in meeting school and school district goals stated in the  
275 school district's or charter school's plan for student reading proficiency.

276 (ii) If a school does not meet or exceed the school's goals, the school district or charter  
277 school shall prepare a new plan which corrects deficiencies. The new plan must be approved  
278 by the [~~State Board of Education~~] board before the school district or charter school receives an  
279 allocation for the next year.

280 (15) (a) If for [~~three~~] two consecutive school years, a school district fails to meet its  
281 goal to increase the percentage of third grade students who read on grade level as measured by  
282 the third grade reading test administered pursuant to Section 53A-1-603, the school district  
283 shall terminate any levy imposed under Section 53A-17a-151 and may not receive money  
284 appropriated by the Legislature for the K-3 Reading Improvement Program.

285 (b) If for [~~three~~] two consecutive school years, a charter school fails to meet its goal to  
286 increase the percentage of third grade students who read on grade level as measured by the  
287 third grade reading test administered pursuant to Section 53A-1-603, the charter school may  
288 not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

289 (16) The [~~State Board of Education~~] board shall make an annual report to the Public  
290 Education Appropriations Subcommittee that:

291 (a) includes information on:

292 (i) student learning gains in reading for the past school year and the five-year trend;

293 (ii) the percentage of third grade students reading on grade level in the past school year  
294 and the five-year trend; [~~and~~]

295 (iii) the progress of schools and school districts in meeting goals stated in a school  
296 district's or charter school's plan for student reading proficiency; and

297 (iv) the correlation between third grade students reading on grade level and results of  
298 third grade language arts scores on a criterion-referenced test or computer adaptive test; and

299 (b) may include recommendations on how to increase the percentage of third grade  
300 students who read on grade level.

301 Section 4. Section **53A-17a-167** is amended to read:

302 **53A-17a-167. Early intervention program -- Enhanced kindergarten program --**  
303 **Educational technology.**

304 (1) The State Board of Education shall, as described in Subsection (4), distribute funds

305 appropriated under this section for an enhanced kindergarten program described in Subsection  
306 (2), [consistent with guidelines in this section,] to school districts and charter schools that  
307 apply for the funds.

308 (2) A school district or charter school shall use funds appropriated in this section to  
309 offer an early intervention program, delivered through an enhanced kindergarten program that:

310 (a) is an academic program focused on building age-appropriate literacy and numeracy  
311 skills;

312 (b) uses an evidence-based early intervention model;

313 (c) is targeted to at-risk students; and

314 (d) is delivered through additional hours or other means.

315 (3) A school district or charter school may not require a student to participate in an  
316 enhanced kindergarten program described in Subsection (2).

317 [~~(4) The State Board of Education shall distribute funds appropriated under this section~~  
318 ~~to school districts and charter schools based on the number of kindergarten students eligible to~~  
319 ~~receive free or reduced price school lunch in each school district or charter school that applies~~  
320 ~~for funding under Subsection (1).]~~

321 (4) The State Board of Education shall distribute funds appropriated under this section  
322 for an enhanced kindergarten program described in Subsection (2) as follows:

323 (a) (i) the total allocation for charter schools shall be calculated by:

324 (A) dividing the number of charter school students eligible to receive free lunch by the  
325 total number of students in the public education system eligible to receive free lunch in the  
326 prior school year; and

327 (B) multiplying the resulting percentage by the total amount of available funds; and

328 (ii) the amount calculated under Subsection (4)(a) shall be distributed to charter  
329 schools with the greatest need for an enhanced kindergarten program, as determined by the  
330 State Board of Education in consultation with the State Charter School Board;

331 (b) each school district shall receive the amount calculated by:

332 (i) multiplying the value of the weighted pupil unit by 0.45; and

333 (ii) multiplying the result by 20; and

334 (c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b)  
335 are made, shall be distributed to applicant school districts by:

336 (i) determining the number of students eligible to receive free lunch in the prior school  
337 year for each school district; and

338 (ii) prorating the remaining funds based on the number of students eligible to receive  
339 free lunch in each district.

340 (5) In addition to an enhanced kindergarten program described in Subsection (2), the  
341 early intervention program includes a component to address early intervention through the use  
342 of an interactive computer software program.

343 (6) ~~[The]~~ (a) Subject to legislative appropriations, by June 30 of each year, the State  
344 Board of Education shall select one or more technology providers, through a request for  
345 proposals process, to provide an interactive computer software program for literacy [~~or~~  
346 numeracy] instruction[~~, or both,~~] and assessments for students in kindergarten [~~and~~] through  
347 grade [~~+~~] 3.

348 (b) The State Board of Education shall distribute licenses for an interactive computer  
349 software program described in Subsection (6)(a) to school districts and charter schools that  
350 apply for the licenses.

351 (c) A school district or charter school that received a license described in Subsection  
352 (6)(b) during the prior year shall be given first priority to receive a license during the current  
353 year.

354 (7) On or before November 1, 2013, and every year thereafter, the State Board of  
355 Education shall report final testing data regarding an interactive computer software program  
356 described in Subsection (6), including student learning gains as a result of the interactive  
357 computer software program, to:

- 358 (a) the Education Interim Committee; and
- 359 (b) the governor.

360 **Section 5. Appropriation.**

361 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for  
362 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money  
363 are appropriated from resources not otherwise appropriated, or reduced from amounts  
364 previously appropriated, out of the funds or accounts indicated. These sums of money are in  
365 addition to any amounts previously appropriated for fiscal year 2014.

366 To State Board of Education - State Office of Education - Initiative Programs

367 From Education Fund (\$2,200,000)

368 Schedule of Programs:

369 Contracts and Grants - K-3 Reading Program -

370 Diagnostic Assessment System (\$2,200,000)

371 To State Board of Education - State Office of Education - Initiative Programs

372 From Education Fund \$4,700,000

373 Schedule of Programs:

374 Contracts and Grants - Early Intervention \$4,700,000

375 The Legislature intends that:

376 (1) the appropriation for Contracts and Grants - Early Intervention be used by the State

377 Board of Education to select one or more technology providers to provide an interactive

378 computer software program for literacy instruction and assessments for students as described in

379 Subsection 53A-17a-167(6); and

380 (2) the appropriation described in Subsection (1):

381 (a) be ongoing; and

382 (b) not lapse at the close of fiscal year 2014.

383 **Section 6. Effective date.**

384 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

385 (2) Uncodified Section 5, Appropriation, takes effect on July 1, 2013.