

Norman K Thurston proposes the following substitute bill:

Education Board Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor:

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3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions regarding governance of the public education system.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ amends provisions regarding the appointment, authority, and duties of the state

10 superintendent of public instruction;

11 ▶ amends provisions regarding the scope of authority and duties of employees of the State

12 Board of Education (state board);

13 ▶ amends provisions to describe the level of autonomy of local education agencies relative

14 to the state superintendent and state board employees; and

15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **53E-1-102**, as last amended by Laws of Utah 2022, Chapter 214

23 **53E-3-301**, as last amended by Laws of Utah 2019, Chapters 186, 324

24 **53E-3-302**, as last amended by Laws of Utah 2019, Chapter 186

25 **53E-3-303**, as last amended by Laws of Utah 2019, Chapter 186

26 **53E-3-401**, as last amended by Laws of Utah 2020, Chapters 253, 408

27 REPEALS:

28 **53E-1-204**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 10

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

Section 1. Section **53E-1-102** is amended to read:

53E-1-102 . Public education code definitions.

Unless otherwise indicated, as used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration:

(1) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(2) "Charter school governing board" means the board that governs a charter school.

(3) "District school" means a public school under the control of a local school board.

(4) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5)(a) "General control and supervision" means, including as used in Utah Constitution, Article X, Section 3, that the state board shall direct, supervise, regulate, and provide for the management of all aspects of the public education system:

(i) as the Legislature designates the components of the public education system;

(ii) except as provided in Section 53E-8-204, in relation to the statewide system as a whole; and

(iii) in accordance with laws the Legislature makes.

(b) "General control and supervision" does not include, except as provided in statute, exercising a duty or authority legally pertaining to an LEA governing board or district superintendent, as described in Subsection 53E-3-401(3).

~~[(5)]~~ (6) "LEA governing board" means:

(a) for a school district, the local school board;

(b) for a charter school, the charter school governing board; or

(c) for the Utah Schools for the Deaf and the Blind, the state board.

~~[(6)]~~ (7) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

~~[(7)]~~ (8) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

~~[(8)]~~ (9) "Minimum School Program" means the same as that term is defined in Section

63 53F-2-102.

64 [(9)] (10) "Parent" means a parent or legal guardian.

65 [(10)] (11) "Public education code" means:

66 (a) this title;

67 (b) Title 53F, Public Education System -- Funding; and

68 (c) Title 53G, Public Education System -- Local Administration.

69 [(11)] (12) "Section 504 accommodation plan" means a plan developed in accordance with

70 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq., for a student

71 with a disability, to meet the student's educational needs and ensure equitable access to a

72 free appropriate public education.

73 [(12)] (13) "School nurse" means a registered nurse:

74 (a) who holds:

75 (i) a license under Title 58, Chapter 31b, Nurse Practice Act; or

76 (ii) a multistate license as that term is defined in Section 58-31e-102; and

77 (b) whose primary role is the care of a defined group of students enrolled in the public

78 school system.

79 [(13)] (14) "State board" means the State Board of Education.

80 [(14)] (15) "State superintendent" means the state superintendent of public instruction

81 appointed under Section 53E-3-301.

82 Section 2. Section **53E-3-301** is amended to read:

83 **53E-3-301 . State superintendent appointment -- Qualifications -- Duties.**

84 [(1)(a) The state board shall appoint a state superintendent of public instruction, who is

85 the executive officer of the state board and serves at the pleasure of the state board.]

86 [(b) The state board shall appoint the state superintendent on the basis of outstanding

87 professional qualifications.]

88 [(c) The state superintendent shall administer all programs assigned to the state board in

89 accordance with the policies and the standards established by the state board.]

90 (1)(a) Subject to Subsection (7), the state board shall appoint a state superintendent of

91 public instruction who serves as the board's chief executive officer.

92 (b) The superintendent shall administer all programs assigned to the state board in

93 accordance with the state board's rules, policies, directives, and standards.

94 (2)(a) The state board shall appoint the superintendent on the basis of outstanding

95 professional qualifications.

96 (b) When deciding whom to appoint under Subsection (1), the state board shall establish

97 and consult with an advisory committee of individuals that represent the interests of
98 public education, including members of the Legislature, and other elected officials
99 and stakeholders.

100 (3)(a) The superintendent's term of office is for three years and until, subject to
101 Subsection (7), a successor is appointed and qualified.

102 (b) The state board shall enter into an employment contract with the superintendent that,
103 at a minimum, includes terms related to job duties, compensation, performance
104 evaluation, termination, and resignation.

105 (c) The state board may not enter into an employment contract that contains an
106 automatic renewal provision with the superintendent.

107 (d) The state board may remove the state superintendent during the superintendent's
108 three-year term according to the terms of the employment contract.

109 (e) Nothing in this section requires the state board to renew a superintendent's term or
110 establishes requirements or prohibitions on a subsequent term after the state
111 superintendent's initial three-year term.

112 (4) Unless a vacancy occurs during an interim vacancy period subject to Subsection (7), if it
113 becomes necessary to appoint an interim superintendent due to a vacancy in the office of
114 superintendent, the state board shall make an appointment during a public meeting for an
115 indefinite term not to exceed one year, which term shall end upon the appointment and
116 qualification of a new superintendent.

117 (5) The state board shall set the superintendent's compensation for services.

118 (6) A superintendent qualifies for office by taking the constitutional oath of office.

119 (7)(a) As used in this Subsection (7), "interim vacancy period" means the period of time
120 that:

121 (i) begins on the day on which a general election described in Section 20A-1-202 is
122 held to elect a member of the state board; and

123 (ii) ends on the day on which the member-elect begins the member's term.

124 (b)(i) The state board may not appoint a superintendent during an interim vacancy
125 period.

126 (ii) Notwithstanding Subsection (7)(b)(i):

127 (A) the state board may appoint an interim superintendent during an interim
128 vacancy period; and

129 (B) the interim superintendent's term shall expire once a new superintendent is
130 appointed by the new state board after the interim vacancy period has ended.

131 (c) Subsection (7)(b) does not apply if all the state board members who held office on
132 the day of the general election whose term of office was vacant for the election are
133 re-elected to the state board for the following term.

134 [(2)] (8) The state board shall, with the state superintendent, develop a statewide education
135 strategy focusing on core academics, including the development of:

136 (a) core standards for Utah public schools and graduation requirements, in accordance
137 with Section 53E-4-204;

138 (b) a process to select model instructional materials that best correlate with the core
139 standards for Utah public schools and graduation requirements that are supported by
140 generally accepted scientific standards of evidence;

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

142 (d) model remediation programs;

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

145 (f) progress-based assessments for ongoing performance evaluations of school districts
146 and schools;

147 (g) incentives to achieve the desired outcome of individual student progress in core
148 academics that do not create disincentives for setting high goals for the students;

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

151 (i) a systematic method to encourage innovation in schools and school districts as each
152 strives to achieve improvement in performance; and

153 (j) a method for identifying and sharing best demonstrated practices across school
154 districts and schools.

155 [(3)] (9) The state superintendent shall perform duties [~~assigned by~~]the state board assigns,
156 including:

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

158 (b) adopting and keeping an official seal to authenticate the state superintendent's
159 official acts;

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

161 (d) collecting and organizing education data into an automated decision support system
162 to facilitate school district and school improvement planning, accountability
163 reporting, performance recognition, and the evaluation of educational policy and
164 program effectiveness to include:

- 165 (i) data that are:
- 166 (A) comparable across schools and school districts;
- 167 (B) appropriate for use in longitudinal studies; and
- 168 (C) comprehensive with regard to the data elements required under applicable
- 169 state or federal law or state board rule;
- 170 (ii) features that enable users, most particularly school administrators, teachers, and
- 171 parents, to:
- 172 (A) retrieve school and school district level data electronically;
- 173 (B) interpret the data visually; and
- 174 (C) draw conclusions that are statistically valid; and
- 175 (iii) procedures for the collection and management of education data that^[:] require
- 176 all school districts and schools to comply with the data collection and
- 177 management procedures established under Subsection (9)(d) and that
- 178 ~~[(A)]~~ require the state superintendent to:
- 179 ~~[(H)]~~ (A) collaborate with school districts and charter schools in designing and
- 180 implementing uniform data standards and definitions;
- 181 ~~[(H)]~~ (B) undertake or sponsor research to implement improved methods for
- 182 analyzing education data;
- 183 ~~[(H)]~~ (C) provide for data security to prevent unauthorized access to or
- 184 contamination of the data; and
- 185 ~~[(IV)]~~ (D) protect the confidentiality of data under state and federal privacy laws[;]
- 186 and ;
- 187 ~~[(B) require all school districts and schools to comply with the data collection and~~
- 188 ~~management procedures established under Subsection (3)(d);]~~
- 189 (e) administering and implementing federal educational programs in accordance with
- 190 Part 8, Implementing Federal or National Education Programs; and
- 191 (f) with the approval of the state board, preparing and submitting to the governor a
- 192 budget for the state board to be included in the budget that the governor submits to
- 193 the Legislature.
- 194 ~~[(4)]~~ (10) The state superintendent shall distribute funds deposited in the Autism Awareness
- 195 Restricted Account created in Section 53F-9-401 in accordance with the requirements of
- 196 Section 53F-9-401.
- 197 ~~[(5)]~~ (11) Upon leaving office, the state superintendent shall deliver to the state
- 198 superintendent's successor all books, records, documents, maps, reports, papers, and

199 other articles pertaining to the state superintendent's office.

200 Section 3. Section **53E-3-302** is amended to read:

201 **53E-3-302 . Compensation of state superintendent -- Other state board**
 202 **employees.**

203 (1) The state board shall establish the compensation of the state superintendent.

204 (2) The state board may, as necessary for the proper administration and supervision of the
 205 public school system:

206 (a) appoint other employees; and

207 (b) delegate appropriate duties and responsibilities, through the state superintendent, to
 208 state board employees.

209 (3) ~~[The]~~ Subject to legislative appropriations, the state board shall establish the
 210 compensation and duties of state board employees~~[-shall be established by the state~~
 211 ~~board and paid from money appropriated for that purpose].~~

212 (4)(a) Regarding personnel matters:

213 (i) the state board may only assign duties directly to state board employees through
 214 formal state board action; and

215 (ii) absent specific state board direction, the state superintendent shall assign and
 216 supervise employee duties subject to state board rules, policies, directives, and
 217 standards.

218 (b) Except as expressly provided in statute, an employee of the state board:

219 (i) may not exercise a duty or authority legally pertaining to an LEA governing board
 220 or district superintendent; and

221 (ii) may only receive duties or authority from the board or superintendent as allowed
 222 in Subsections (4)(a) and (b).

223 Section 4. Section **53E-3-303** is amended to read:

224 **53E-3-303 . Advice by state superintendent -- Written opinions.**

225 (1) The state superintendent shall:

226 (a) advise superintendents, LEA governing boards, and other school officers upon all
 227 matters involving the welfare of the schools~~[-]~~ ;

228 ~~[(2)]~~ (b) ~~[The state superintendent shall,]~~ when requested by district superintendents or
 229 other school officers, provide written opinions on questions of public education,
 230 administrative policy, and procedure~~[-, but not upon questions of law.]; and~~

231 (c) communicate with superintendents, LEA governing boards, and other school officers
 232 to enforce compliance with state board rules, policies, or directives.

- 233 (2) When providing advice to an LEA or other entities the state superintendent's advice
 234 described in Subsections (1)(a) and (b) may not:
 235 (a) relate to a question of law; or
 236 (b) constitute an order or directive that mandates action by the recipient of the advice.
- 237 (3) Upon request by the state superintendent, the attorney general shall issue written
 238 opinions on questions of law.
- 239 ~~[(4) Opinions issued under this section shall be considered to be correct and final unless set~~
 240 ~~aside by a court of competent jurisdiction or by subsequent legislation.]~~
- 241 Section 5. Section **53E-3-401** is amended to read:
 242 **53E-3-401 . Powers of the state board -- Adoption of rules -- Enforcement --**
 243 **Attorney.**
- 244 (1) As used in this section:
 245 (a) "Education entity" means:
 246 (i) an entity that receives a distribution of state funds through a grant program
 247 managed by [-]the state board under this public education code;
 248 (ii) an entity that enters into a contract with the state board to provide an educational
 249 good or [-]service;
 250 (iii) a school district;
 251 (iv) a charter school; or
 252 (v) a regional education service agency, as that term is defined in Section 53G-4-410.
- 253 (b) "Educational good or service" means a good or service that is required or regulated
 254 under:
 255 (i) this public education code; or
 256 (ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
 257 Rulemaking Act, and authorized under this public education code.
- 258 ~~(2)[(a)] The state board has general control and supervision of the state's public~~
 259 ~~education system.~~
 260 ~~[(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3,~~
 261 ~~means directed to the whole system.]~~
- 262 (3) The state board may not govern, manage, or operate school districts, institutions, and
 263 programs, unless granted that authority by statute.
- 264 (4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 265 the state board may make rules to execute the state board's duties and responsibilities
 266 under the Utah Constitution and state law;

- 267 (i) as required by statute; or
268 (ii) absent express statutory rulemaking direction, as necessary to implement the
269 intent of a statute.
- 270 (b) The state board may delegate the state board's statutory duties and responsibilities to
271 state board employees.
- 272 (5)(a) The state board may sell any interest it holds in real property upon a finding by
273 the state board that the property interest is surplus.
- 274 (b) The state board may use the money it receives from a sale under Subsection (5)(a)
275 for capital improvements, equipment, or materials, but not for personnel or ongoing
276 costs.
- 277 (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency
278 or institution administered by the state board, the money may only be used for
279 purposes related to the agency or institution.
- 280 (d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and
281 related matters during the next following session of the Legislature.
- 282 (6) The state board shall develop policies and procedures related to federal educational
283 programs in accordance with Part 8, Implementing Federal or National Education
284 Programs.
- 285 (7) On or before December 31, 2010, the state board shall review mandates or requirements
286 provided for in state board rule to determine whether certain mandates or requirements
287 could be waived to remove funding pressures on public schools on a temporary basis.
- 288 (8)(a) If an education entity violates this public education code or rules authorized under
289 this public education code, the state board may, in accordance with the rules
290 described in Subsection (8)(c):
- 291 (i) require the education entity to enter into a corrective action agreement with the
292 state board;
- 293 (ii) temporarily or permanently withhold state funds from the education entity;
- 294 (iii) require the education entity to pay a penalty; or
- 295 (iv) require the education entity to reimburse specified state funds to the state board.
- 296 (b) Except for temporarily withheld funds, if the state board collects state funds under
297 Subsection (8)(a), the state board shall pay the funds into the Uniform School Fund.
- 298 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
299 state board shall make rules:
- 300 (i) that require notice and an opportunity to be heard for an education entity affected

- 301 by a state board action described in Subsection (8)(a); and
302 (ii) to administer this Subsection (8).
- 303 (d)(i) An individual may bring a violation of statute or state board rule to the
304 attention of the state board in accordance with a process described in rule adopted
305 by the state board.
- 306 (ii) If the state board identifies a violation of statute or state board rule as a result of
307 the process described in Subsection (8)(d)(i), the state board may take action in
308 accordance with this section.
- 309 (e) The state board shall report criminal conduct of an education entity to the district
310 attorney of the county where the education entity is located.
- 311 (9) The state board may audit the use of state funds by an education entity that receives
312 those state funds as a distribution from the state board.
- 313 (10) The state board may require, by rule made in accordance with Title 63G, Chapter 3,
314 Utah Administrative Rulemaking Act, that if an LEA contracts with a third party
315 contractor for an educational good or service, the LEA shall require in the contract that
316 the third party contractor shall provide, upon request of the LEA, information necessary
317 for the LEA to verify that the educational good or service complies with:
- 318 (a) this public education code; and
319 (b) state board rule authorized under this public education code.
- 320 (11)(a) The state board may appoint an attorney to provide legal advice to the state
321 board and coordinate legal affairs for the state board and the state board's employees.
- 322 (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the
323 Attorney General.
- 324 (c) An attorney described in Subsection (11)(a) may not:
- 325 (i) conduct litigation;
326 (ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201;
327 or
328 (iii) issue formal legal opinions.
- 329 (12) The state board shall ensure that any training or certification that an employee of the
330 public education system is required to complete under this title or by rule complies with
331 Title 63G, Chapter 22, State Training and Certification Requirements.

332 **Section 6. Repealer.**

333 This bill repeals:

334 Section **53E-1-204, State board report to Education Interim Committee on statutory**

335 **requirements impacted by assessment waivers.**

336 **Section 7. Effective Date.**

337 This bill takes effect on May 7, 2025.