

1 **PUBLIC EDUCATION REVISIONS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Sheryl L. Allen**

5 AN ACT RELATING TO PUBLIC SCHOOLS; PROVIDING FOR CONFORMING CHANGES
6 BY REFERENCING TO LICENSED RATHER THAN CERTIFICATED TEACHERS OR
7 EDUCATORS; AND PROVIDING FOR A REPEALER.

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

9 AMENDS:

10 **53A-1-301**, as last amended by Chapter 19, Laws of Utah 1999

11 **53A-1a-403**, as enacted by Chapter 231, Laws of Utah 1998

12 **53A-1a-504**, as enacted by Chapter 231, Laws of Utah 1998

13 **53A-1a-512**, as enacted by Chapter 231, Laws of Utah 1998

14 **53A-3-602**, as last amended by Chapter 19, Laws of Utah 1999

15 **53A-7-101**, as repealed and reenacted by Chapter 108, Laws of Utah 1999

16 **53A-13-107**, as last amended by Chapter 34, Laws of Utah 1999

17 **53A-17a-132**, as last amended by Chapter 332, Laws of Utah 1999

18 **53A-25-111**, as enacted by Chapter 250, Laws of Utah 1998

19 **53A-25a-106**, as enacted by Chapter 280, Laws of Utah 1994

20 **58-61-307**, as last amended by Chapter 108, Laws of Utah 1999

21 **63-30-2**, as last amended by Chapter 108, Laws of Utah 1999

22 REPEALS:

23 **20A-14-107**, as enacted by Chapter 1, Laws of Utah 1995

23a **h 35A-1-208, as enacted by Chapter 240, Laws of Utah 1996 h**

24 **53A-4-101**, as enacted by Chapter 2, Laws of Utah 1988

25 **53A-4-102**, as enacted by Chapter 2, Laws of Utah 1988

26 **53A-4-103**, as enacted by Chapter 2, Laws of Utah 1988

27 **53A-4-104**, as enacted by Chapter 2, Laws of Utah 1988

28 **53A-4-105**, as enacted by Chapter 2, Laws of Utah 1988

29 **53A-4-106**, as enacted by Chapter 2, Laws of Utah 1988

30 **53A-4-107**, as enacted by Chapter 2, Laws of Utah 1988

31 **53A-4-108**, as enacted by Chapter 2, Laws of Utah 1988

32 **53A-20a-201**, as enacted by Chapter 273, Laws of Utah 1993

33 **53A-20a-202**, as enacted by Chapter 273, Laws of Utah 1993

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

35 Section 1. Section **53A-1-301** is amended to read:

36 **53A-1-301. Appointment -- Qualifications -- Duties.**

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

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

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

44 (2) The superintendent shall perform duties assigned by the board, including the following:

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

46 (b) adopting and keeping an official seal to authenticate the superintendent's official acts;
47 copies of authenticated documents shall be received as evidence in the courts of this state in the
48 same manner as originals;

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

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

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

54 (ii) a complete statement of fund balances;

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

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

58 (v) a complete statement of state funds allocated to each of the state's 40 school districts

59 by source, including supplemental appropriations, and a complete statement of expenditures by
60 each district, including supplemental appropriations, by function and object as outlined in the U.S.
61 Department of Education publication Financial Accounting for Local and State School Systems;

62 (vi) a statement that includes such items as fall enrollments, average membership, high
63 school graduates, [~~certificated~~] licensed and classified employees, pupil-teacher ratios, average
64 salaries, applicable private school data, and data from standardized norm-referenced tests in grades
65 5, 8, and 11 on each school and district;

66 (vii) statistical information regarding incidents of delinquent activity in the schools or at
67 school-related activities with separate categories for:

68 (A) alcohol and drug abuse;

69 (B) weapon possession;

70 (C) assaults; and

71 (D) arson;

72 (viii) a statement on the amount of class time missed by students and faculty in grades 9
73 through 12 for activities which occur or for which travel is required during normal class time, to
74 include:

75 (A) the total number of individuals involved, the total amount of normal class time missed,
76 the total miles traveled to and from the activities, and the costs for transporting students and
77 faculty to and from the activities; and

78 (B) a breakdown of the totals under Subsection (viii)(A) by individual school district and
79 a breakdown of the activities by category as follows:

80 (I) athletic contests;

81 (II) music performances and contests;

82 (III) forensics, debate, speech, and drama performances and contests;

83 (IV) school club activities and contests; and

84 (V) all other school-sponsored activities and contests; and

85 (ix) other statistical and financial information about the school system which the
86 superintendent considers pertinent; and

87 (e) with the approval of the board, preparing and submitting to the governor a budget for
88 the board to be included in the budget that the governor submits to the Legislature.

89 (3) Upon leaving office, the state superintendent shall deliver to his successor all books,

90 records, documents, maps, reports, papers, and other articles pertaining to his office.

91 Section 2. Section **53A-1a-403** is amended to read:

92 **53A-1a-403. Selection of schools -- Funding -- Incentive awards.**

93 (1) The State Board of Education and local school boards, in collaboration with the
94 governor's office, shall develop and implement application procedures and a process for the
95 selection of up to 60 schools each year over a three-year period for participation in the Schools for
96 the 21st Century Program authorized under this part.

97 (2) Selected schools shall participate in the program and be eligible for funding for three
98 consecutive years.

99 (3) (a) The Legislature shall provide an annual appropriation to fund the program.

100 (b) The board, through the State Office of Education, shall administer and distribute the
101 appropriation in the following manner:

102 (i) each school selected as a first-year participant shall receive a base amount of either
103 \$5,000 or \$10,000 depending on the size of the school;

104 (ii) each first-year school shall also receive an additional per student allocation of up to
105 \$27, based upon the number of students as of October 1 in the program as related to the amount
106 of appropriation available for distribution after the base amount has been calculated for all the
107 schools participating on a first-year basis under Subsection (3)(b)(i);

108 (iii) each school in its second year shall receive \$9 per student and be eligible to receive
109 an incentive award based upon its achievement of second-year goals; and

110 (iv) each school in its third year shall be eligible to receive major incentive awards based
111 upon achievement of third-year goals.

112 (c) (i) The board shall determine the amount of incentive award money given to schools
113 under Subsections (3)(b)(iii) and (iv) on the basis of goal attainment and student enrollment, with
114 a minimum threshold of 50% attainment of goals for second-year schools and a minimum
115 threshold of 60% attainment for third-year schools in order to receive a portion of the award
116 money.

117 (ii) It is estimated that the incentive award money generated for successful second-year
118 schools would be up to \$500 per [~~certificated~~] licensed professional staff member at each
119 participating school and increase to up to \$2,000 per [~~certificated~~] licensed professional staff
120 member for each successful third-year school.

121
122 implementation, and evaluation, technical assistance, and teacher development, including the
establishment of performance goals and identification of a system of measurement and evaluation.

124
125 operation, modification, and evaluation.

(B) If participating schools meet the threshold established in Subsection(3)(c)(i), based
127
128 share of incentive award money shall be distributed each year at the school level as determined by
the school directors.

130
131 individual programs at the school or to professional staff members or any combination of these
options.

133
134 based on year-end evaluation of goal attainment and shall distribute it on the same basis as
second-year schools distribute incentive award money under Subsections (3)(d)(ii)(B) and (C).

136 **53A-1a-504** is amended to read:

53A-1a-504.

138 (1) A proposal to establish a charter school may be made by an individual or groups of
individuals, including teachers and parents or guardians of students who will attend the school, or

140
141 (2) (a) The principal, teachers, or parents of students at an existing public school may
submit a proposal to convert the school or a portion of the school to charter status.

143 ~~two-thirds~~ ___ of the [~~certificated~~ licensed educators employed at the
school and at least two-thirds of the parents or guardians of students enrolled at the school must

145
146 entire school is applying for charter status.

(ii) The percentage is reduced to a simple majority if the conversion is for only a portion

148
149 (c) A proposal submitted under Subsection (2)(a) must first be approved by the local
school board based on its determination that:

151

152 comparable public education alternative; and

153 (ii) current teachers who choose not to teach at the converted charter school or who are not
154 retained by the school at the time of its conversion would receive a first preference for transfer to
155 open teaching positions for which they qualify within the school district. If no positions are open,
156 contract provisions or board policy regarding reduction in staff would apply.

157 (3) A parochial school or home school is not eligible for charter school status.

158 Section 4. Section **53A-1a-512** is amended to read:

159 **53A-1a-512. Employees of charter schools.**

160 (1) A charter school shall select its own employees.

161 (2) The school's governing body shall determine the level of compensation and all terms
162 and conditions of employment, except as otherwise provided in this part.

163 (3) (a) To accommodate differentiated staffing and better meet student needs, a charter
164 school, under rules adopted by the State Board of Education, shall employ teachers who:

165 (i) are ~~certificated~~ licensed; or

166 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
167 certification or authorization programs.

168 (b) The school's governing body shall disclose the qualifications of its teachers to the
169 parents of its students.

170 (4) (a) An employee of a school district may request a leave of absence in order to work
171 in a charter school upon approval of the local school board.

172 (b) While on leave, the employee may retain seniority accrued in the school district and
173 may continue to be covered by the benefit program of the district if the charter school and the
174 locally elected school board mutually agree.

175 Section 5. Section **53A-3-602** is amended to read:

176 **53A-3-602. School district performance report -- Elements -- Annual filing.**

177 (1) Each school district shall develop a district performance report providing for
178 accountability of the district to its residents for the quality of schools and the educational
179 achievement of students in the district.

180 (2) The report shall include the following statistical data:

181 (a) norm-referenced achievement test scores and trends by grade or subject;

182 (b) ACT scores, including trend data and the percentage of each graduating class taking

- 183 the ACT;
- 185 (c) advanced placement scores, including numbers taking the tests and percentage who
 - 186 (d) criterion-referenced test scores, including trend data;
 - 188 (e) enrollment trends;
 - 189 (g) attendance and drop-out rates and trends;
 - 191 (h) fiscal information, including revenues available to the district by source and total and
 - 192 (i) expenditures by source and total;
 - 194 (j) per pupil expenditures and trends;
 - 195 (l) [—————] licensed
 - 196 (m) course-taking patterns and trends in the high schools;
 - 198 (n) number of buildings by level, number of buildings on year-round programs, and
 - 199 (o) percent of free or reduced school lunch participants;
 - 201 (p) percent of students receiving fee waivers and dollar amount of fee waivers;
 - 202 (r) a statement on the amount of class time missed by students and faculty in grades 9
through 12 for activities which require them to miss normal class time, to include:
 - 204
 - 205 (ii) the hours of normal class time missed;
 - 207 (iii) the total miles traveled to and from the activities;
 - 208 (v) a breakdown of the activities by category as follows:
 - 210 (A) athletic contests;
 - 211 (C) forensics, debate, speech, and drama performances and contests;
 - 213 (D) school club activities and contests; and

214 (3) School districts may include any other data in their reports which they feel is important
215 to report to the general public.

216 (4) Each district shall issue its report annually by January 15.

217 (5) Each district shall file a copy of its report with the Legislature and the State Board of
218 Education and have it distributed to the residence of each student enrolled in the district.

219 Section 6. Section **53A-7-101** is amended to read:

220 **53A-7-101. Mediation of contract negotiations.**

221 (1) The president of a professional local organization which represents a majority of the
222 [~~certificated~~] licensed employees of a school district or the chairman or president of a local school
223 board may, after negotiating for 90 days, declare an impasse by written notification to the other
224 party and to the State Board of Education.

225 (2) The party declaring the impasse may request the state superintendent of public
226 instruction to appoint a mediator for the purpose of helping to resolve the impasse if the parties
227 to the dispute have not been able to agree on a third party mediator.

228 (3) Within five working days after receipt of the written request, the state superintendent
229 shall appoint a mediator who is mutually acceptable to the local school board and the professional
230 organization representing a majority of the [~~certificated~~] licensed employees.

231 (4) The mediator shall meet with the parties, either jointly or separately, and attempt to
232 settle the impasse.

233 (5) The mediator may not, without the consent of both parties, make findings of fact or
234 recommend terms for settlement.

235 (6) Both parties shall equally share the costs of mediation.

236 (7) Nothing in this section prevents the parties from adopting a written mediation
237 procedure other than that provided in this section.

238 (8) If the parties have a mediation procedure, they shall follow that procedure.

239 Section 7. Section **53A-13-107** is amended to read:

240 **53A-13-107. Adoption information.**

241 (1) Each local school board shall ensure that an annual presentation on adoption is given
242 to its secondary school students in grades 7-12, so that each student receives the presentation at
243 least once during grades 7-9 and at least once during grades 10-12.

244 (2) The presentation shall be made by a [~~certificated~~] licensed teacher as part of the health

245 education core and may be included as part of a district's teenage pregnancy prevention program
246 authorized under Section 53A-17a-121.

247 **53A-17a-132** is amended to read:

53A-17a-132.

249 (1) The state's contribution of \$5,933,056 for experimental and developmental programs
250 is appropriated to the State Board of Education for distribution to school districts as follows:

251
252 state's 40 school districts;

(b) the board shall distribute the second part, 41% of the appropriation, to each district on
254 compared to the prior year state total kindergarten through grade 12 average daily membership;
255 and

257
258 by the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) (a) A school district may fund a new experimental or developmental program with

260
261 (b) After the third year, the district shall either fund the program with regular ongoing
262 program monies or terminate the program.

263
264 experimental-developmental appropriation for programs to improve the efficiency of classified
265 employees in the public schools.

266
267 preventative maintenance formulas.

(4) (a) The State Board of Education shall allocate \$584,900 of the appropriation for the

269
270 [—————] licensed

271 parents, the recognized teachers' organization, administrators, and students.

(b) The State Board of Education shall select schools for the pilot programs by a grant

273
274 (5) Models for experimental activities similar to the nine district consortium activities are
275 permissible under the experimental and developmental appropriation.

276 Section 9. Section **53A-25-111** is amended to read:

277 **53A-25-111. Annual salary adjustments for school employees -- Benefits.**

278 (1) (a) The board shall adjust the salary schedule applicable to nonadministrative
279 [~~certificated~~] licensed staff at the school each school year.

280 (b) The board shall make the adjustment equal to the average adjustment for
281 nonadministrative [~~certificated~~] licensed staff adopted by the public school districts of the state as
282 determined by the State Office of Education.

283 (2) (a) The adjustment shall be computed using adjustments made by the school districts
284 by December 1 of each year.

285 (b) The board shall apply the adjustment to the salary schedule effective July 1 of the
286 following year.

287 (3) The board shall make salary adjustments for administrative and [~~noncertificated~~]
288 nonlicensed staff at the school on the basis of adjustments approved for state government
289 employees in similar positions.

290 (4) Administrative, ^h [~~certificated,~~] LICENSED ^h and [~~noncertificated~~] nonlicensed staff at
290a the school shall
291 receive the same benefits as those provided to state government employees.

292 Section 10. Section **53A-25a-106** is amended to read:

293 **53A-25a-106. Licensing of teachers.**

294 (1) As part of the [~~certification~~] licensing process, teachers [~~certified~~] licensed in the
295 education of blind and visually impaired students shall demonstrate their competence in reading
296 and writing Braille.

297 (2) (a) The State Board of Education shall adopt procedures to assess the competencies
298 referred to in Subsection (1), consistent with standards adopted by the National Library Service
299 for the Blind and Physically Handicapped.

300 (b) The board shall require teachers of the blind to meet the standards referred to in
301 Subsection (2)(a).

302 Section 11. Section **58-61-307** is amended to read:

303 **58-61-307. Exemptions from licensure.**

304 In addition to the exemptions from licensure in Section 58-1-307, the following may
305 engage in acts included within the definition of practice as a psychologist, subject to the stated
306 circumstances and limitations, without being licensed under this chapter:

- 307 (1) the following when practicing within the scope of the license held:
- 309 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah
- 310 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,
Nurse Practice Act;
- 312
- 313 as he does not represent himself as or use the title of psychologist;
- 315 (3) an individual who is offering expert testimony in any proceeding before a court,
316 the deposition, or proceedings before any master, referee, or alternative dispute resolution
provider;
- 318
- 319 Occupations and Professions, in a profession which includes hypnosis in its scope of practice, and
who:
- 321
- 322 altering lifestyles or habits, such as eating or smoking, through hypnosis;
- 324 (ii) consults with a client to determine current motivation and behavior patterns;
- 325 what the client will experience;
- 327 (iv) tests clients to determine degrees of suggestibility;
- 328 of client's motivation and behavior patterns; and
- 330 (vi) trains clients in self-hypnosis conditioning;
- 331 (i) engage in the practice of mental health therapy;
- 332 (ii) represent himself using the title of a license classification in Subsection 58-60-102(5);
- 333
- 334 (iii) use hypnosis with or treat a medical, psychological, or dental condition defined in
generally recognized diagnostic and statistical manuals of medical, psychological, or dental
- 336
- 337 (5) an individual's exemption from licensure under Subsection 58-1-307(1)(b) or (c) while

338 completing any supervised clinical training requirement for licensure as a psychologist extends not
339 more than one year from the date the minimum requirement for training is completed, unless the
340 individual presents satisfactory evidence to the division and the Psychologist Licensing Board that
341 the individual is making reasonable progress toward passing the qualifying examination or is
342 otherwise on a course reasonably expected to lead to licensure as a psychologist, but any
343 exemption under this subsection may not exceed two years past the date the minimum supervised
344 clinical training requirement has been completed;

345 (6) an individual holding an earned doctoral degree in psychology who is employed by an
346 accredited institution of higher education and who conducts research and teaches in that
347 individual's professional field, but only if the individual does not engage in providing delivery or
348 supervision of professional services regulated under this chapter to individuals or groups regardless
349 of whether there is compensation for the services;

350 (7) any individual who was employed as a psychologist by a state, county, or municipal
351 agency or other political subdivision of the state prior to July 1, 1981, and who subsequently has
352 maintained employment as a psychologist in the same state, county, or municipal agency or other
353 political subdivision while engaged in the performance of his official duties for that agency or
354 political subdivision; and

355 (8) an individual [~~certified~~] licensed as a school psychologist under Section 53A-6-104:

356 (a) may represent himself as and use the terms "school psychologist" or "[~~certified~~]
357 licensed school psychologist"; and

358 (b) is restricted in his practice to employment within settings authorized by the State Board
359 of Education; and

360 (9) an individual providing advice or counsel to another individual in a setting of their
361 association as friends or relatives and in a nonprofessional and noncommercial relationship, if
362 there is no compensation paid for the advice or counsel.

363 Section 12. Section **63-30-2** is amended to read:

364 **63-30-2. Definitions.**

365 As used in this chapter:

366 (1) "Claim" means any claim or cause of action for money or damages against a
367 governmental entity or against an employee.

368 (2) (a) "Employee" includes a governmental entity's officers, employees, servants, trustees,

369
370 or members of an advisory body, officers and employees in accordance with Section 67-5b-104,
371 student teachers [~~certificated~~ holding a letter of authorization in accordance with [—————]
372 _____ 53A-6-104, educational aides, students engaged in providing services to
373
374 care clinical training program, volunteers, and tutors, but does not include an independent
contractor.

376
377 the individual holding that position receives compensation.

(3) "Governmental entity" means the state and its political subdivisions as defined in this

379
380 (4) (a) "Governmental function" means any act, failure to act, operation, function, or
undertaking of a governmental entity whether or not the act, failure to act, operation, function, or
382
383 to government, undertaken in a dual capacity, essential to or not essential to a government or
governmental function, or could be performed by private enterprise or private persons.

385
386 agent, or officer of a governmental entity.

(5) "Injury" means death, injury to a person, damage to or loss of property, or any other
388
389 private person or his agent.

(6) "Personal injury" means an injury of any kind other than property damage.

391
392 district, redevelopment agency, special improvement or taxing district, or other governmental
subdivision or public corporation.

394
395 or personal property.

(9) "State" means the state of Utah, and includes any office, department, agency, authority,

397
398 Section 13.

399 This act repeals:

- 400 Section **20A-14-107, Student member of state board.**
- 400a **h Section 35A-1-208, Study of future consolidation. h**
- 401 Section **53A-4-101, Short title.**
- 402 Section **53A-4-102, Legislative findings and declarations.**
- 403 Section **53A-4-103, Definitions.**
- 404 Section **53A-4-104, Foundation created -- Independence from public entities -- Powers.**
- 405 Section **53A-4-105, Board of directors -- Composition -- Term -- General powers.**
- 406 Section **53A-4-106, Restrictions on powers of foundation.**
- 407 Section **53A-4-107, Tax exemption of foundation.**
- 408 Section **53A-4-108, Construction of chapter.**
- 409 Section **53A-20a-201, Sevier Valley Applied Technology Center revenue bonds --**
- 410 **Technology programs/administration building.**
- 411 Section **53A-20a-202, Sevier Valley Applied Technology Center revenue bonds --**
- 412 **Technical training/community services building.**

Legislative Review Note
as of 1-10-00 12:29 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel