

**ADDRESSING PHYSICAL FITNESS AND
NUTRITION IN PUBLIC EDUCATION**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Carl R. Saunders

This act modifies the State System of Public Education. This act amends various achievement test requirements to include physical fitness and nutrition. This act requires an activity-based assessment of physical fitness in grades 4, 6, 8, and 10, beginning with the 2003-04 school year. This act specifies that physical fitness and nutrition are included in the core curriculum training emphasis. This act specifies requirements for the sale of food through vending machines at school. This act specifies requirements for the sale of food at school. This act makes technical changes and provides a coordination clause.

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

AMENDS:

53A-1-602, as last amended by Chapter 219, Laws of Utah 2000

53A-1-603, as last amended by Chapter 219, Laws of Utah 2000

53A-1-604, as last amended by Chapter 219, Laws of Utah 2000

53A-1-611, as last amended by Chapter 219, Laws of Utah 2000

ENACTS:

53A-15-1001, Utah Code Annotated 1953

53A-15-1002, Utah Code Annotated 1953

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

Section 1. Section **53A-1-602** is amended to read:

53A-1-602. Definitions.

As used in this part:

(1) "Achievement test" means a standardized test which measures or attempts to measure the level of performance which a student has attained in one or more courses of study.



28 Achievement tests shall include norm-referenced and criterion-referenced tests.

29 (2) "Basic skills course" means a subject which requires mastery of specific functions, as
30 defined under rules made by the State Board of Education, to include reading, language arts,
31 mathematics through geometry, science, in grades 4 through 12, [~~and~~] effectiveness of written
32 expression, physical fitness, and nutrition.

33 (3) "Constructed response" means an answer to a question on a criterion-referenced test
34 that requires a student to provide other than a "true-false" or "multiple choice" response.

35 (4) "Utah Performance Assessment System for Students" or "U-PASS" means:

36 (a) systematic norm-referenced achievement testing of all students in grades 3, 5, 8, and
37 11 required by this part in all schools within each school district by means of tests designated by
38 the State Board of Education;

39 (b) criterion-referenced achievement testing of students in all grade levels in basic skills
40 courses, except as otherwise provided for science in Subsection (2), to include constructed
41 responses to questions on a pilot basis for tests administered during the 2002-03 and 2003-04
42 school years, except science tests, and the inclusion of constructed response questions on all
43 criterion-referenced tests, except science tests, administered during the 2004-05 school year and
44 for each year thereafter;

45 (c) beginning with the 2001-02 school year, a direct writing assessment in grades 6 and
46 9;

47 (d) beginning with the 2002-03 school year, a tenth grade basic skills competency test as
48 detailed in Section 53A-1-611; [~~and~~]

49 (e) beginning with the 2002-03 school year, the use of student behavior indicators in
50 assessing student performance[?]; and

51 (f) beginning with the 2003-04 school year, an activity-based assessment of physical
52 fitness in grades 4, 6, 8, and 10.

53 Section 2. Section **53A-1-603** is amended to read:

54 **53A-1-603. Duties of State Board of Education.**

55 (1) The State Board of Education shall:

56 (a) require each school district to implement the Utah Performance Assessment System
57 for Students, hereafter referred to as U-PASS;

58 (b) require the state superintendent of public instruction to submit and recommend

59 criterion-referenced and norm-referenced achievement tests, a tenth grade basic skills competency
60 test, ~~and~~ a direct writing assessment for grades 6 and 9, and an activity-based assessment of
61 physical fitness in grades 4, 6, 8, and 10 to the board for approval and adoption and distribution
62 to each school district by the state superintendent;

63 (c) develop an assessment method to uniformly measure statewide performance, school
64 district performance, and school performance of students in grades 1 through 12 in mastering basic
65 skills courses; and

66 (d) provide for the state to participate in the National Assessment of Educational Progress
67 state-by-state comparison testing program.

68 (2) Under U-PASS, the state office shall annually require that each district administer:

69 (a) a statewide norm-referenced test to all students in grades 3, 5, 8, and 11;

70 (b) statewide criterion-referenced tests in all grade levels and courses in basic skill areas
71 of the core curriculum;

72 (c) a direct writing assessment to all students in grades 6 and 9, with the first assessment
73 to be administered during the 2001-02 school year; ~~and~~

74 (d) an activity-based assessment of physical fitness in grades 4, 6, 8, and 10, with the first
75 assessment to be administered during the 2003-04 school year; and

76 ~~(d)~~ (e) a tenth grade basic skills competency test as detailed in Section 53A-1-611, with
77 the first test to be administered during the 2002-03 school year.

78 (3) The board shall adopt rules for the conduct and administration of U-PASS to include
79 the following:

80 (a) the computation of student performance based on information that is disaggregated
81 with respect to race, ethnicity, gender, and socioeconomic status;

82 (b) security features to maintain the integrity of the system, which could include statewide
83 uniform testing dates, multiple test forms, and test administration protocols;

84 (c) the exemption of student test scores, by exemption category, such as limited English
85 proficiency, mobility, and students with disabilities, with the percent or number of student test
86 scores exempted being publically reported at a district level;

87 (d) compiling of criterion-referenced and direct writing test scores and test score averages
88 at the classroom level to allow for:

89 (i) an annual review of those scores by parents of students and professional and other

90 appropriate staff at the classroom level at the earliest point in time and consistent with the timeline
91 of the phase-in referred to in Sections 53A-1-602 and 53A-1-603, but no later than by the end of
92 the school year;

93 (ii) the assessment of year-to-year student progress in specific classes, courses, and
94 subjects; and

95 (iii) a teacher to review, prior to the beginning of a new school year, test scores from the
96 previous school year of students who have been assigned to the teacher's class for the new school
97 year; and

98 (e) providing that:

99 (i) scores on the tests and assessments required under Subsections (2)(a) and (b) shall be
100 considered in determining a student's academic grade for the appropriate course and whether a
101 student shall advance to the next grade level; and

102 (ii) the student's score on the tenth grade basic skills competency test shall be recorded on
103 the student's transcript of credits.

104 Section 3. Section **53A-1-604** is amended to read:

105 **53A-1-604. Test development, publication, and administration.**

106 (1) The State Board of Education shall develop, publish, and administer
107 criterion-referenced tests and other assessments referred to in Subsections 53A-1-603(2)(c) and
108 [~~(d)~~] (e) of its own devising and incorporate existing norm-referenced tests and assessment
109 programs into U-PASS.

110 (2) The board may use the expert services of any persons or groups of persons in the public
111 or private sector in evaluating current tests and assessment programs, in developing, publishing,
112 and administering new tests, or both.

113 (3) The board shall develop assessment tools in such a manner and on such a timeline as
114 to ensure full implementation of U-PASS by the 2004-05 school year.

115 Section 4. Section **53A-1-611** is amended to read:

116 **53A-1-611. Standards and assessment processes to measure student performance --**
117 **Basic skills competency test.**

118 (1) The Legislature recognizes the need for the State Board of Education to develop and
119 implement standards and assessment processes to ensure that student progress is measured and that
120 school boards and school personnel are accountable.

121 (2) (a) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605, the
122 State Board of Education, through the state superintendent of public instruction, shall design a
123 basic skills competency test to be administered in the tenth grade.

124 (b) A student must pass the basic skills competency test, in addition to the established
125 requirements of the state and local board of education of the district in which the student attends
126 school, in order to receive a basic high school diploma of graduation.

127 (c) The state board shall include in the test, at a minimum, components on English
128 language arts and reading [~~and~~], mathematics, physical fitness, and nutrition.

129 (d) A student who fails to pass all components of the test may not receive a basic high
130 school diploma but may receive a certificate of completion or alternative completion diploma
131 under rules made by the State Board of Education in accordance with Title 63, Chapter 46a, Utah
132 Administrative Rulemaking Act.

133 (e) The state board shall make rules:

134 (i) to allow students who initially fail the test to retake all or part of the test; and

135 (ii) that take into account and are consistent with federal law relating to students with
136 disabilities in the administration of the test.

137 (3) The state board shall implement the tenth grade basic skills competency test, no later
138 than the beginning of the 2002-03 school year, except that the components on physical fitness and
139 nutrition shall be implemented no later than the beginning of the 2003-04 school year.

140 (4) The requirements of this section are to be complementary to the other achievement
141 testing provisions of this part.

142 Section 5. Section **53A-15-1001** is enacted to read:

143 **Part 10. Nutrition Promotion**

144 **53A-15-1001. Vending machines.**

145 (1) As used in this section, "choice" means each individual selection option within a
146 particular vending machine.

147 (2) Beginning with the 2001-02 school year, if a school sells, or allows to be sold, on its
148 premises food products through vending machines, the school shall ensure:

149 (a) that for each choice of a beverage considered a "food of minimal nutritional value" by
150 the U.S. Department of Agriculture under the National School Lunch Program, a choice of a
151 beverage other than a "food of minimal nutritional value" shall be offered in the same machine.

152 where possible, or in another machine, with preference given to milk, 100% fruit juice, and
153 noncaffeinated water; and

154 (b) that where items other than beverages are sold through vending machines, those items
155 include in the same machine, where possible, or in another machine, fruit, fruit products, milk
156 products, or vegetables.

157 Section 6. Section **53A-15-1002** is enacted to read:

158 **53A-15-1002. Food choice requirements.**

159 Any school that sells food, or allows another entity to sell food, on its premises during the
160 breakfast or lunch periods, shall ensure that:

161 (1) the food sold, except for food sold through vending machines operated outside the
162 cafeteria, does not include food considered "food of minimal nutritional value" by the U.S.
163 Department of Agriculture under the National School Lunch Program;

164 (2) the food complies with U.S. Department of Agriculture dietary guidelines and includes
165 fruit, fruit products, milk products, and vegetables; and

166 (3) if the food includes food for which the school receives reimbursement under the
167 National School Breakfast Program under 42 U.S.C. 1773 or the National School Lunch Program
168 under 42 U.S.C. 1751, the choices of nonreimbursed food offered to students by the school or
169 others consist primarily of fruit, fruit products, milk products, and vegetables.

170 Section 7. **Coordination clause.**

171 If this bill and H.B. 3, Minimum School Program Act Amendments, both pass, it is the
172 intent of the Legislature that Subsection 53A-17a-124.1(1) in H.B. 3 shall be amended as follows:

173 After "with emphases on language arts/reading, mathematics, science," insert "physical
174 fitness, nutrition,".

Legislative Review Note
as of 2-1-01 1:35 PM

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

Office of Legislative Research and General Counsel