

**IMPLEMENTING FEDERAL EDUCATIONAL  
PROGRAMS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Margaret Dayton**

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**LONG TITLE**

**General Description:**

This bill directs public education officials regarding the administration and implementation of federal educational programs.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ directs the State Board of Education, the state superintendent, and other state and local school officials regarding the administration and implementation of federal educational programs;
- ▶ provides specific directions for the state implementation of the federal No Child Left Behind Act; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-1-301**, as last amended by Chapters 221 and 315, Laws of Utah 2003

**53A-1-401**, as last amended by Chapter 244, Laws of Utah 2002



28           **53A-3-402**, as last amended by Chapter 315, Laws of Utah 2003

29 ENACTS:

30           **53A-1-901**, Utah Code Annotated 1953

31           **53A-1-902**, Utah Code Annotated 1953

32           **53A-1-903**, Utah Code Annotated 1953

33           **53A-1-904**, Utah Code Annotated 1953



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

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

37           **53A-1-301. Appointment -- Qualifications -- Duties.**

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

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

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

45           (2) The superintendent shall develop a statewide education strategy focusing on core  
46 academics, including the development of:

- 47           (a) core curriculum and graduation requirements;
- 48           (b) a process to select instructional materials that best correlate to the core curriculum  
49 and graduation requirements that are supported by generally accepted scientific standards of  
50 evidence;
- 51           (c) professional development programs for teachers, superintendents, and principals;
- 52           (d) remediation programs;
- 53           (e) a method for creating individual student learning targets, and a method of  
54 measuring an individual student's performance toward those targets;
- 55           (f) progress-based assessments for ongoing performance evaluations of districts and  
56 schools;
- 57           (g) incentives to achieve the desired outcome of individual student progress in core  
58 academics, and which do not create disincentives for setting high goals for the students;

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

61 (i) a systematic method to encourage innovation in schools and school districts as they  
62 strive to achieve improvement in their performance; and

63 (j) a method for identifying and sharing best demonstrated practices across districts and  
64 schools.

65 (3) The superintendent shall perform duties assigned by the board, including the  
66 following:

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

68 (b) adopting and keeping an official seal to authenticate the superintendent's official  
69 acts;

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

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

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

75 (ii) a complete statement of fund balances;

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

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

79 (v) a complete statement of state funds allocated to each of the state's 40 school  
80 districts by source, including supplemental appropriations, and a complete statement of  
81 expenditures by each district, including supplemental appropriations, by function and object as  
82 outlined in the U.S. Department of Education publication "Financial Accounting for Local and  
83 State School Systems";

84 (vi) a statement that includes such items as fall enrollments, average membership, high  
85 school graduates, licensed and classified employees, pupil-teacher ratios, class sizes, average  
86 salaries, applicable private school data, and data from standardized norm-referenced tests in  
87 grades 5, 8, and 11 on each school and district;

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

- 90 (A) alcohol and drug abuse;
- 91 (B) weapon possession;
- 92 (C) assaults; and
- 93 (D) arson;
- 94 (viii) information about:
  - 95 (A) the development and implementation of the strategy of focusing on core
  - 96 academics;
  - 97 (B) the development and implementation of competency-based education and
  - 98 progress-based assessments; and
  - 99 (C) the results being achieved under Subsections (3)(d)(viii)(A) and (B), as measured
  - 100 by individual progress-based assessments and the comparison of Utah Students' progress with
  - 101 the progress of students in other states using standardized norm-referenced tests as
  - 102 benchmarks; and
  - 103 (ix) other statistical and financial information about the school system which the
  - 104 superintendent considers pertinent;
  - 105 (e) collecting and organizing education data into an automated decision support system
  - 106 to facilitate school district and school improvement planning, accountability reporting and
  - 107 performance recognition, and the evaluation of educational policy and program effectiveness to
  - 108 include:
    - 109 (i) data that are:
      - 110 (A) comparable across schools and school districts;
      - 111 (B) appropriate for use in longitudinal studies; and
      - 112 (C) comprehensive with regard to the data elements required under applicable state or
      - 113 federal law or state board rule;
    - 114 (ii) features that enable users, most particularly school administrators, teachers, and
    - 115 parents, to:
      - 116 (A) retrieve school and school district level data electronically;
      - 117 (B) interpret the data visually; and
      - 118 (C) draw conclusions that are statistically valid; and
    - 119 (iii) procedures for the collection and management of education data that:
      - 120 (A) require the state superintendent of public instruction to:

121 (I) collaborate with school districts in designing and implementing uniform data  
122 standards and definitions;  
123 (II) undertake or sponsor research to implement improved methods for analyzing  
124 education data;  
125 (III) provide for data security to prevent unauthorized access to or contamination of the  
126 data; and

127 (IV) protect the confidentiality of data under state and federal privacy laws; and

128 (B) require all school districts to comply with the data collection and management  
129 procedures established under Subsection (3)(e); [~~and~~]

130 (f) administering and implementing federal educational programs in accordance with  
131 Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and

132 [~~(f)~~] (g) with the approval of the board, preparing and submitting to the governor a  
133 budget for the board to be included in the budget that the governor submits to the Legislature.

134 (4) Upon leaving office, the state superintendent shall deliver to his successor all  
135 books, records, documents, maps, reports, papers, and other articles pertaining to his office.

136 Section 2. Section **53A-1-401** is amended to read:

137 **53A-1-401. Powers of State Board of Education -- Adoption of rules --**  
138 **Enforcement.**

139 (1) (a) The State Board of Education has general control and supervision of the state's  
140 public education system.

141 (b) "General control and supervision" as used in Article X, Sec. 3, of the Utah  
142 Constitution means directed to the whole system.

143 (2) The board may not govern, manage, or operate school districts, institutions, and  
144 programs, unless granted that authority by statute.

145 (3) The board may adopt rules and policies in accordance with its responsibilities under  
146 the constitution and state laws, and may interrupt disbursements of state aid to any district  
147 which fails to comply with rules adopted in accordance with this Subsection (3).

148 (4) (a) The board may sell any interest it holds in real property upon a finding by the  
149 board that the property interest is surplus.

150 (b) The board may use the money it receives from a sale under Subsection (4)(a) for  
151 capital improvements, equipment, or materials, but not for personnel or ongoing costs.

152 (c) If the property interest under Subsection (4)(a) was held for the benefit of an agency  
153 or institution administered by the board, the money may only be used for purposes related to  
154 the agency or institution.

155 (d) The board shall advise the Legislature of any sale under Subsection (4)(a) and  
156 related matters during the next following session of the Legislature.

157 (5) The board shall develop policies and procedures related to federal educational  
158 programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs  
159 Act.

160 Section 3. Section **53A-1-901** is enacted to read:

161 **Part 9. Implementing Federal Programs Act**

162 **53A-1-901. Title.**

163 This part is known as the "Implementing Federal Programs Act."

164 Section 4. Section **53A-1-902** is enacted to read:

165 **53A-1-902. Definitions.**

166 As used in this part:

167 (1) "Federal programs" include:

168 (a) the No Child Left Behind Act;

169 (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law  
170 105-17, and subsequent amendments; and

171 (c) other federal educational programs.

172 (2) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20  
173 U.S.C. Sec. 6301 et seq.

174 (3) "School official" includes:

175 (a) the State Board of Education;

176 (b) the state superintendent;

177 (c) employees of the State Board of Education and the state superintendent;

178 (d) local school boards;

179 (e) school district superintendents and employees; and

180 (f) charter school board members, administrators, and employees.

181 Section 5. Section **53A-1-903** is enacted to read:

182 **53A-1-903. Federal programs -- School official duties.**

- 183           (1) School officials may:
- 184           (a) apply for, receive, and administer funds made available through programs of the  
185 federal government;
- 186           (b) only expend federal funds for the purposes for which they are received and are  
187 accounted for by the state, school district, or charter school; and
- 188           (c) reduce or eliminate a program created with or expanded by federal funds to the  
189 extent allowed by law when federal funds for that program are subsequently reduced or  
190 eliminated.
- 191           (2) School officials shall:
- 192           (a) prioritize resources, especially to resolve conflicts between federal provisions or  
193 between federal and state programs, including:
- 194           (i) providing first priority to meeting state goals, objectives, program needs, and  
195 accountability systems as they relate to federal programs; and
- 196           (ii) providing second priority to implementing federal goals, objectives, program needs,  
197 and accountability systems that do not directly and simultaneously advance state goals,  
198 objectives, program needs, and accountability systems;
- 199           (b) interpret the provisions of federal programs in the best interest of students in this  
200 state;
- 201           (c) maximize local control and flexibility;
- 202           (d) minimize additional state resources that are diverted to implement federal programs  
203 beyond the federal monies that are provided to fund the programs;
- 204           (e) request changes to federal educational programs, especially programs that are  
205 underfunded or provide conflicts with other state or federal programs, including:
- 206           (i) federal statutes;
- 207           (ii) federal regulations; and
- 208           (iii) other federal policies and interpretations of program provisions; and
- 209           (f) seek waivers from all possible federal statutes, requirements, regulations, and  
210 program provisions from federal education officials to:
- 211           (i) maximize state flexibility in implementing program provisions; and  
212           (ii) receive reasonable time to comply with federal program provisions.
- 213           (3) The requirements of school officials under this part, including the responsibility to

214 lobby federal officials, are not intended to mandate school officials to incur costs or require the  
215 hiring of lobbyists, but are intended to be performed in the course of school officials' normal  
216 duties.

217 Section 6. Section **53A-1-904** is enacted to read:

218 **53A-1-904. No Child Left Behind -- State implementation.**

219 (1) (a) In accordance with the No Child Left Behind Act, including Section 9527,  
220 school officials shall determine if the No Child Left Behind Act:

221 (i) requires the state to spend state or local resources in order to comply with the No  
222 Child Left Behind Act; or

223 (ii) causes the state, local education agencies, or schools to change curriculum in order  
224 to comply.

225 (b) School officials shall request a waiver under Section 9401 of the No Child Left  
226 Behind Act of any provision of the No Child Left Behind Act that violates Section 9527.

227 (2) In addition to the duties described under Subsection (1), school officials shall:

228 (a) request reasonable time to comply with the provisions of the No Child Left Behind  
229 Act;

230 (b) lobby congress for needed changes to the No Child Left Behind Act; and

231 (c) lobby federal education officials for relief from the provisions of the No Child Left  
232 Behind Act, including waivers from federal requirements, regulations, and administrative  
233 burdens.

234 (3) School officials shall lobby Congress and federal education officials for needed  
235 resolution and clarification for conflicts between the No Child Left Behind Act and the  
236 Individuals with Disabilities Education Act.

237 (4) In the case of conflicts between the No Child Left Behind Act and the Individuals  
238 with Disabilities Education Act, the parents, in conjunction with school officials, shall  
239 determine which program best meets the educational needs of the student.

240 Section 7. Section **53A-3-402** is amended to read:

241 **53A-3-402. Powers and duties generally.**

242 (1) Each local school board shall:

243 (a) implement the core curriculum utilizing instructional materials that best correlate to  
244 the core curriculum and graduation requirements;

245 (b) administer tests, required by the State Board of Education, which measure the  
246 progress of each student, and coordinate with the state superintendent and State Board of  
247 Education to assess results and create plans to improve the student's progress which shall be  
248 submitted to the State Office of Education for approval;

249 (c) use progress-based assessments as part of a plan to identify schools, teachers, and  
250 students that need remediation and determine the type and amount of federal, state, and local  
251 resources to implement remediation;

252 (d) develop early warning systems for students or classes failing to make progress;

253 (e) work with the State Office of Education to establish a library of documented best  
254 practices, consistent with state and federal regulations, for use by the local districts; and

255 (f) implement training programs for school administrators, including basic  
256 management training, best practices in instructional methods, budget training, staff  
257 management, managing for learning results and continuous improvement, and how to help  
258 every child achieve optimal learning in core academics.

259 (2) Local school boards shall spend minimum school program funds for programs and  
260 activities for which the State Board of Education has established minimum standards or rules  
261 under Section 53A-1-402.

262 (3) (a) A board may purchase, sell, and make improvements on school sites, buildings,  
263 and equipment and construct, erect, and furnish school buildings.

264 (b) School sites or buildings may only be conveyed or sold on board resolution  
265 affirmed by at least two-thirds of the members.

266 (4) (a) A board may participate in the joint construction or operation of a school  
267 attended by children residing within the district and children residing in other districts either  
268 within or outside the state.

269 (b) Any agreement for the joint operation or construction of a school shall:

270 (i) be signed by the president of the board of each participating district;

271 (ii) include a mutually agreed upon pro rata cost; and

272 (iii) be filed with the State Board of Education.

273 (5) A board may establish, locate, and maintain elementary, secondary, and applied  
274 technology schools.

275 (6) A board may enroll children in school who are at least five years of age before

276 September 2 of the year in which admission is sought.

277 (7) A board may establish and support school libraries.

278 (8) A board may collect damages for the loss, injury, or destruction of school property.

279 (9) A board may authorize guidance and counseling services for children and their  
280 parents or guardians prior to, during, or following enrollment of the children in schools.

281 (10) (a) A board ~~[may apply for, receive, and administer funds made available through~~  
282 ~~programs of the federal government]~~ shall administer and implement federal educational  
283 programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs  
284 Act.

285 (b) Federal funds are not considered funds within the school district budget under Title  
286 53A, Chapter 19, School District Budgets.

287 ~~[(c) Federal funds may only be expended for the purposes for which they are received~~  
288 ~~and are accounted for by the board.]~~

289 ~~[(d) A program created with or expanded by federal funds may be reduced to the extent~~  
290 ~~allowed by law when federal funds for that program are subsequently reduced or eliminated.]~~

291 (11) (a) A board may organize school safety patrols and adopt rules under which the  
292 patrols promote student safety.

293 (b) A student appointed to a safety patrol shall be at least ten years old and have written  
294 parental consent for the appointment.

295 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion  
296 of a highway intended for vehicular traffic use.

297 (d) Liability may not attach to a school district, its employees, officers, or agents or to a  
298 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting  
299 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

300 (12) (a) A board may on its own behalf, or on behalf of an educational institution for  
301 which the board is the direct governing body, accept private grants, loans, gifts, endowments,  
302 devises, or bequests that are made for educational purposes.

303 (b) These contributions are not subject to appropriation by the Legislature.

304 (13) (a) A board may appoint and fix the compensation of a compliance officer to issue  
305 citations for violations of Subsection 76-10-105(2).

306 (b) A person may not be appointed to serve as a compliance officer without the

307 person's consent.

308 (c) A teacher or student may not be appointed as a compliance officer.

309 (14) A board shall adopt bylaws and rules for its own procedures.

310 (15) (a) A board shall make and enforce rules necessary for the control and

311 management of the district schools.

312 (b) All board rules and policies shall be in writing, filed, and referenced for public

313 access.

314 (16) A board may hold school on legal holidays other than Sundays.

315 (17) (a) Each board shall establish for each school year a school traffic safety

316 committee to implement this Subsection (17).

317 (b) The committee shall be composed of one representative of:

318 (i) the schools within the district;

319 (ii) the Parent Teachers' Association of the schools within the district;

320 (iii) the municipality or county;

321 (iv) state or local law enforcement; and

322 (v) state or local traffic safety engineering.

323 (c) The committee shall:

324 (i) receive suggestions from parents, teachers, and others and recommend school traffic

325 safety improvements, boundary changes to enhance safety, and school traffic safety program

326 measures;

327 (ii) review and submit annually to the Department of Transportation and affected

328 municipalities and counties a child access routing plan for each elementary, middle, and junior

329 high school within the district;

330 (iii) consult the Utah Safety Council and the Division of Family Health Services and

331 provide training to all school children in kindergarten through grade six, within the district, on

332 school crossing safety and use; and

333 (iv) help ensure the district's compliance with rules made by the Department of

334 Transportation under Section 41-6-20.1.

335 (d) The committee may establish subcommittees as needed to assist in accomplishing

336 its duties under Subsection (17)(c).

337 (e) The board shall require the school community council of each elementary, middle,

338 and junior high school within the district to develop and submit annually to the committee a  
339 child access routing plan.

340 (18) (a) Each school board shall adopt and implement a comprehensive emergency  
341 response plan to prevent and combat violence in its public schools, on school grounds, on its  
342 school vehicles, and in connection with school-related activities or events.

343 (b) The board shall implement its plan by July 1, 2000.

344 (c) The plan shall:

345 (i) include prevention, intervention, and response components;

346 (ii) be consistent with the student conduct and discipline policies required for school  
347 districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

348 (iii) require inservice training for all district and school building staff on what their  
349 roles are in the emergency response plan; and

350 (iv) provide for coordination with local law enforcement and other public safety  
351 representatives in preventing, intervening, and responding to violence in the areas and activities  
352 referred to in Subsection (18)(a).

353 (d) The State Board of Education, through the state superintendent of public  
354 instruction, shall develop comprehensive emergency response plan models that local school  
355 boards may use, where appropriate, to comply with Subsection (18)(a).

356 (e) Each local school board shall, by July 1 of each year, certify to the State Board of  
357 Education that its plan has been practiced at the school level and presented to and reviewed by  
358 its teachers, administrators, students, and their parents and local law enforcement and public  
359 safety representatives.

360 (19) (a) Each local school board may adopt an emergency response plan for the  
361 treatment of sports-related injuries that occur during school sports practices and events.

362 (b) The plan may be implemented by each secondary school in the district that has a  
363 sports program for students.

364 (c) The plan may:

365 (i) include emergency personnel, emergency communication, and emergency  
366 equipment components;

367 (ii) require inservice training on the emergency response plan for school personnel who  
368 are involved in sports programs in the district's secondary schools; and

- 369 (iii) provide for coordination with individuals and agency representatives who:
- 370 (A) are not employees of the school district; and
- 371 (B) would be involved in providing emergency services to students injured while
- 372 participating in sports events.
- 373 (d) The board, in collaboration with the schools referred to in Subsection (19)(b), may
- 374 review the plan each year and make revisions when required to improve or enhance the plan.
- 375 (e) The State Board of Education, through the state superintendent of public
- 376 instruction, shall provide local school boards with an emergency plan response model that local
- 377 boards may use to comply with the requirements of this Subsection (19).
- 378 (20) A board shall do all other things necessary for the maintenance, prosperity, and
- 379 success of the schools and the promotion of education.

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**Legislative Review Note**  
as of 1-26-05 1:55 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0135**

**Implementing Federal Educational Programs**

*01-Feb-05*

*11:39 AM*

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**State Impact**

Implementation of this bill does not have a direct impact on state funds. Bill provisions require education officials to prioritize resources to first meet state goals as they relate to federal programs. It is unknown to what extent such prioritization may have on federal funds received by the state.

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**Individual and Business Impact**

No fiscal impact

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**Office of the Legislative Fiscal Analyst**