

1 **EDUCATION REFORM**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen H. Urquhart**

5 Senate Sponsor: Howard A. Stephenson

7 **LONG TITLE**

8 **General Description:**

9 This bill provides stipends for supplemental instruction to students who have not passed
10 the Utah Basic Skills Competency Test, funding to implement proposals to improve
11 mathematics achievement test scores in grades four through six, and modifications to
12 the Utah Orderly School Termination Procedures Act.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ specifies eligibility requirements for students to receive a stipend for basic skills
16 education;
- 17 ▶ establishes stipend amounts;
- 18 ▶ requires basic skills providers to accept students for instruction on a first come/first
19 served basis;
- 20 ▶ allows a basic skills provider to charge a stipend recipient an additional amount
21 above the stipend amount;
- 22 ▶ provides that a basic skills provider shall receive payment in the amount of the
23 stipend if the stipend recipient passes the subtest for which the basic skills provider
24 provided instruction;
- 25 ▶ requires the State Board of Education to administer the Basic Skills Education
26 Stipend Program and make rules;
- 27 ▶ requires the Legislature to annually appropriate money from the General Fund for
28 stipends for basic skills education;
- 29 ▶ directs the State Board of Education to issue a request for proposals from school

30 districts and charter schools to improve mathematics achievement test scores of students in
31 grades four through six;

32 ▶ requires the proposals to use professional development, incentive bonuses, or a
33 combination of both, as a strategy to improve mathematics achievement test scores;

34 ▶ requires the State Board of Education to:

- 35 • give priority to Title I schools in awarding funding to implement proposals; and
- 36 • report to the Education Interim Committee on the implementation of proposals

37 to improve mathematics achievement test scores;

38 ▶ specifies procedures for the termination or discontinuation of a career employees's
39 contract; and

40 ▶ appropriates money for stipends for basic skills education and to implement
41 proposals to improve mathematics achievement test scores of students in grades
42 four through six.

43 **Monies Appropriated in this Bill:**

44 This bill appropriates:

45 ▶ for fiscal year 2006-07 only, \$7,500,000 from the General Fund to the State Board
46 of Education; and

47 ▶ for fiscal year 2006-07 only, \$7,500,000 from the Uniform School Fund to the State
48 Board of Education.

49 **Other Special Clauses:**

50 This bill takes effect on July 1, 2006.

51 **Utah Code Sections Affected:**

52 AMENDS:

53 **53A-8-102**, as last amended by Chapter 5, Laws of Utah 2001, First Special Session

54 **53A-8-104**, as last amended by Chapter 86, Laws of Utah 2001

55 **63-55b-153**, as last amended by Chapters 90, 251 and 328, Laws of Utah 2004

56 ENACTS:

57 **53A-1-612**, Utah Code Annotated 1953

58 **53A-17a-152**, Utah Code Annotated 1953

59

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

61 Section 1. Section **53A-1-612** is enacted to read:

62 **53A-1-612. Basic Skills Education Program.**

63 (1) As used in this section:

64 (a) "Basic skills education" means individual or group instruction, including
65 assessments, designed to develop the skills and knowledge necessary to pass the Utah Basic
66 Skills Competency Test.

67 (b) "Basic skills provider" means:

68 (i) a school district;

69 (ii) a charter school;

70 (iii) an accredited public or private educational institution; or

71 (iv) other entity that meets board requirements pursuant to Subsection (12).

72 (c) "Program" means the Basic Skills Education Stipend Program.

73 (d) "Stipend recipient" means a student who receives a stipend under this section.

74 (e) "Utah Basic Skills Competency Test" or "UBSCT" means the basic skills
75 competency test administered to students pursuant to Section 53A-1-611.

76 (2) The Basic Skills Education Stipend Program is created to provide students who
77 have not passed the UBSCT supplemental instruction in the skills and knowledge necessary to
78 pass the test.

79 (3) The State Board of Education shall administer the Basic Skills Education Stipend
80 Program.

81 (4) (a) A student may receive a stipend for basic skills education if:

82 (i) (A) by the spring of the student's junior year the student has not passed the UBSCT;

83 and

84 (B) the student's score on one more subtests is below the midpoint of the partial
85 mastery range;

- 86 (ii) the student's parent or guardian is a Utah resident;
- 87 (iii) the student is enrolled full-time in a public school in the state; and
- 88 (iv) the student does not qualify for the Utah Alternative Assessment.
- 89 (b) A student who meets the criteria of Subsection (4)(a) may receive a stipend for
- 90 basic skills education in the subject of each subtest failed. Depending upon the number of
- 91 subtests failed, a student may receive one, two, or three stipends. A student may receive a
- 92 stipend only once for each subtest failed.
- 93 (5) Stipend amounts shall be based on a student's subtest score as follows:
- 94 (a) \$500, if the student's subtest score was below the midpoint of the partial mastery
- 95 range but above the minimal mastery range;
- 96 (b) \$1,000, if the student's subtest score was below the partial mastery range, but above
- 97 or at the midpoint of the minimal mastery range; or
- 98 (c) \$1,500, if the student's subtest score was below the midpoint of the minimal
- 99 mastery range.
- 100 (6) A stipend recipient may apply for basic skills education from any basic skills
- 101 provider.
- 102 (7) Each basic skill provider shall accept stipend recipients on a first come/first served
- 103 basis.
- 104 (8) A stipend recipient shall give the following to the basic skills provider selected to
- 105 provide basic skills education:
- 106 (a) a voucher in the amount of the stipend which the basic skills educator may present
- 107 for payment by the board if the stipend recipient passes the subtest corresponding to the basic
- 108 skills education provided by the basic skills provider; and
- 109 (b) an authorization signed by the stipend recipient's parent or guardian for the stipend
- 110 recipient's school to release records of the stipend recipient to the basic skills provider, if the
- 111 basic skills provider is not the school district or charter school in which the stipend recipient is
- 112 enrolled.
- 113 (9) A basic skills provider who possesses a voucher shall receive payment from the

114 board in the amount of the stipend, if, on a subsequent administration of the UBSCT, the
115 stipend recipient passes the subtest corresponding to the basic skills education provided by the
116 basic skills provider.

117 (10) (a) A basic skills provider may charge a stipend recipient an amount in addition to
118 that paid by the board.

119 (b) The additional amount charged by a basic skills provider shall be:

120 (i) consistent with the restriction in Utah Constitution Article X, Section 2;

121 (ii) disclosed to the stipend recipient's parent or guardian when the stipend recipient
122 applies for basic skills education; and

123 (iii) reported to the board before receiving payment from the board.

124 (c) A basic skills provider may not make any additional charge or refund of a charge
125 contingent upon a stipend recipient's passing or failing a UBSCT subtest.

126 (11) (a) Stipends shall be awarded by the board subject to the availability of money
127 appropriated by the Legislature for that purpose.

128 (b) The Legislature shall annually appropriate money to the board from the General
129 Fund to make stipend payments.

130 (c) If monies are not available to pay for all stipends requested, the stipends shall be
131 allocated according to rules adopted by the State Board of Education.

132 (12) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
133 the State Board of Education shall make rules:

134 (a) establishing qualifications for basic skills providers who are not school districts,
135 high schools, or accredited public or private educational institutions;

136 (b) establishing procedures for the administration of the Basic Skills Education Stipend
137 Program; and

138 (c) requiring the parent or guardian of a stipend recipient who selects a basic skills
139 provider other than the school district or charter school in which the stipend recipient is
140 enrolled to sign:

141 (i) an acknowledgment that the school district or charter school is released from further

142 remediation responsibility for the stipend recipient; and

143 (ii) if the student has an IEP, an acknowledgment that offering a voucher to the basic
144 skill provider has the same effect as a parental refusal to consent to services pursuant to Section
145 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

146 Section 2. Section **53A-8-102** is amended to read:

147 **53A-8-102. Definitions.**

148 As used in this chapter:

149 (1) "Administrative disciplinary action" means any written statement provided to the
150 school employee, signed by a school or district administrator, and retained in the employee's
151 personnel file evidencing the employee's willful or intentional misconduct as defined in
152 Subsection (10).

153 [~~(1)~~] (2) "Career employee" means an employee of a school district who has obtained a
154 reasonable expectation of continued employment based upon Section 53A-8-106 and an
155 agreement with the employee or the employee's association, district practice, or policy.

156 [~~(2)~~] (3) "Contract term" or "term of employment" means the period of time during
157 which an employee is engaged by the school district under a contract of employment, whether
158 oral or written.

159 [~~(3)~~] (4) "Dismissal" or "termination" means:

160 (a) termination of the status of employment of an employee;

161 (b) failure to renew or continue the employment contract of a career employee beyond
162 the then-current school year;

163 (c) reduction in salary of an employee not generally applied to all employees of the
164 same category employed by the school district during the employee's contract term; or

165 (d) change of assignment of an employee with an accompanying reduction in pay,
166 unless the assignment change and salary reduction are agreed to in writing.

167 [~~(4)~~] (5) "Employee" means a career or provisional employee of a school district, but
168 does not include:

169 (a) the district superintendent, or the equivalent at the Schools for the Deaf and the

170 Blind;

171 (b) the district business administrator or the equivalent at the Schools for the Deaf and
172 the Blind; or

173 (c) a temporary employee.

174 [~~(5)~~] (6) "Provisional employee" means an individual, other than a career employee or
175 a temporary employee, who is employed by a school district.

176 [~~(6)~~] (7) "School board" or "board" means a district school board or its equivalent at
177 the Schools for the Deaf and the Blind.

178 [~~(7)~~] (8) "School district" or "district" means:

179 (a) a public school district; or

180 (b) the Schools for the Deaf and the Blind.

181 [~~(8)~~] (9) "Temporary employee" means an individual who is employed on a temporary
182 basis as defined by policies adopted by the local board of education. If the class of employees
183 in question is represented by an employee organization recognized by the local board, the board
184 shall adopt its policies based upon an agreement with that organization. Temporary employees
185 serve at will and have no expectation of continued employment.

186 (10) "Willful or intentional misconduct" means conduct that jeopardizes the health or
187 safety of students or conduct that significantly impairs the employee's ability to safely or
188 professionally fulfill the employee's responsibilities or assignments.

189 Section 3. Section **53A-8-104** is amended to read:

190 **53A-8-104. Dismissal procedures.**

191 (1) (a) The district shall provide employees with a written statement of [~~causes~~]
192 employee misconduct and incompetence under which a career employee's contract may not be
193 renewed or continued beyond the then-current school year, under which a contract of each class
194 of personnel may not be renewed or continued beyond the then-current school year, and under
195 which a contract can be otherwise terminated during the contract term, and the orderly
196 dismissal procedures which are used by the district in cases of contract termination,
197 discontinuance, or nonrenewal.

198 **(b) The statement shall include unsatisfactory performance and willful or intentional**
199 **misconduct for which specific employment actions may be taken.**

200 (2) (a) If the district intends to terminate a contract during its term or discontinue a
201 career employee's contract beyond the then current school year for reasons of unsatisfactory
202 performance, the unsatisfactory performance must be documented in at least two evaluations
203 conducted at any time within the preceding three years in accordance with district policies or
204 practices.

205 (b) The district shall notify a career employee, at least 30 days prior to issuing notice of
206 intent not to renew or continue the employee's contract beyond the then-current school year,
207 that continued employment is in question and the reasons for the anticipated nonrenewal or
208 discontinuance.

209 (c) The board shall give the career employee an opportunity to correct the problem in
210 accordance with the district evaluation policies.

211 (d) The board may grant the career employee assistance to correct the deficiencies,
212 including informal conferences and the services of school personnel within the district
213 consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b).

214 (3) (a) If the career employee does not correct the problem as determined in accordance
215 with the evaluation and personnel policies of the district and the district intends to not renew or
216 discontinue the contract of employment of a career employee at the end of the then-current
217 school year, it shall give notice of that intention to the employee.

218 (b) The district shall issue the notice at least 30 days before the end of the career
219 employee's contract term.

220 **(4) (a) If the district intends to terminate a contract during its term or discontinue a**
221 **career employee's contract beyond the then-current school year for willful or intentional**
222 **misconduct, the willful or intentional misconduct shall be documented in at least one**
223 **administrative disciplinary action taken at any time within the preceding two years in**
224 **accordance with district policies or practices.**

225 **(b) The district shall notify a career employee, at least 30 days before the anticipated**

226 termination date, if the employee has not remedied or cannot remedy, based on the district's
227 determination, the misconduct.

228 (c) The district may provide the career employee assistance to remedy the misconduct,
229 including informal conferences and the services of school personnel within the district
230 consistent with Subsections 53a-1a-104(7) and 53A-6-102(2)(a) and (b).

231 (d) The career employee shall have the opportunity to appeal the termination within 30
232 days of the termination date consistent with local board policies and practice.

233 [~~(4)~~] (5) A district shall notify a provisional employee at least 60 days before the end of
234 the provisional employee's contract if the employee will not be offered a contract for a
235 subsequent term of employment.

236 [~~(5)~~] (6) In the absence of a notice, an employee is considered employed for the next
237 contract term with a salary based upon the salary schedule applicable to the class of employee
238 into which the individual falls.

239 [~~(6)~~] (7) If the district intends to not renew or discontinue the contract of a career
240 employee or to terminate a career or provisional employee's contract during the contract term:

241 (a) the district shall give written notice of the intent to the employee;

242 (b) the notice shall be served by personal delivery or by certified mail addressed to the
243 individual's last-known address as shown on the records of the district;

244 (c) except as provided under Subsection (3)(b), the district shall give notice at least 15
245 days prior to the proposed date of termination;

246 (d) the notice shall state the date of termination and the detailed reasons for
247 termination; [~~and~~]

248 (e) the notice shall advise the individual that he has a right to a fair hearing; and

249 (f) the notice shall state that failure of the employee to request a hearing in accordance
250 with procedures set forth in the notice constitutes a waiver of that right and that the district may
251 then proceed with termination without further notice.

252 [~~(7)~~] (8) The procedure under which a contract is terminated during its term may
253 include a provision under which the active service of the employee is suspended pending a

254 hearing if it appears that the continued employment of the individual may be harmful to
255 students or to the district.

256 ~~[(8)]~~ (9) (a) Suspension pending a hearing may be without pay if an authorized
257 representative of the district determines, after providing the employee with an opportunity for
258 an informal conference to discuss the allegations, that it is more likely than not that the
259 allegations against the employee are true and will result in termination.

260 (b) If termination is not subsequently ordered, the employee shall receive back pay for
261 the period of suspension without pay.

262 ~~[(9)]~~ (10) The procedure shall provide for a written notice of suspension or final
263 termination including findings of fact upon which the action is based if the suspension or
264 termination is for cause.

265 Section 4. Section **53A-17a-152** is enacted to read:

266 **53A-17a-152. Grades four through six mathematics improvement.**

267 (1) As used in this part:

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

269 (b) "Title I school" means a school receiving federal monies under Title I of the No
270 Child Left Behind Act of 2001, Pub. L. No 107-110, for a schoolwide or targeted assistance
271 program.

272 (2) The board shall issue a request for proposals from school districts and charter
273 schools to improve mathematics achievement test scores of students in grades four through six.

274 (3) Each proposal shall use professional development, incentive bonuses, or a
275 combination of professional development and incentive bonuses as a strategy to improve
276 mathematics achievement test scores of students in grades four through six.

277 (4) The board shall select proposals for funding based on the criteria stated in the
278 request for proposals with priority given to Title I schools.

279 (5) (a) There is appropriated for fiscal year 2006-07 only, \$7,500,000 from the Uniform
280 School Fund to the board to fund the implementation of proposals to improve mathematics
281 achievement test scores of students in grades four through six as provided in this section.

282 (b) The board may provide funding to implement a proposal for up to three years.

283 (c) At least 50% of the money budgeted to implement proposals under this section
284 shall be budgeted to implement incentive bonus plans.

285 (d) The money appropriated in Subsection (5)(a) shall be nonlapsing.

286 (6) The board shall make a report to the Education Interim Committee after each year
287 of proposal implementation. The report shall provide an analysis of how professional
288 development and incentive bonus plans impact mathematics achievement test scores in grades
289 four through six.

290 Section 5. Section **63-55b-153** is amended to read:

291 **63-55b-153. Repeal dates -- Titles 53, 53A, and 53B.**

292 (1) Subsection 53-3-205(9)(a)(i)(D) is repealed July 1, 2007.

293 (2) Subsection 53-3-804(2)(g) is repealed July 1, 2007.

294 (3) Section 53A-1-403.5 is repealed July 1, 2007.

295 (4) Subsection 53A-1a-511(7)(c) is repealed July 1, 2007.

296 (5) Section 53A-3-702 is repealed July 1, 2008.

297 (6) Section 53A-17a-152 is repealed July 1, 2010.

298 [~~6~~] (7) Section 53B-8-104.5 is repealed July 1, 2009.

299 Section 6. **Appropriation.**

300 (1) There is appropriated for fiscal year 2006-07 only, \$7,500,000 from the General
301 Fund to the State Board of Education for the Basic Skills Education Stipend Program created in
302 Section 53A-1-612.

303 (2) Of the money appropriated in Subsection (1), \$200,000 may be used by the State
304 Board of Education for the administration of the program.

305 (3) The money appropriated in Subsection (1) shall be nonlapsing.

306 Section 7. **Effective date.**

307 This bill takes effect on July 1, 2006.