

1 **EDUCATION REFORM**

2 2006 GENERAL SESSION

3 STATE OF UTAH

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

5 Senate Sponsor: \_\_\_\_\_

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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, bonuses for teachers based on the academic  
11 progress of their students, and modifications to the Utah Orderly School Termination  
12 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 educators to accept students for instruction on a first come/first  
19 served basis;
- 20 ▶ allows a basic skills educator to charge a stipend recipient an additional amount  
21 above the stipend amount;
- 22 ▶ provides that a basic skills educator shall receive payment in the amount of the  
23 stipend if the stipend recipient passes the subtest for which the basic skills educator  
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       ▶ requires the State Board of Education to develop a uniform statewide plan to award  
30 bonuses to teachers based on the academic performance of their students;

31       ▶ requires the bonus plan to be implemented beginning in the 2006-07 school year in  
32 Title I schools in kindergarten through grade six;

33       ▶ provides that kindergarten through grade three teachers shall be awarded bonuses  
34 based on student progress in reading, and grade four through six teachers shall be  
35 awarded bonuses based on student progress in mathematics;

36       ▶ directs the State Board of Education to make rules to administer the bonus plan and  
37 to make reports to the Education Interim Committee;

38       ▶ modifies provisions of the Utah Orderly School Termination Procedures Act; and

39       ▶ appropriates money for teacher bonuses.

40 **Monies Appropriated in this Bill:**

41       This bill appropriates:

42       ▶ as an ongoing appropriation subject to future budget constraints, \$15,000,000 from  
43 the Uniform School Fund for fiscal year 2006-07 for teacher bonuses.

44 **Other Special Clauses:**

45       This bill takes effect on July 1, 2006.

46 **Utah Code Sections Affected:**

47 AMENDS:

48       **53A-8-102**, as last amended by Chapter 5, Laws of Utah 2001, First Special Session

49       **53A-8-104**, as last amended by Chapter 86, Laws of Utah 2001

50       **63-55b-153**, as last amended by Chapters 90, 251 and 328, Laws of Utah 2004

51 ENACTS:

52       **53A-1-612**, Utah Code Annotated 1953

53       **53A-1-1001**, Utah Code Annotated 1953

54       **53A-1-1002**, Utah Code Annotated 1953

55       **53A-1-1003**, Utah Code Annotated 1953

56       **53A-1-1004**, Utah Code Annotated 1953

57       **53A-1-1005**, Utah Code Annotated 1953

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

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

61 **53A-1-612. Basic Skills Education Program.**

62 (1) As used in this section:

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

66 (b) "Basic skills educator" means:

67 (i) a school district;

68 (ii) a charter high school;

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

70 (iv) other individual or entity that meets board requirements pursuant to Subsection

71 (11).

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 that students must pass to receive a regular high school diploma pursuant to  
76 Section 53A-1-611.

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

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

82 (4) (a) A student may receive a stipend for basic skills education if the student has  
83 scored below the midpoint of the partial mastery range on one or more subtests of the UBSCT.

84 (b) A student who meets the requirements of Subsection (4)(a) may receive a stipend  
85 for basic skills education in the subject of each subtest failed. Depending upon the number of  
86 subtests failed, a student may receive one, two, or three stipends.

87 (5) Stipend amounts shall be based on a student's subtest score as follows:

88 (a) \$500, if the student's subtest score was below the midpoint of the partial mastery  
89 range but above the minimal mastery range;

90 (b) \$1,000, if the student's subtest score was below the partial mastery range, but above  
91 or at the midpoint of the minimal mastery range; or

92 (c) \$1,500, if the student's subtest score was below the midpoint of the minimal  
93 mastery range.

94 (6) A stipend recipient may apply for basic skills education from any basic skills  
95 educator.

96 (7) Each basic skills educator shall accept stipend recipients on a first come/first served  
97 basis.

98 (8) (a) The board shall be liable for the costs of basic skills education provided to a  
99 stipend recipient as provided by Subsection (9).

100 (b) (i) A basic skills educator may charge a stipend recipient an amount in addition to  
101 that paid by the board.

102 (ii) The additional amount charged by a basic skills educator shall be:

103 (A) consistent with the restrictions in Utah Constitution Article X, Section 2;

104 (B) disclosed to the stipend recipient's parent or guardian when the stipend recipient  
105 applies for basic skills education; and

106 (C) reported to the board before receiving payment from the board.

107 (iii) A basic skills educator may not make any additional charge or refund of a charge  
108 contingent upon a stipend recipient's passing or failing a UBSCT subtest.

109 (9) (a) Except as provided in Subsection (9)(b), a basic skills educator shall receive  
110 payment in the amount of the stipend, if, on a subsequent administration of the UBSCT, the  
111 stipend recipient passes the subtest for which the basic skills educator provided instruction.

112 (b) (i) A basic skills educator who is responsible for moving a stipend recipient's  
113 subtest score from below the midpoint of the minimal mastery range to at or above the  
114 midpoint, but below the partial mastery range, shall be paid \$500, if the stipend recipient  
115 passes the UBSCT on a later administration.

116 (ii) A basic skills educator who is responsible for moving a stipend recipient's subtest  
117 score from below the midpoint of the minimal mastery range to the partial mastery range shall  
118 be paid \$1,000, if the stipend recipient passes the UBSCT on a later administration.

119 (iii) A basic skills educator who is responsible for moving a stipend recipient's subtest  
120 score from at or above the midpoint of the minimal mastery range, but below the partial

121 mastery range, to the partial mastery range shall be paid \$500, if the stipend recipient passes  
122 the UBSCT on a later administration.

123 (10) (a) Stipends shall be awarded by the board subject to the availability of money  
124 appropriated by the Legislature for that purpose.

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

127 (c) If monies are not available to pay for all stipends requested, the stipends shall be  
128 allocated on a first come/first served basis.

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

131 (i) establishing qualifications for basic skills educators who are not school districts,  
132 charter high schools, or accredited public or private educational institutions; and

133 (ii) establishing procedures for the administration of the Basic Skills Education Stipend  
134 Program.

135 (b) Board rules shall allow individuals and private schools or businesses providing  
136 educational services that are not accredited to deliver basic skills education under the program,  
137 if the individual or entity meets the qualifications established by the board.

138 Section 2. Section **53A-1-1001** is enacted to read:

139 **Part 10. Teacher Bonus Act**

140 **53A-1-1001. Title.**

141 This part is known as the "Teacher Bonus Act."

142 Section 3. Section **53A-1-1002** is enacted to read:

143 **53A-1-1002. Definitions.**

144 As used in this part:

145 (1) "Board" means the State Board of Education.

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

149 Section 4. Section **53A-1-1003** is enacted to read:

150 **53A-1-1003. Bonus plan.**

151 (1) The board, in consultation with teachers, school and school district administrators,

152 assessment specialists, and other interested individuals, shall develop a uniform statewide plan  
153 to award bonuses to teachers based on the academic progress of their students consistent with  
154 this part.

155 (2) The bonus plan shall be implemented beginning in the 2006-07 school year in Title  
156 I schools as follows:

157 (a) teachers in kindergarten through grade three shall be awarded bonuses based on  
158 student progress in reading; and

159 (b) teachers in grades four through six shall be awarded bonuses based on student  
160 progress in mathematics.

161 (3) A teacher shall be eligible for a bonus if the average progress of the teacher's  
162 students exceeds one year's growth in learning.

163 (4) (a) Student progress in reading shall be measured by a common assessment to be  
164 administered to all students in kindergarten through grade three in Title I schools.

165 (b) Student progress in mathematics shall be measured by the mathematics  
166 criterion-referenced tests administered statewide pursuant to Section 53A-1-603.

167 (5) The bonus plan shall include the following components:

168 (a) how individual student progress shall be determined;

169 (b) how average student progress for a teacher shall be determined;

170 (c) how one year's growth in learning is defined;

171 (d) bonus amounts for increasing levels of average student progress in excess of one  
172 year's growth in learning; and

173 (e) how students who are not in a class for a full year shall be counted for the purpose  
174 of determining a bonus.

175 Section 5. Section **53A-1-1004** is enacted to read:

176 **53A-1-1004. Funding and administration.**

177 (1) Subject to future budget constraints, the Legislature shall annually appropriate  
178 money for teacher bonuses.

179 (2) The board shall make rules as necessary to administer this part in accordance with  
180 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

181 Section 6. Section **53A-1-1005** is enacted to read:

182 **53A-1-1005. Reporting.**

183 By October 30, beginning in 2006 and through 2009, the board shall make an annual  
184 report on the implementation of the bonus plan to the Education Interim Committee.

185 Section 7. Section **53A-8-102** is amended to read:

186 **53A-8-102. Definitions.**

187 As used in this chapter:

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

192 [~~(1)~~] (2) "Career employee" means an employee of a school district who has obtained a  
193 reasonable expectation of continued employment based upon Section 53A-8-106 and an  
194 agreement with the employee or the employee's association, district practice, or policy.

195 [~~(2)~~] (3) "Contract term" or "term of employment" means the period of time during  
196 which an employee is engaged by the school district under a contract of employment, whether  
197 oral or written.

198 [~~(3)~~] (4) "Dismissal" or "termination" means:

- 199 (a) termination of the status of employment of an employee;
- 200 (b) failure to renew or continue the employment contract of a career employee beyond
- 201 the then-current school year;
- 202 (c) reduction in salary of an employee not generally applied to all employees of the
- 203 same category employed by the school district during the employee's contract term; or
- 204 (d) change of assignment of an employee with an accompanying reduction in pay,
- 205 unless the assignment change and salary reduction are agreed to in writing.

206 [~~(4)~~] (5) "Employee" means a career or provisional employee of a school district, but  
207 does not include:

- 208 (a) the district superintendent, or the equivalent at the Schools for the Deaf and the
- 209 Blind;
- 210 (b) the district business administrator or the equivalent at the Schools for the Deaf and
- 211 the Blind; or
- 212 (c) a temporary employee.

213 [~~(5)~~] (6) "Provisional employee" means an individual, other than a career employee or

214 a temporary employee, who is employed by a school district.

215 [~~(6)~~] (7) "School board" or "board" means a district school board or its equivalent at  
216 the Schools for the Deaf and the Blind.

217 [~~(7)~~] (8) "School district" or "district" means:

218 (a) a public school district; or

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

220 [~~(8)~~] (9) "Temporary employee" means an individual who is employed on a temporary  
221 basis as defined by policies adopted by the local board of education. If the class of employees  
222 in question is represented by an employee organization recognized by the local board, the board  
223 shall adopt its policies based upon an agreement with that organization. Temporary employees  
224 serve at will and have no expectation of continued employment.

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

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

229 **53A-8-104. Dismissal procedures.**

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

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

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

244 (b) The district shall notify a career employee, at least 30 days prior to issuing notice of



245 intent not to renew or continue the employee's contract beyond the then-current school year,  
246 that continued employment is in question and the reasons for the anticipated nonrenewal or  
247 discontinuance.

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

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

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

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

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

264 (b) The district shall notify a career employee, at least 30 days before the anticipated  
265 termination date, if the employee has not remedied or cannot remedy, based on the district's  
266 determination, the misconduct.

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

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

272 [~~4~~] (5) A district shall notify a provisional employee at least 60 days before the end of  
273 the provisional employee's contract if the employee will not be offered a contract for a  
274 subsequent term of employment.

275 [~~5~~] (6) In the absence of a notice, an employee is considered employed for the next

276 contract term with a salary based upon the salary schedule applicable to the class of employee  
277 into which the individual falls.

278 ~~[(6)]~~ (7) If the district intends to not renew or discontinue the contract of a career  
279 employee or to terminate a career or provisional employee's contract during the contract term:

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

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

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

285 (d) the notice shall state the date of termination and the detailed reasons for termination;

286 [~~and~~]

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

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

291 ~~[(7)]~~ (8) The procedure under which a contract is terminated during its term may  
292 include a provision under which the active service of the employee is suspended pending a  
293 hearing if it appears that the continued employment of the individual may be harmful to  
294 students or to the district.

295 ~~[(8)]~~ (9) (a) Suspension pending a hearing may be without pay if an authorized  
296 representative of the district determines, after providing the employee with an opportunity for  
297 an informal conference to discuss the allegations, that it is more likely than not that the  
298 allegations against the employee are true and will result in termination.

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

301 ~~[(9)]~~ (10) The procedure shall provide for a written notice of suspension or final  
302 termination including findings of fact upon which the action is based if the suspension or  
303 termination is for cause.

304 Section 9. Section **63-55b-153** is amended to read:

305 **63-55b-153. Repeal dates -- Titles 53, 53A, and 53B.**

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

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

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

309 (4) Section 53A-1-1005 is repealed July 1, 2010.

310 [~~(4)~~] (5) Subsection 53A-1a-511(7)(c) is repealed July 1, 2007.

311 [~~(5)~~] (6) Section 53A-3-702 is repealed July 1, 2008.

312 [~~(6)~~] (7) Section 53B-8-104.5 is repealed July 1, 2009.

313 Section 10. **Appropriation.**

314 As an ongoing appropriation subject to future budget constraints, \$15,000,000 is

315 appropriated from the Uniform School Fund to the State Board of Education for fiscal year

316 2006-07 for teacher bonuses awarded pursuant to Title 53A, Chapter 1, Part 10, Teacher Bonus

317 Act.

318 Section 11. **Effective date.**

319 This bill takes effect on July 1, 2006.

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**Legislative Review Note**

**as of 2-3-06 11:56 AM**

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**

**State Impact**

Provisions of this bill appropriate \$15,000,000 in ongoing Uniform School Fund revenue to the State Board of Education to implement the Teacher Bonus Act outlined in the Bill. The State Office of Education has estimated that the administration of this program will require an additional staff person, costing \$100,000.

Bill provisions further create the Basic Skills Education Stipend Program. The number of students qualifying for the stipend program depends on the number of students scoring below the mid-point of "partial mastery" on the Utah Basic Skills Competency Test and the number of sub-tests failed by the student. A low range estimate provided by the State Office of Education indicates that these stipends may cost \$2,400,000 in General Fund revenue. This amount may increase or decrease depending on the number of qualifying students and how they relate to the stipend categories outlined in the bill. An additional staff person would be required to administer this program at the State Office of Education, costing \$100,000 in General Fund revenue.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$2,500,000	\$2,500,000	\$0	\$0
Uniform School Fund	\$15,100,000	\$15,100,000	\$0	\$0
<b>TOTAL</b>	<b>\$17,600,000</b>	<b>\$17,600,000</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Public school teachers may benefit by qualifying for a salary bonus outlined in the provisions of this bill. Further, public or private "basic skills educators" may benefit from the stipends received by students seeking supplemental instruction to pass the Utah Basic Skills Competency Test.

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