

Senator Aaron Osmond proposes the following substitute bill:

PUBLIC EDUCATION EMPLOYMENT REFORM

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies provisions related to the employment of public education personnel.

Highlighted Provisions:

This bill:

- ▶ reorganizes provisions regarding:
 - the status and termination of school district employees; and
 - educator evaluations;
- ▶ ~~§~~ [~~_____ requires a charter school to comply with Title 52, Chapter 3, Prohibiting~~

Employment of Relatives;] ←§

- ▶ creates the Public Education Human Resource Management Act;
- ▶ directs the State Board of Education to make rules requiring the performance of school district employees to be evaluated annually, with exceptions;

§ → ▶ requires data on school district educator ratings to be publicly reported; ←§

- ▶ prescribes procedures for the nonrenewal or termination of a career employee's contract for unsatisfactory performance;
- ▶ restricts the transfer of a public education employee with unsatisfactory performance;
- ▶ directs the State Board of Education to make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation



26 system;

27 ▶ requires the salary of certain school or district administrators to be contingent on an
28 evaluation; and

29 ▶ makes technical amendments.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

35a **§→ 53A-1-301, as last amended by Laws of Utah 2010, Chapters 139 and 206 ←§**

36 **53A-1a-512**, as last amended by Laws of Utah 2010, Chapters 266 and 353

37 **53A-3-425**, as last amended by Laws of Utah 2011, Chapter 402

38 **53A-11-605**, as enacted by Laws of Utah 2007, Chapter 111

39 ENACTS:

40 **53A-8a-101**, Utah Code Annotated 1953

41 **53A-8a-301**, Utah Code Annotated 1953

42 **53A-8a-302**, Utah Code Annotated 1953

43 **53A-8a-409**, Utah Code Annotated 1953

43a **§→ 53A-8a-410, Utah Code Annotated 1953 ←§**

44 **53A-8a-503**, Utah Code Annotated 1953

45 **53A-8a-506**, Utah Code Annotated 1953

46 **53A-8a-601**, Utah Code Annotated 1953

47 **53A-8a-602**, Utah Code Annotated 1953

48 **53A-8a-701**, Utah Code Annotated 1953

49 **53A-8a-702**, Utah Code Annotated 1953

50 **53A-8a-703**, Utah Code Annotated 1953

51 RENUMBERS AND AMENDS:

52 **53A-8a-102**, (Renumbered from 53A-8-102, as last amended by Laws of Utah 2011,
53 Chapter 420)

54 **53A-8a-201**, (Renumbered from 53A-8-106, as last amended by Laws of Utah 2010,
55 Chapter 183)

56 **53A-8a-401**, (Renumbered from 53A-10-101, as last amended by Laws of Utah 2011,

57 Chapter 434)
 58 **53A-8a-402**, (Renumbered from 53A-10-102, as last amended by Laws of Utah 2011,
 59 Chapter 434)
 60 **53A-8a-403**, (Renumbered from 53A-10-103, as last amended by Laws of Utah 2011,
 61 Chapter 434)
 62 **53A-8a-404**, (Renumbered from 53A-10-105, as enacted by Laws of Utah 1988,
 63 Chapter 2)
 64 **53A-8a-405**, (Renumbered from 53A-10-106, as last amended by Laws of Utah 2011,
 65 Chapter 434)
 66 **53A-8a-406**, (Renumbered from 53A-10-106.5, as last amended by Laws of Utah 2011,
 67 Chapter 434)
 68 **53A-8a-407**, (Renumbered from 53A-10-107, as last amended by Laws of Utah 2011,
 69 Chapter 434)
 70 **53A-8a-408**, (Renumbered from 53A-10-108, as last amended by Laws of Utah 2009,
 71 Chapter 287)
 72 **53A-8a-501**, (Renumbered from 53A-8-103, as last amended by Laws of Utah 1994,
 73 Chapter 51)
 74 **53A-8a-502**, (Renumbered from 53A-8-104, as last amended by Laws of Utah 2011,
 75 Chapter 286)
 76 **53A-8a-504**, (Renumbered from 53A-8-105, as last amended by Laws of Utah 2007,
 77 Chapter 306)
 78 **53A-8a-505**, (Renumbered from 53A-8-107, as last amended by Laws of Utah 2011,
 79 Chapter 420)

80

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

81a **§→ Section 1. Section 53A-1-301 is amended to read:**

81b **53A-1-301. Appointment -- Qualifications -- Duties.**

81c **(1) (a) The State Board of Education shall appoint a superintendent of public instruction,**
 81d **hereinafter called the state superintendent, who is the executive officer of the board and serves at the**
 81e **pleasure of the board.**

81f **(b) The board shall appoint the state superintendent on the basis of outstanding professional**
 81g **qualifications.**

81h **(c) The state superintendent shall administer all programs assigned to the State Board of**
 81i **Education in accordance with the policies and the standards established by the board.**

81j **(2) The ~~§~~ State Board shall with the appointed ~~§~~ superintendent ~~§~~ [shall] ~~§~~ develop**
 81j1 **a statewide education strategy focusing on ~~§~~**

- 81k **§→ core academics, including the development of:**
- 81l (a) core curriculum and graduation requirements;
- 81m (b) a process to select instructional materials that best correlate to the core curriculum and
- 81n graduation requirements that are supported by generally accepted scientific standards of evidence;
- 81o (c) professional development programs for teachers, superintendents, and principals;
- 81p (d) remediation programs;
- 81q (e) a method for creating individual student learning targets, and a method of measuring an
- 81r individual student's performance toward those targets;
- 81s (f) progress-based assessments for ongoing performance evaluations of districts and schools;
- 81t (g) incentives to achieve the desired outcome of individual student progress in core academics,
- 81u and which do not create disincentives for setting high goals for the students;
- 81v (h) an annual report card for school and district performance, measuring learning and
- 81w reporting progress-based assessments;
- 81x (i) a systematic method to encourage innovation in schools and school districts as they strive to
- 81y achieve improvement in their performance; and
- 81z (j) a method for identifying and sharing best demonstrated practices across districts and
- 81aa schools.
- 81ab (3) The superintendent shall perform duties assigned by the board, including the following:
- 81ac (a) investigating all matters pertaining to the public schools;
- 81ad (b) adopting and keeping an official seal to authenticate the superintendent's official acts;
- 81ae (c) holding and conducting meetings, seminars, and conferences on educational topics;
- 81af (d) presenting to the governor and the Legislature each December a report of the public school
- 81ag system for the preceding year to include:
- 81ah (i) data on the general condition of the schools with recommendations considered desirable for
- 81ai specific programs;
- 81aj (ii) a complete statement of fund balances;
- 81ak (iii) a complete statement of revenues by fund and source;
- 81al (iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness,
- 81am the cost of new school plants, and school levies;
- 81an (v) a complete statement of state funds allocated to each school district and charter school by
- 81ao source, including supplemental appropriations, and a complete statement of expenditures by each
- 81ap school district and charter school, including supplemental appropriations, by function and object as
- 81aq outlined in the U.S. Department of Education publication "Financial Accounting for Local and State
- 81ar School Systems";
- 81as (vi) a complete statement, by school district and charter school, of the amount of and
- 81at percentage increase or decrease in expenditures from the previous year attributed to:
- 81au (A) wage increases, with expenditure data for base salary adjustments identified←§

- 81av **§→separately from step and lane expenditures;**
- 81aw **(B) medical and dental premium cost adjustments; and**
- 81ax **(C) adjustments in the number of teachers and other staff;**
- 81ay **(vii) a statement that includes data on :**
- 81az **(A) fall enrollments [;] ;**
- 81ba **(B) average membership [;] ;**
- 81bb **(C) high school graduates [;] ;**
- 81bc **(D) licensed and classified employees, including data reported by school districts on educator**
- 81bd **ratings pursuant to Section 53A-8a-405;**
- 81be **(E) pupil-teacher ratios [;] ;**
- 81bf **(F) average class sizes calculated in accordance with State Board of Education rules adopted**
- 81bg **under Subsection 53A-3-602.5(4) [;] ;**
- 81bh **(G) average salaries [;] ;**
- 81bi **(H) applicable private school data [;] ; and**
- 81bj **(I) data from standardized norm-referenced tests in grades 5, 8, and 11 on each school and**
- 81bk **district;**
- 81bl **(viii) statistical information regarding incidents of delinquent activity in the schools or at**
- 81bm **school-related activities with separate categories for:**
- 81bn **(A) alcohol and drug abuse;**
- 81bo **(B) weapon possession;**
- 81bp **(C) assaults; and**
- 81bq **(D) arson;**
- 81br **(ix) information about:**
- 81bs **(A) the development and implementation of the strategy of focusing on core academics;**
- 81bt **(B) the development and implementation of competency-based education and progress-based**
- 81bu **assessments; and**
- 81bv **(C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by**
- 81bw **individual progress-based assessments and a comparison of Utah students' progress with the progress**
- 81bx **of students in other states using standardized norm-referenced tests as benchmarks; and**
- 81by **(x) other statistical and financial information about the school system which the state**
- 81bz **superintendent considers pertinent;**
- 81ca **(e) collecting and organizing education data into an automated decision support system to**
- 81cb **facilitate school district and school improvement planning, accountability reporting, performance**
- 81cc **recognition, and the evaluation of educational policy and program effectiveness to include:**
- 81cd **(i) data that are:**
- 81ce **(A) comparable across schools and school districts;**
- 81cf **(B) appropriate for use in longitudinal studies; and←§**

- 81cg **§→** (C) comprehensive with regard to the data elements required under applicable state or federal
81ch law or state board rule;
- 81ci (ii) features that enable users, most particularly school administrators, teachers, and parents,
81cj to:
- 81ck (A) retrieve school and school district level data electronically;
- 81cl (B) interpret the data visually; and
- 81cm (C) draw conclusions that are statistically valid; and
- 81cn (iii) procedures for the collection and management of education data that:
- 81co (A) require the state superintendent of public instruction to:
- 81cp (I) collaborate with school districts in designing and implementing uniform data standards
81cq and definitions;
- 81cr (II) undertake or sponsor research to implement improved methods for analyzing education
81cs data;
- 81ct (III) provide for data security to prevent unauthorized access to or contamination of the data;
81cu and
- 81cv (IV) protect the confidentiality of data under state and federal privacy laws; and
- 81cw (B) require all school districts and schools to comply with the data collection and management
81cx procedures established under Subsection (3)(e);
- 81cy (f) administering and implementing federal educational programs in accordance with Title
81cz 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and
- 81da (g) with the approval of the board, preparing and submitting to the governor a budget for the
81db board to be included in the budget that the governor submits to the Legislature.
- 81dc (4) The state superintendent shall distribute funds deposited in the Autism Awareness
81dd Restricted Account created in Section 53A-1-304 in accordance with the requirements of Section
81de 53A-1-304.
- 81df (5) Upon leaving office, the state superintendent shall deliver to the state superintendent's
81dg successor all books, records, documents, maps, reports, papers, and other articles pertaining to the
81dh state superintendent's office.
- 81di (6) (a) For the purpose of Subsection (3)(d)(vii):
- 81dj (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students
81dk enrolled in a school by the number of full-time equivalent teachers assigned to the school, including
81dl regular classroom teachers, school-based specialists, and special education teachers;
- 81dm (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the
81dn schools within a school district;
- 81do (iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher
81dp ratio of charter schools in the state; and
- 81dq (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the ←§

81dr **§→median pupil-teacher ratio of public schools in the state.**

81ds **(b) The printed copy of the report required by Subsection (3)(d) shall:**

81dt **(i) include the pupil-teacher ratio for:**

81du **(A) each school district;**

81dv **(B) the charter schools aggregated; and**

81dw **(C) the state's public schools aggregated; and**

81dx **(ii) indicate the Internet website where pupil-teacher ratios for each school in the state may be**

81dy **accessed. ←§**

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

83 **53A-1a-512. Employees of charter schools.**

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

85 (2) The school's governing body shall determine the level of compensation and all

86 terms and conditions of employment, except as otherwise provided in Subsections (7) and (8)

87 and under this part.

88 (3) ~~§~~ → [f] ~~←~~ § The following statutes governing public employees and officers do
 88a ~~§~~ → [f] [~~Chapter 8a;~~
 89 ~~Public Education Human Resource Management Act, does~~] ~~←~~ § not apply to a charter [schools:]
 90 school ~~§~~ → [:] : ~~←~~ §
 91 [~~(a) Chapter 8, Utah Orderly School Termination Procedures Act;~~
 92 [~~(b) Chapter 10, Educator Evaluation; and~~
 92a ~~§~~ → (a) Chapter 8a, Public Education Human Resource Management Act; and ~~←~~ §
 93 ~~§~~ → [f] ~~←~~ § (c) ~~§~~ → (b) ~~←~~ § Title 52, Chapter 3, Prohibiting Employment of Relatives.
 93a ~~§~~ → [f] ~~←~~ §
 94 (4) (a) To accommodate differentiated staffing and better meet student needs, a charter
 95 school, under rules adopted by the State Board of Education, shall employ teachers who:
 96 (i) are licensed; or
 97 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
 98 certification or authorization programs.
 99 (b) The school's governing body shall disclose the qualifications of its teachers to the
 100 parents of its students.
 101 (5) State Board of Education rules governing the licensing or certification of
 102 administrative and supervisory personnel do not apply to charter schools.
 103 (6) (a) An employee of a school district may request a leave of absence in order to
 104 work in a charter school upon approval of the local school board.
 105 (b) While on leave, the employee may retain seniority accrued in the school district and
 106 may continue to be covered by the benefit program of the district if the charter school and the
 107 locally elected school board mutually agree.
 108 (7) Except as provided under Subsection (8), an employee of a charter school shall be a
 109 member of a retirement system or plan under Title 49, Utah State Retirement and Insurance
 110 Benefit Act.
 111 (8) (a) At the time of application for a charter school, whether the chartering entity is
 112 the State Charter School Board, a local school board, or a board of trustees of a higher
 113 education institution, a proposed charter school may make an election of nonparticipation as an
 114 employer for retirement programs under:
 115 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
 116 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
 117 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
 118 (b) A charter school that was approved prior to July 1, 2004, may make an election of

336 evaluations;

337 (c) ~~§~~ **[allow]** **require** ~~←§~~ school districts to chose valid and reliable methods and tools

337a to implement

338 the evaluations; and

339 (d) establish a timeline for school districts to implement employee evaluations.

340 (2) The State Board of Education shall report to the Education Interim Committee, as
341 requested, on progress in implementing employee evaluations in accordance with this part, Part
342 4, Educator Evaluations, and Part 7, Evaluation and Compensation of Administrators.

343 Section 8. Section **53A-8a-401**, which is renumbered from Section 53A-10-101 is
344 renumbered and amended to read:

345 **Part 4. Educator Evaluations**

346 ~~[53A-10-101].~~ **53A-8a-401. Legislative findings.**

347 (1) The Legislature recognizes that the quality of public education can be improved and
348 enhanced by systematic, fair, and competent annual evaluation of public educators and
349 remediation of those whose performance is inadequate.

350 (2) In accordance with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), the
351 desired purposes of evaluation are to:

352 (a) allow the educator and the school district to promote the professional growth of the
353 educator; and

354 (b) identify and encourage quality instruction in order to improve student achievement.

355 Section 9. Section **53A-8a-402**, which is renumbered from Section 53A-10-102 is
356 renumbered and amended to read:

357 ~~[53A-10-102].~~ **53A-8a-402. Definitions.**

358 As used in this chapter:

359 (1) "Career educator" means a licensed employee who has a reasonable expectation of
360 continued employment under the policies of a local school board.

361 (2) "Educator" means an individual employed by a school district who is required to
362 hold a professional license issued by the State Board of Education, except:

363 (a) a superintendent; or

364 (b) an individual who:

365 (i) works fewer than three hours per day; or

366 (ii) is hired for less than half of a school year.

367 (3) "Probationary educator" means an educator employed by a school district who,
 368 under local school board policy, has been advised by the district that the educator's
 369 performance is inadequate.

370 (4) "Provisional educator" means an educator employed by a school district who has
 371 not achieved status as a career educator within the school district.

372 Section 10. Section **53A-8a-403**, which is renumbered from Section 53A-10-103 is
 373 renumbered and amended to read:

374 ~~[53A-10-103].~~ **53A-8a-403. Establishment of educator evaluation program**
 375 **-- Joint committee.**

376 (1) A local school board shall develop an educator evaluation program in consultation
 377 with its joint committee.

378 (2) The joint committee described in Subsection (1) shall consist of an equal number of
 379 classroom teachers, parents, and administrators appointed by the local school board.

380 (3) A local school board may appoint members of the joint committee from a list of
 381 nominees:

382 (a) voted on by classroom teachers in a nomination election;

383 (b) voted on by the administrators in a nomination election; and

384 (c) of parents submitted by school community councils within the district.

384a **§→ (4) Subject to Subsection (5), the joint committee may:**

384b **(a) adopt or adapt an evaluation program for teachers based on a model developed by**

384c **the State Board of Education; or**

384d **(b) create its own evaluation program for teachers. ←§**

385 **§→ [(4)] (5) ←§** The evaluation program developed by the joint committee must comply
 385a with the

386 requirements of this **§→ [chapter] part and rules adopted by the State Board of Education**

386a **under Section 53A-8a-409 ←§ .**

387 Section 11. Section **53A-8a-404**, which is renumbered from Section 53A-10-105 is
 388 renumbered and amended to read:

389 ~~[53A-10-105].~~ **53A-8a-404. Evaluation orientation.**

390 (1) The principal of each school shall orient all educators assigned to the school
 391 concerning the school board's educator evaluation program, including the purpose of the
 392 evaluations and the method used to evaluate.

393 (2) Evaluations may not occur prior to the orientation by the principal.

394 Section 12. Section **53A-8a-405**, which is renumbered from Section 53A-10-106 is

491 requirements of Part 3, Employee Evaluations, and this part:

492 (2) requiring a teacher's summative evaluation to be based on:

493 (a) student learning growth ~~§~~ **or achievement, if measures of student learning growth**
 493a **are not available** ~~←§~~ ; and

494 (b) standards of instructional quality; and

495 (3) requiring each school district to fully implement an evaluation system for educators
 496 in accordance with the framework established by the State Board of Education no later than the
 497 2014-15 school year.

497a **§**~~→~~**Section 17. Section 53A-8a-410 is enacted to read:**

497b **53A-8a-410. Report of educator ratings.**

497c **(1) A school district shall report to the State Board of Education the number and percent of**
 497d **educators in each of the four rating categories referred to in Section 53A-8a-410 based on an**
 497e **educator's annual evaluation.**

497f **(2) The data reported under Subsection (1) shall be separately reported for the following**
 497g **educator classifications:**

497h **(a) administrators;**

497i **(b) teachers; and**

497j **(c) educators other than administrators or teachers.**

497k **(3) The data reported by school districts under this section shall be included in the state**
 497l **superintendent's annual report of the public school system required by Section 53A-1-301.**

497m **(4) The State Board of Education shall make rules to ensure the privacy and protection of**
 497n **individual evaluation data.** ~~←§~~

498 Section ~~§~~ ~~→~~ [17] **18** ~~←§~~ . Section **53A-8a-501**, which is renumbered from Section

498a 53A-8-103 is

499 renumbered and amended to read:

500 **Part 5. Orderly School Termination Procedures**

501 **[53A-8-103].** **53A-8a-501. Local school board to establish dismissal**
 502 **procedures.**

503 (1) A local school board shall, by contract with its employees or their associations, or
 504 by resolution of the board, establish procedures for dismissal of employees in an orderly
 505 manner without discrimination.

506 (2) The procedures shall include:

507 (a) standards of due process [and];

508 (b) causes for dismissal[-]; and

509 (c) procedures and standards related to developing and implementing a plan of

510 assistance for a career employee whose performance is unsatisfactory.

511 (3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c)

512 shall require a plan of assistance to identify:

513 (a) specific, measurable, and actionable deficiencies;

514 (b) the available resources provided for improvement; and

515 (c) a course of action to improve employee performance.

516 Section ~~5~~ → ~~18~~ 19 ← ~~5~~ . Section **53A-8a-502**, which is renumbered from Section 53A-8-104 is
517 renumbered and amended to read:

518 ~~[53A-8-104].~~ **53A-8a-502. Dismissal procedures.**

519 (1) A district shall provide employees with a written statement specifying:

520 (a) the causes under which a career employee's contract may not be renewed or

521 continued beyond the current school year;

584 fact upon which the action is based.

585 Section 19. Section **53A-8a-503** is enacted to read:

586 **53A-8a-503. Nonrenewal or termination of a career employee's contract for**
 587 **unsatisfactory performance.**

588 (1) If a district intends to not renew a career employee's contract for unsatisfactory
 589 performance or terminate a career employee's contract during the contract term for
 590 unsatisfactory performance, the district shall:

591 (a) provide and discuss with the career employee written documentation clearly
 592 identifying the deficiencies in performance;

593 (b) provide written notice that the career employee's contract is subject to nonrenewal
 594 or termination if, upon a reevaluation of the career employee's performance, the career
 595 employee's performance is determined to be unsatisfactory;

596 (c) develop and implement a plan of assistance, in accordance with procedures and
 597 standards established by the local school board under Section 53A-8a-501, to allow the career
 598 employee an opportunity to improve performance;

599 (d) reevaluate the career employee's performance; and

600 (e) if the career employee's performance remains unsatisfactory, give notice of intent to
 601 not renew or terminate the career employee's contract in accordance with Subsection
 602 53A-8a-502(5).

603 (2) (a) The period of time for implementing a plan of assistance:

604 (i) may not exceed 120 school days, except as provided under Subsection (2)(b);

605 (ii) may continue into the next school year; ~~§~~ → [and] ← ~~§~~

606 (iii) should be sufficient to successfully complete the plan of assistance ~~§~~ → [;] ; and

606a (iv) shall begin when the career employee receives the written notice provided under
 606b Subsection (1)(b) and end when the determination is made that the career employee has
 606c successfully remediated the deficiency or notice of intent to not renew or terminate the career
 606d employee's contract is given in accordance with Subsection 53A-8a-502(5). ← ~~§~~

607 (b) In accordance with local school board policy, the period of time for implementing a
 608 plan of assistance may extend beyond 120 school days if:

609 (i) a career employee is on leave from work during the time period the plan of
 610 assistance is scheduled to be implemented; and

611 (ii) (A) the leave was approved and scheduled before the written notice was provided
 612 under Subsection (1)(b); or

613 (B) the leave is specifically approved by the local school board.

614 (3) (a) If upon a reevaluation of the career employee's performance, the district