

Senator Lyle W. Hillyard proposes the following substitute bill:

**BOARD OF EDUCATION AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the State Board of Education.

**Highlighted Provisions:**

This bill:

▶ allows the State Board of Education to:

• ~~§→ [—take certain actions if an entity that receives state funds from the State Board of Education violates certain law;]~~ enforce Title 53A, State System of Public Education, under certain circumstances; ~~←§~~

- audit the use of certain ~~§→~~ [public] state ~~←§~~ funds;
- require a local education agency to, in certain contracts between a local education agency and a third party contractor, include certain provisions; or
- appoint an attorney for certain purposes;
- ▶ gives rulemaking authority; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



**1st Sub. S.B. 91**

26 AMENDS:

27 **53A-1-401**, as last amended by Laws of Utah 2010, Chapter 305

28 **53A-1a-503.5**, as last amended by Laws of Utah 2014, Chapter 363

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

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

32 **53A-1-401. Powers of State Board of Education -- Adoption of rules --**  
 33 **Enforcement -- Attorney.**

34 (1) As used in this section:

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

36 (b) "Education entity" means ~~§~~→ [an entity that receives a distribution of state funds from  
 37 the board.] :

37a (i) an entity that receives a distribution of state funds through a grant program managed by  
 37b the board under this title;

37c (ii) an entity that enters into a contract with the board to provide an educational good or  
 37d service;

37e (iii) a school district; or

37f (iv) a charter school. ←~~§~~

38 (c) "Educational good or service" means a good or service that is required or regulated  
 39 under:

40 (i) this title; or

41 (ii) a rule authorized under this title.

42 (d) "Local education agency" or "LEA" means:

43 (i) a school district;

44 (ii) a charter school; or

45 (iii) the Utah Schools for the Deaf and the Blind.

46 [(+) (2) (a) The State Board of Education has general control and supervision of the  
 47 state's public education system.

48 (b) "General control and supervision" as used in Utah Constitution Article X, [Sec.]  
 49 Section 3, [of the Utah Constitution] means directed to the whole system.

50 [(2)] (3) The board may not govern, manage, or operate school districts, institutions,  
 51 and programs, unless granted that authority by statute.

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

55 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 56 the board may make rules to execute the board's duties and responsibilities under the Utah

88 a board action described in Subsection (8)(a); and

89 (ii) to administer this Subsection (8).

90 (d) The board shall report criminal conduct of an education entity to the district  
 91 attorney of the county where the education entity is located.

92 (9) The board may audit the use of \$→ [public] state ←\$ funds by an education entity that  
 92a receives

93 those \$→ [public] state ←\$ funds as a distribution from the board.

94 (10) The board may require, by rule made in accordance with Title 63G, Chapter 3,  
 95 Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for  
 96 an educational good or service, the LEA shall require in the contract that the third party  
 97 contractor shall \$→ [submit] provide ←\$, upon request of the \$→ [board] LEA ←\$, \$→ [to an  
 97a audit that allows the Board] information necessary for the LEA to ←\$ to verify  
 98 that the educational good or service complies with:

99 (a) this title; and

100 (b) board rule authorized under this title.

101 (11) (a) The board may appoint an attorney to provide legal advice to the board and  
 102 coordinate legal affairs for the board and the board's employees.

103 (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the  
 104 Attorney General.

105 (c) An attorney described in Subsection (11)(a) may not:

106 (i) conduct litigation; or

107 (ii) settle claims covered by the Risk Management Fund created in Section [63A-4-201](#).

108 Section 2. Section [53A-1a-503.5](#) is amended to read:

109 **[53A-1a-503.5](#). Status of charter schools.**

110 (1) Charter schools are:

111 (a) considered to be public schools within the state's public education system;

112 (b) subject to Subsection [53A-1-401](#)[(3)](8); and

113 (c) governed by independent boards and held accountable to a legally binding written  
 114 contractual agreement.

115 (2) A charter school may be established by:

116 (a) creating a new school; or

117 (b) converting an existing public school to charter status.

118 (3) A parochial school or home school is not eligible for charter school status.