

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: Steve Eliason

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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:

- enforce Title 53A, State System of Public Education, under certain circumstances;
  - audit the use of certain 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:**



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:

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

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

41 (iii) a school district; or

42 (iv) a charter school.

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

45 (i) this title; or

46 (ii) a rule authorized under this title.

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

48 (i) a school district;

49 (ii) a charter school; or

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

51 ~~[(1)]~~ (2) (a) The State Board of Education has general control and supervision of the  
52 state's public education system.

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

55 ~~[(2)]~~ (3) The board may not govern, manage, or operate school districts, institutions,  
56 and programs, unless granted that authority by statute.

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

60 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
61 the board may make rules to execute the board's duties and responsibilities under the Utah  
62 Constitution and state law.

63 (b) The board may delegate the board's statutory duties and responsibilities to board  
64 employees.

65 ~~[(4)] (5) (a) The board may sell any interest it holds in real property upon a finding by~~  
66 ~~the board that the property interest is surplus.~~

67 (b) The board may use the money it receives from a sale under Subsection ~~[(4)] (5)(a)~~  
68 for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

69 (c) If the property interest under Subsection ~~[(4)] (5)(a)~~ was held for the benefit of an  
70 agency or institution administered by the board, the money may only be used for purposes  
71 related to the agency or institution.

72 (d) The board shall advise the Legislature of any sale under Subsection ~~[(4)] (5)(a)~~ and  
73 related matters during the next following session of the Legislature.

74 ~~[(5)] (6) The board shall develop policies and procedures related to federal educational~~  
75 ~~programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National~~  
76 ~~Education Programs Act.~~

77 ~~[(6)] (7) On or before December 31, 2010, the State Board of Education shall review~~  
78 ~~mandates or requirements provided for in board rule to determine whether certain mandates or~~  
79 ~~requirements could be waived to remove funding pressures on public schools on a temporary~~  
80 ~~basis.~~

81 (8) (a) If an education entity violates this title or rules authorized under this title, the  
82 board may, in accordance with the rules described in Subsection (8)(c):

83 (i) require the education entity to enter into a corrective action agreement with the  
84 board;

85 (ii) temporarily or permanently withhold state funds from the education entity;

86 (iii) require the education entity to pay a penalty; or

87 (iv) require the education entity to reimburse specified state funds to the board.

88 (b) Except for temporarily withheld funds, if the board collects state funds under  
89 Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

90 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
91 board shall make rules:

92 (i) that require notice and an opportunity to be heard for an education entity affected by  
93 a board action described in Subsection (8)(a); and

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

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

97 (9) The board may audit the use of state funds by an education entity that receives  
98 those state funds as a distribution from the board.

99 (10) The board may require, by rule made in accordance with Title 63G, Chapter 3,  
100 Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for  
101 an educational good or service, the LEA shall require in the contract that the third party  
102 contractor shall provide, upon request of the LEA, information necessary for the LEA to verify  
103 that the educational good or service complies with:

104 (a) this title; and

105 (b) board rule authorized under this title.

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

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

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

111 (i) conduct litigation; ~~or~~

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

112a ~~or~~

112b (iii) issue formal legal opinions.

113 Section 2. Section **53A-1a-503.5** is amended to read:

114 **53A-1a-503.5. Status of charter schools.**

115 (1) Charter schools are:

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

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

118 (c) governed by independent boards and held accountable to a legally binding written

119 contractual agreement.

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

121 (a) creating a new school; or

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

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