EARLY CHILDHOOD EDUCATION PROGRAMS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends provisions related to public school early education programs.

Highlighted Provisions:

This bill:

- defines terms;
- requires the State Board of Education to develop uniform standards for acceptable growth goals that a school district or charter school adopts in its K-3 Reading Improvement Program plan;
- provides what K-3 reading program money may be used for;
- amends provisions related to the K-3 Reading Improvement Program;
- modifies the distribution of funds for enhanced kindergarten programs to school districts and charter schools;
- requires the State Board of Education to select technology providers for the early intervention interactive computer software program by September 1 of each year;
- in addition to kindergarten and grade 1, provides that the early intervention interactive software program shall include instruction for grades 2 and 3; and
- provides that a school district or charter school that received a license during the prior year for the early intervention interactive computer software program shall be given first priority to receive a license during the current year.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2014:

- to the State Board of Education - State Office of Education - Contracts and Grants -

30 K-3 Reading Diagnostic Assessment System, as an ongoing appropriation:
31 • from the Education Fund, ($2,200,000);
32 ▸ to the State Board of Education - State Office of Education - Board and
33 Administration, as an ongoing appropriation:
34 • from the Education Fund, $100,000; and
35 ▸ to the State Board of Education - State Office of Education - Contracts and Grants -
36 Early Intervention, as an ongoing appropriation:
37 • from the Education Fund, $4,600,000.
38 **Other Special Clauses:**
39 This bill provides an effective date.
40 **Utah Code Sections Affected:**
41 AMENDS:
42 **53A-1-606.5**, as last amended by Laws of Utah 2011, Chapter 372
43 **53A-1-606.6**, as repealed and reenacted by Laws of Utah 2011, Chapter 372
44 **53A-17a-150**, as last amended by Laws of Utah 2011, Chapters 342, 359, 371, 372, 418
45 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 372
46 **53A-17a-167**, as enacted by Laws of Utah 2012, Chapter 420
47
48 *Be it enacted by the Legislature of the state of Utah:*
49 Section 1. Section **53A-1-606.5** is amended to read:
50 **53A-1-606.5. State reading goal -- Reading achievement plan.**
51 (1) As used in this section[~~, the~~]:
52 (a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or
53 ability that has been organized into a hierarchical arrangement leading to higher levels of
54 knowledge, skill, or ability.
55 (b) "Five domains of reading" include phonological awareness, phonics, fluency,
56 comprehension, and vocabulary.
57 (2) (a) The Legislature recognizes that:

58 (i) reading is the most fundamental skill, the gateway to knowledge and lifelong
59 learning;
60 (ii) there is an ever increasing demand for literacy in the highly technological society
61 we live in;
62 (iii) students who do not learn to read will be economically and socially disadvantaged;
63 (iv) reading problems exist in almost every classroom;
64 (v) almost all reading failure is preventable if reading difficulties are diagnosed and
65 treated early; and
66 (vi) early identification and treatment of reading difficulties can result in students
67 learning to read by the end of the third grade.
68 (b) It is therefore the goal of the state to have every student in the state's public
69 education system reading on or above grade level by the end of the third grade.
70 (3) (a) Each public school containing kindergarten, grade one, grade two, or grade
71 three, including charter schools, shall develop, in conjunction with all other school planning
72 processes and requirements, a reading achievement plan for its students in kindergarten through
73 grade three to reach the reading goal set in Subsection (2)(b).
74 (b) The reading achievement plan shall be:
75 (i) created under the direction of:
76 (A) the school community council or a subcommittee or task force created by the
77 school community council, in the case of a school district school; or
78 (B) the charter school governing board or a subcommittee or task force created by the
79 governing board, in the case of a charter school; and
80 (ii) implemented by the school's principal, teachers, and other appropriate school staff.
81 (c) The school principal shall take primary responsibility to provide leadership and
82 allocate resources and support for teachers and students, most particularly for those who are
83 reading below grade level, to achieve the reading goal.
84 (d) Each reading achievement plan shall include:
85 (i) an assessment component that:

86 (A) focuses on ongoing formative assessment to measure the five domains of reading,
87 as appropriate, and inform individualized instructional decisions; and
88 (B) includes a benchmark assessment of reading approved by the State Board of
89 Education pursuant to Section 53A-1-606.6;
90 (ii) an intervention component:
91 (A) that provides adequate and appropriate interventions focused on each student
92 attaining [~~proficiency~~] competency in reading skills;
93 (B) based on best practices identified through proven researched-based methods;
94 (C) that provides intensive intervention, such as focused instruction in small groups
95 and individualized data driven instruction, implemented at the earliest possible time for
96 students having difficulty in reading;
97 (D) that provides an opportunity for parents to receive materials and guidance so that
98 they will be able to assist their children in attaining [~~proficiency~~] competency in reading skills;
99 and
100 (E) that, as resources allow, may involve a reading specialist; and
101 (iii) a reporting component that includes reporting to parents:
102 (A) at the beginning, in the middle, and at the end of grade one, grade two, and grade
103 three, their child's benchmark assessment results as required by Section 53A-1-606.6; and
104 (B) at the end of third grade, their child's reading level.
105 (e) In creating or reviewing a reading achievement plan as required by this section, a
106 school community council, charter school governing board, or a subcommittee or task force of
107 a school community council or charter school governing board may not have access to data that
108 reveal the identity of students.
109 (4) (a) The school district shall approve each plan developed by schools within the
110 district prior to its implementation and review each plan annually.
111 (b) The charter school governing board shall approve each plan developed by schools
112 under its control and review each plan annually.
113 (c) A school district and charter school governing board shall:

114 (i) monitor the learning gains of a school's students as reported by the benchmark
115 assessments administered pursuant to Section 53A-1-606.6; and
116 (ii) require a reading achievement plan to be revised, if the school district or charter
117 school governing board determines a school's students are not making adequate learning gains.
118 Section 2. Section **53A-1-606.6** is amended to read:
119 **53A-1-606.6. Benchmark assessments in reading -- Report to parent or guardian.**
120 (1) As used in this section:
121 (a) "Board" means the State Board of Education.
122 (b) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or
123 ability that has been organized into a hierarchical arrangement leading to higher levels of
124 knowledge, skill, or ability.
125 [~~(1)~~] (2) The [~~State Board of Education~~] board shall approve a benchmark assessment
126 for use statewide by school districts and charter schools to assess the reading [~~proficiency~~]
127 competency of students in grades one, two, and three as provided by this section.
128 [~~(2)~~] (3) A school district or charter school shall:
129 (a) administer benchmark assessments to students in grades one, two, and three at the
130 beginning, middle, and end of the school year using the benchmark assessment approved by the
131 [~~State Board of Education~~] board; and
132 (b) after administering a benchmark assessment, report the results to a student's parent
133 or guardian.
134 [~~(3)~~] (4) If a benchmark assessment or supplemental reading assessment indicates a
135 student lacks [~~proficiency~~] competency in a reading skill, or is lagging behind other students in
136 the student's grade in acquiring a reading skill, the school district or charter school shall:
137 (a) provide focused individualized intervention to develop the reading skill;
138 (b) administer formative assessments to measure the success of the focused
139 intervention;
140 (c) inform the student's parent or guardian of activities that the parent or guardian may
141 engage in with the student to assist the student in improving reading proficiency; and

142 (d) provide information to the parent or guardian regarding appropriate interventions
143 available to the student outside of the regular school day that may include tutoring, before and
144 after school programs, or summer school.
145 Section 3. Section **53A-17a-150** is amended to read:
146 **53A-17a-150. K-3 Reading Improvement Program.**
147 (1) As used in this section:
148 (a) "Board" means the State Board of Education.
149 (b) "Five domains of reading" include phonological awareness, phonics, fluency,
150 comprehension, and vocabulary.
151 [~~(a)~~] (c) "Program" means the K-3 Reading Improvement Program.
152 [~~(b)~~] (d) "Program money" means:
153 (i) school district revenue allocated to the program from other money available to the
154 school district, except money provided by the state, for the purpose of receiving state funds
155 under this section; and
156 (ii) money appropriated by the Legislature to the program.
157 (2) The K-3 Reading Improvement Program consists of program money and is created
158 to supplement other school resources to achieve the state's goal of having third graders reading
159 at or above grade level.
160 (3) Subject to future budget constraints, the Legislature may annually appropriate
161 money to the K-3 Reading Improvement Program.
162 (4) (a) To receive program money, a school district or charter school must submit a plan
163 to the [~~State Board of Education~~] board for reading proficiency improvement that incorporates
164 the following components:
165 (i) assessment;
166 (ii) intervention strategies;
167 (iii) professional development for classroom teachers in kindergarten through grade
168 three;
169 (iv) reading performance standards; and

170 (v) specific measurable goals that include the following:
171 (A) a growth goal for each school within a school district and each charter school
172 based upon student learning gains as measured by benchmark assessments administered
173 pursuant to Section 53A-1-606.6; and
174 (B) a growth goal for each school district and charter school to increase the percentage
175 of third grade students who read on grade level from year to year as measured by the third
176 grade reading test administered pursuant to Section 53A-1-603.
177 (b) The [~~State Board of Education~~] board shall provide model plans which a school
178 district or charter school may use, or the school district or charter school may develop its own
179 plan.
180 (c) Plans developed by a school district or charter school shall be approved by the
181 [~~State Board of Education~~] board.
182 (d) The board shall develop uniform standards for acceptable growth goals that a
183 school district or charter school adopts as described in this Subsection (4).
184 (5) (a) There is created within the K-3 Reading Achievement Program three funding
185 programs:
186 (i) the Base Level Program;
187 (ii) the Guarantee Program; and
188 (iii) the Low Income Students Program.
189 (b) The [~~State Board of Education~~] board may use no more than $7,500,000 from an
190 appropriation described in Subsection (3) for computer-assisted instructional learning and
191 assessment programs.
192 (6) Money appropriated to the [~~State Board of Education~~] board for the K-3 Reading
193 Improvement Program and not used by the [~~State Board of Education~~] board for
194 computer-assisted instructional learning and assessments as described in Subsection (5)(b),
195 shall be allocated to the three funding programs as follows:
196 (a) 8% to the Base Level Program;
197 (b) 46% to the Guarantee Program; and

198 (c) 46% to the Low Income Students Program.
199 (7) (a) To participate in the Base Level Program, a school district or charter school
200 shall submit a reading proficiency improvement plan to the [~~State Board of Education~~] board as
201 provided in Subsection (4) and must receive approval of the plan from the [~~State Board of~~
202 ~~Education~~] board.
203 (b) (i) Each school district qualifying for Base Level Program funds and the qualifying
204 elementary charter schools combined shall receive a base amount.
205 (ii) The base amount for the qualifying elementary charter schools combined shall be
206 allocated among each school in an amount proportionate to:
207 (A) each existing charter school's prior year fall enrollment in grades kindergarten
208 through grade three; and
209 (B) each new charter school's estimated fall enrollment in grades kindergarten through
210 grade three.
211 (8) (a) A school district that applies for program money in excess of the Base Level
212 Program funds shall choose to first participate in either the Guarantee Program or the Low
213 Income Students Program.
214 (b) A school district must fully participate in either the Guarantee Program or the Low
215 Income Students Program before it may elect to either fully or partially participate in the other
216 program.
217 (c) To fully participate in the Guarantee Program, a school district shall allocate to the
218 program money available to the school district, except money provided by the state, equal to
219 the amount of revenue that would be generated by a tax rate of .000056.
220 (d) To fully participate in the Low Income Students Program, a school district shall
221 allocate to the program money available to the school district, except money provided by the
222 state, equal to the amount of revenue that would be generated by a tax rate of .000065.
223 (e) (i) The [~~State Board of Education~~] board shall verify that a school district allocates
224 the money required in accordance with Subsections (8)(c) and (d) before it distributes funds in
225 accordance with this section.

226 (ii) The State Tax Commission shall provide the [~~State Board of Education~~] board the
227 information the [~~State Board of Education~~] board needs in order to comply with Subsection
228 (8)(e)(i).
229 (9) (a) Except as provided in (9)(c), a school district that fully participates in the
230 Guarantee Program shall receive state funds in an amount that is:
231 (i) equal to the difference between $21 times the district's total WPUs and the revenue
232 the school district is required to allocate under Subsection (8)(c) to fully participate in the
233 Guarantee Program; and
234 (ii) not less than $0.
235 (b) Except as provided in (9)(c), an elementary charter school shall receive under the
236 Guarantee Program an amount equal to $21 times the school's total WPUs.
237 (c) The [~~State Board of Education~~] board may adjust the $21 guarantee amount
238 described in Subsections (9)(a) and (b) to account for actual appropriations and money used by
239 the [~~State Board of Education~~] board for computer-assisted instructional learning and
240 assessments.
241 (10) The [~~State Board of Education~~] board shall distribute Low Income Students
242 Program funds in an amount proportionate to the number of students in each school district or
243 charter school who qualify for free or reduced price school lunch multiplied by two.
244 (11) A school district that partially participates in the Guarantee Program or Low
245 Income Students Program shall receive program funds based on the amount of school district
246 revenue allocated to the program as a percentage of the amount of revenue that could have been
247 allocated if the school district had fully participated in the program.
248 (12) (a) A school district or charter school shall use program money for reading
249 proficiency improvement interventions in grades kindergarten through grade [~~three~~] 3 that have
250 proven to significantly increase the percentage of students reading at grade level, including:
251 (i) reading assessments; and
252 (ii) focused reading remediations that may include:
253 (A) the use of reading specialists;

254 (B) tutoring;
255 (C) before or after school programs;
256 (D) summer school programs; or
257 (E) the use of reading software[~~.~~]; or
258 (F) the use of interactive computer software programs for literacy instruction and
259 assessments for students.
260 (b) A school district or charter school may use program money for portable technology
261 devices used to administer reading assessments.
262 (c) Program money may not be used to supplant funds for existing programs, but may
263 be used to augment existing programs.
264 (13) (a) Each school district and charter school shall annually submit a report to the
265 [~~State Board of Education~~] board accounting for the expenditure of program money in
266 accordance with its plan for reading proficiency improvement.
267 (b) On or before the November meeting of the Education Interim Committee of each
268 year, the [~~State Board of Education~~] board shall report a summary of the reading improvement
269 program expenditures of each school district and charter school.
270 (c) If a school district or charter school uses program money in a manner that is
271 inconsistent with Subsection (12), the school district or charter school is liable for reimbursing
272 the [~~State Board of Education~~] board for the amount of program money improperly used, up to
273 the amount of program money received from the [~~State Board of Education~~] board.
274 (14) (a) The [~~State Board of Education~~] board shall make rules to implement the
275 program.
276 (b) (i) The rules under Subsection (14)(a) shall require each school district or charter
277 school to annually report progress in meeting school and school district goals stated in the
278 school district's or charter school's plan for student reading proficiency.
279 (ii) If a school does not meet or exceed the school's goals, the school district or charter
280 school shall prepare a new plan which corrects deficiencies. The new plan must be approved
281 by the [~~State Board of Education~~] board before the school district or charter school receives an

282 allocation for the next year.
283 (15) (a) If for [~~three~~] two consecutive school years, a school district fails to meet its
284 goal to increase the percentage of third grade students who read on grade level as measured by
285 the third grade reading test administered pursuant to Section 53A-1-603, the school district
286 shall terminate any levy imposed under Section 53A-17a-151 and may not receive money
287 appropriated by the Legislature for the K-3 Reading Improvement Program.
288 (b) If for [~~three~~] two consecutive school years, a charter school fails to meet its goal to
289 increase the percentage of third grade students who read on grade level as measured by the
290 third grade reading test administered pursuant to Section 53A-1-603, the charter school may
291 not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.
292 (16) The [~~State Board of Education~~] board shall make an annual report to the Public
293 Education Appropriations Subcommittee that:
294 (a) includes information on:
295 (i) student learning gains in reading for the past school year and the five-year trend;
296 (ii) the percentage of third grade students reading on grade level in the past school year
297 and the five-year trend; [~~and~~]
298 (iii) the progress of schools and school districts in meeting goals stated in a school
299 district's or charter school's plan for student reading proficiency; and
300 (iv) the correlation between third grade students reading on grade level and results of
301 third grade language arts scores on a criterion-referenced test or computer adaptive test; and
302 (b) may include recommendations on how to increase the percentage of third grade
303 students who read on grade level.
304 Section 4. Section **53A-17a-167** is amended to read:
305 **53A-17a-167. Early intervention program -- Enhanced kindergarten program --**
306 **Educational technology.**
307 (1) The State Board of Education shall, as described in Subsection (4), distribute funds
308 appropriated under this section for an enhanced kindergarten program described in Subsection
309 (2), [~~consistent with guidelines in this section,~~] to school districts and charter schools that

310 apply for the funds.
311 (2) A school district or charter school shall use funds appropriated in this section to
312 offer an early intervention program, delivered through an enhanced kindergarten program that:
313 (a) is an academic program focused on building age-appropriate literacy and numeracy
314 skills;
315 (b) uses an evidence-based early intervention model;
316 (c) is targeted to at-risk students; and
317 (d) is delivered through additional hours or other means.
318 (3) A school district or charter school may not require a student to participate in an
319 enhanced kindergarten program described in Subsection (2).
320 [~~(4) The State Board of Education shall distribute funds appropriated under this section~~
321 ~~to school districts and charter schools based on the number of kindergarten students eligible to~~
322 ~~receive free or reduced price school lunch in each school district or charter school that applies~~
323 ~~for funding under Subsection (1).~~]
324 (4) The State Board of Education shall distribute funds appropriated under this section
325 for an enhanced kindergarten program described in Subsection (2) as follows:
326 (a) (i) the total allocation for charter schools shall be calculated by:
327 (A) dividing the number of charter school students by the total number of students in
328 the public education system in the prior school year; and
329 (B) multiplying the resulting percentage by the total amount of available funds; and
330 (ii) the amount calculated under Subsection (4)(a) shall be distributed to charter
331 schools with the greatest need for an enhanced kindergarten program, as determined by the
332 State Board of Education in consultation with the State Charter School Board;
333 (b) each school district shall receive the amount calculated by:
334 (i) multiplying the value of the weighted pupil unit by 0.45; and
335 (ii) multiplying the result by 20; and
336 (c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b)
337 are made, shall be distributed to applicant school districts by:

338 (i) determining the number of students eligible to receive free lunch in the prior school
339 year for each school district; and
340 (ii) prorating the remaining funds based on the number of students eligible to receive
341 free lunch in each district.
342 (5) In addition to an enhanced kindergarten program described in Subsection (2), the
343 early intervention program includes a component to address early intervention through the use
344 of an interactive computer software program.
345 (6) [~~The~~] (a) Subject to legislative appropriations, by September 1 of each year, the
346 State Board of Education shall select one or more technology providers, through a request for
347 proposals process, to provide an interactive computer software program for literacy [~~or~~
348 ~~numeracy~~] instruction[~~, or both,~~] and assessments for students in kindergarten [~~and~~] through
349 grade [~~1~~] 3.
350 (b) The State Board of Education shall distribute licenses for an interactive computer
351 software program described in Subsection (6)(a) to school districts and charter schools that
352 apply for the licenses.
353 (c) A school district or charter school that received a license described in Subsection
354 (6)(b) during the prior year shall be given first priority to receive an equivalent license during
355 the current year.
356 (d) Licenses distributed to school districts and charter schools in addition to the
357 licenses described in Subsection (6)(c) shall be distributed through a competitive process.
358 (7) On or before November 1, 2013, and every year thereafter, the State Board of
359 Education shall report final testing data regarding an interactive computer software program
360 described in Subsection (6), including student learning gains as a result of the interactive
361 computer software program, to:
362 (a) the Education Interim Committee; and
363 (b) the governor.
364 Section 5. **Appropriation.**
365 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for

366 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
367 are appropriated from resources not otherwise appropriated, or reduced from amounts
368 previously appropriated, out of the funds or accounts indicated. These sums of money are in
369 addition to any amounts previously appropriated for fiscal year 2014.
370 To State Board of Education - State Office of Education - Initiative Programs
371 From Education Fund ($2,200,000)
372 Schedule of Programs:
373 Contracts and Grants - K-3 Reading Program -
374 Diagnostic Assessment System ($2,200,000)
375 To State Board of Education - State Office of Education
376 From Education Fund $100,000
377 Schedule of Programs:
378 Board and Administration $100,000
379 To State Board of Education - State Office of Education - Initiative Programs
380 From Education Fund $4,600,000
381 Schedule of Programs:
382 Contracts and Grants - Early Intervention $4,600,000
383 The Legislature intends that:
384 (1) the appropriation for Board and Administration be used by the State Board of
385 Education for administration costs related to the selection of technology providers;
386 (2) the appropriation for Contracts and Grants - Early Intervention be used by the State
387 Board of Education to select one or more technology providers to provide an interactive
388 computer software program for literacy instruction and assessments for students as described in
389 Subsection 53A-17a-167(6); and
390 (3) the appropriations described in Subsections (1) and (2):
391 (a) be ongoing; and
392 (b) not lapse at the close of fiscal year 2014.
393 Section 6. **Effective date.**

394 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

395 (2) Uncodified Section 5, Appropriation, takes effect on July 1, 2013.