

**Representative Kraig Powell** proposes the following substitute bill:

**EDUCATIONAL TESTING AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kraig Powell**

Senate Sponsor: Ann Millner

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**LONG TITLE**

**General Description:**

This bill amends provisions related to certain student assessments administered in public schools.

**Highlighted Provisions:**

This bill:

- ▶ requires the State Board of Education to make rules providing that scores on certain assessments may be considered in determining a student's academic grade or whether a student may advance to the next grade level;
- ▶ amends provisions related to a parent's or guardian's right to excuse a student from taking certain assessments;
- ▶ amends other provisions related to student assessments; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:



26 [53A-1-603](#), as last amended by Laws of Utah 2015, Chapters 258, 415, and 444

27 [53A-1-609](#), as last amended by Laws of Utah 2013, Chapter 161

28 [53A-15-1403](#), as last amended by Laws of Utah 2015, Chapter 444

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

31 Section 1. Section [53A-1-603](#) is amended to read:

32 **[53A-1-603. Duties of State Board of Education.](#)**

33 (1) The State Board of Education shall:

34 (a) require each school district and charter school to implement the Utah Performance  
35 Assessment System for Students, hereafter referred to as U-PASS;

36 (b) require the state superintendent of public instruction to submit and recommend  
37 criterion-referenced achievement tests or online computer adaptive tests, college readiness  
38 assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3  
39 to measure reading grade level to the board for approval and adoption and distribution to each  
40 school district and charter school by the state superintendent;

41 (c) develop an assessment method to uniformly measure statewide performance, school  
42 district performance, and school performance of students in grades 3 through 12 in mastering  
43 basic academic subjects; and

44 (d) provide for the state to participate in the National Assessment of Educational  
45 Progress state-by-state comparison testing program.

46 (2) Except as provided in Subsection (3) and Subsection [53A-1-611](#)~~(3)~~(4), under  
47 U-PASS, the State Board of Education shall annually require each school district and charter  
48 school, as applicable, to administer:

49 (a) as determined by the State Board of Education, statewide criterion-referenced tests  
50 or online computer adaptive tests in grades 3 through 12 and courses in basic academic subjects  
51 of the core standards for Utah public schools;

52 (b) an online writing assessment to all students in grades 5 and 8;

53 (c) college readiness assessments as detailed in Section [53A-1-611](#); and

54 (d) a test to all students in grade 3 to measure reading grade level.

55 (3) Beginning with the 2014-15 school year, the State Board of Education shall  
56 annually require each school district and charter school, as applicable, to administer a computer

57 adaptive assessment system that is:

58 (a) adopted by the State Board of Education; and

59 (b) aligned to the core standards for Utah public schools.

60 (4) The board shall adopt rules for the conduct and administration of U-PASS to

61 include the following:

62 (a) the computation of student performance based on information that is disaggregated  
63 with respect to race, ethnicity, gender, limited English proficiency, and those students who  
64 qualify for free or reduced price school lunch;

65 (b) security features to maintain the integrity of the system, which could include  
66 statewide uniform testing dates, multiple test forms, and test administration protocols;

67 (c) the exemption of student test scores, by exemption category, such as limited  
68 English proficiency, mobility, and students with disabilities, with the percent or number of  
69 student test scores exempted being publically reported at a district level;

70 (d) compiling of criterion-referenced, online computer adaptive, and online writing test  
71 scores and test score averages at the classroom level to allow for:

72 (i) an annual review of those scores by parents of students and professional and other  
73 appropriate staff at the classroom level at the earliest point in time;

74 (ii) the assessment of year-to-year student progress in specific classes, courses, and  
75 subjects; and

76 (iii) a teacher to review, prior to the beginning of a new school year, test scores from  
77 the previous school year of students who have been assigned to the teacher's class for the new  
78 school year;

79 (e) allowing a school district or charter school to have its tests administered and scored  
80 electronically to accelerate the review of test scores and their usefulness to parents and  
81 educators under Subsection (4)(d), without violating the integrity of U-PASS; and

82 (f) providing that scores on the tests and assessments required under Subsection (2)(a)  
83 and Subsection (3) may ~~not~~ be considered in determining ~~if~~ **→** **if**:

84 ~~(i)~~ **←** ~~if~~ a student's academic grade for the appropriate course ~~is~~ **→** ~~is~~ **or**

85 ~~(ii) whether a student may advance to the next grade level.~~ **←** ~~if~~

86 (5) (a) A school district or charter school, as applicable, is encouraged to administer an  
87 online writing assessment to students in grade 11.

88 (b) The State Board of Education may award a grant to a school district or charter  
89 school to pay for an online writing assessment and instruction program that may be used to  
90 assess the writing of students in grade 11.

91 (6) The State Board of Education shall make rules:

92 (a) establishing procedures for applying for and awarding money for computer adaptive  
93 tests;

94 (b) specifying how money for computer adaptive tests shall be allocated among school  
95 districts and charter schools that qualify to receive the money; and

96 (c) requiring reporting of the expenditure of money awarded for computer adaptive  
97 testing and evidence that the money was used to implement computer adaptive testing.

98 (7) The State Board of Education shall assure that computer adaptive tests are  
99 administered in compliance with the requirements of Chapter 13, Part 3, Utah Family  
100 Educational Rights and Privacy Act.

101 (8) (a) The State Board of Education shall establish a committee consisting of 15  
102 parents of Utah public education students to review all computer adaptive test questions.

103 (b) The committee established in Subsection (8)(a) shall include the following parent  
104 members:

105 (i) five members appointed by the chair of the State Board of Education;

106 (ii) five members appointed by the speaker of the House of Representatives; and

107 (iii) five members appointed by the president of the Senate.

108 (c) The State Board of Education shall provide staff support to the parent committee.

109 (d) The term of office of each member appointed in Subsection (8)(b) is four years.

110 (e) The chair of the State Board of Education, the speaker of the House of  
111 Representatives, and the president of the Senate shall adjust the length of terms to stagger the  
112 terms of committee members so that approximately 1/2 of the committee members are  
113 appointed every two years.

114 (f) No member may receive compensation or benefits for the member's service on the  
115 committee.

116 (9) (a) School districts and charter schools shall require each licensed employee to  
117 complete two hours of professional development on youth suicide prevention within their  
118 license cycle in accordance with Section [53A-6-104](#).

119 (b) The State Board of Education shall develop or adopt sample materials to be used by  
120 a school district or charter school for professional development training on youth suicide  
121 prevention.

122 (c) The training required by this Subsection (9) shall be incorporated into professional  
123 development training required by rule in accordance with Section 53A-6-104.

124 Section 2. Section 53A-1-609 is amended to read:

125 **53A-1-609. Construction of part.**

126 Nothing in this part shall be construed to mean or represented to require that graduation  
127 from a high school or promotion to another grade [~~is in any way dependent upon successful~~]  
128 may be based solely on a student's performance [of] on any test administered as a part of the  
129 testing program established under this part.

130 Section 3. Section 53A-15-1403 is amended to read:

131 **53A-15-1403. Parental right to academic accommodations.**

132 (1) (a) A student's parent or guardian is the primary person responsible for the  
133 education of the student, and the state is in a secondary and supportive role to the parent or  
134 guardian. As such, a student's parent or guardian has the right to reasonable academic  
135 accommodations from the student's LEA as specified in this section.

136 (b) Each accommodation shall be considered on an individual basis and no student  
137 shall be considered to a greater or lesser degree than any other student.

138 (c) The parental rights specified in this section do not include all the rights or  
139 accommodations that may be available to a student's parent or guardian as a user of the public  
140 education system.

141 (d) An accommodation under this section may only be provided if the accommodation  
142 is:

143 (i) consistent with federal law; and

144 (ii) consistent with a student's IEP if the student already has an IEP.

145 (2) An LEA shall reasonably accommodate a parent's or guardian's written request to  
146 retain a student in kindergarten through grade 8 on grade level based on the student's academic  
147 ability or the student's social, emotional, or physical maturity.

148 (3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a  
149 teacher or request for a change of teacher.

150 (4) An LEA shall reasonably accommodate the request of a student's parent or guardian  
151 to visit and observe any class the student attends.

152 (5) Notwithstanding Chapter 11, Part 1, Compulsory Education Requirements, an LEA  
153 shall record an excused absence for a scheduled family event or a scheduled proactive visit to a  
154 health care provider if:

155 (a) the parent or guardian submits a written statement at least one school day before the  
156 scheduled absence; and

157 (b) the student agrees to make up course work for school days missed for the scheduled  
158 absence in accordance with LEA policy.

159 (6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request  
160 to place a student in a specialized class, a specialized program, or an advanced course.

161 (b) An LEA shall consider multiple academic data points when determining a  
162 accommodation under Subsection (6)(a).

163 (7) Consistent with Section 53A-13-108, which requires the State Board of Education  
164 to establish graduation requirements that use competency-based standards and assessments, an  
165 LEA shall allow a student to earn course credit towards high school graduation without  
166 completing a course in school by:

167 (a) testing out of the course; or

168 (b) demonstrating competency in course standards.

169 (8) An LEA shall reasonably accommodate a parent's or guardian's request to meet  
170 with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a  
171 regularly scheduled parent teacher conference.

172 (9) (a) At the request of a student's parent or guardian, an LEA shall excuse a student  
173 from taking an assessment that:

174 (i) is federally mandated;

175 (ii) is mandated by the state under this title; or

176 [~~(iii) requires the use of:~~]

177 [~~(A)~~] (iii) is an end-of-grade-level assessment utilizing a state assessment system[~~;~~ ~~or~~].

178 [~~(B)~~ ~~software that is provided or paid for by the state.~~]

179 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
180 State Board of Education shall make rules to:

181 (i) [~~to~~] establish a statewide procedure for excusing a student under Subsection (9)(a)  
 182 that:  
 183 (A) does not place an undue burden on a parent or guardian; and  
 184 (B) may be completed online; [~~and~~]  
 185 (ii) [~~to~~] prevent negative impact, to the extent authorized by state statute, to an LEA or  
 186 an LEA's employees through school grading or employee evaluations due to a student not  
 187 taking a test under Subsection (9)(a)[~~;~~]; and  
 188 (iii) subject to Subsection (9)(c)(iii), establish conditions under which incentives or  
 189 rewards may be offered to a student for taking an assessment described in Subsection (9)(a).  
 190 (c) An LEA:  
 191 (i) shall follow the procedures outlined in rules made by the State Board of Education  
 192 under Subsection (9)(b) to excuse a student under Subsection (9)(a);  
 193 (ii) may not require procedures to excuse a student under Subsection (9)(a) in addition  
 194 to the procedures outlined in rules made by the State Board of Education under Subsection  
 195 (9)(b); [~~and~~]  
 196 [~~(iii) may not reward a student for taking an assessment described in Subsection~~  
 197 ~~(9)(a).~~]  
 198 (iii) may not penalize a student who is excused from taking an assessment under  
 199 Subsection (9)(a) for not taking the assessment; and  
 200 (iv) may require a student who is excused from taking an assessment under Subsection  
 201 (9)(a) to complete an alternate assignment if the alternate assignment is not more rigorous than  
 202 the state's content or end-of-grade-level assessment.  
 203 (d) The State Board of Education shall:  
 204 (i) maintain and publish a list of state assessments[~~;~~] and state assessment systems[~~;~~  
 205 ~~and software~~] that qualify under Subsection (9)(a); and  
 206 (ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).  
 207 (10) (a) An LEA shall provide for:  
 208 (i) the distribution of a copy of a school's discipline and conduct policy to each student  
 209 in accordance with Section [53A-11-903](#); and  
 210 (ii) a parent's or guardian's signature acknowledging receipt of the school's discipline  
 211 and conduct policy.

212 (b) An LEA shall notify a parent or guardian of a student's violation of a school's  
213 discipline and conduct policy and allow a parent or guardian to respond to the notice in  
214 accordance with Chapter 11, Part 9, School Discipline and Conduct Plans.

215 Section 4. **Effective date.**

216 (1) (a) Except as provided in Subsection (2), if approved by two-thirds of all the  
217 members elected to each house, Section 53A-1-603 takes effect upon approval by the governor,  
218 or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8,  
219 without the governor's signature, or in the case of a veto, the date of veto override.

220 (b) If Section 53A-1-603 is not approved by two-thirds of all the members elected to  
221 each house, Section 53A-1-603 takes effect on July 1, 2016.

222 (2) Section 53A-15-1403 takes effect on July 1, 2016.