

## HB0215S01 compared with HB0215

~~{deleted text}~~ shows text that was in HB0215 but was deleted in HB0215S01.

Inserted text shows text that was not in HB0215 but was inserted into HB0215S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Brian S. King proposes the following substitute bill:

### REPRODUCTIVE HEALTH EDUCATION AND SERVICES

#### AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian S. King**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill enacts provisions related to reproductive health education and repeals reproductive health services provisions.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for human health education;
- ▶ requires the State Instructional Materials Commission to consult with parents and others when evaluating human health curriculum;
- ▶ enacts human sexuality instruction notice provisions;

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- ▶ repeals certain criminal provisions regarding contraceptive and abortion services; and
- ▶ makes technical and conforming corrections.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**53A-1-402.6**, as last amended by Laws of Utah 2015, Chapter 415

**53A-13-101**, as last amended by Laws of Utah 2016, Chapter 144

**53A-13-101.2**, as last amended by Laws of Utah 2015, Chapter 91

**76-7-324**, as last amended by Laws of Utah 2004, Chapter 271

#### REPEALS:

**76-7-321**, as last amended by Laws of Utah 1995, Chapter 20

**76-7-322**, as last amended by Laws of Utah 1988, Chapter 50

**76-7-323**, as last amended by Laws of Utah 1988, Chapter 50

**76-7-325**, as enacted by Laws of Utah 1983, Chapter 94

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

Section 1. Section **53A-1-402.6** is amended to read:

**53A-1-402.6. Core standards for Utah public schools.**

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53A-1-402, the State Board of Education shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

- (i) communicate effectively, both verbally and through written communication;
- (ii) apply mathematics; and
- (iii) access, analyze, and apply information.

(b) Except as provided in this title, the State Board of Education may recommend but may not require a local school board or charter school governing board to use:

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- (i) a particular curriculum or instructional material; or
  - (ii) a model curriculum or instructional material.
- (2) The board shall, in establishing the core standards for Utah public schools:
- (a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and
  - (b) align the core standards for Utah public schools and tests administered under the Utah Performance Assessment System for Students (U-PASS) with each other.
- (3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:
- (a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and
  - (b) mathematics, including basic computational skills.
- (4) Before adopting core standards for Utah public schools, the State Board of Education shall:
- (a) publicize draft core standards for Utah public schools on the State Board of Education's website and the Utah Public Notice website created under Section 63F-1-701;
  - (b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and
  - (c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.
- (5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.
- (6) ~~[Except as provided in Section 53A-13-101, each]~~ Each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that it considers most appropriate to meet the core standards for Utah public schools.
- (7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity,

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including a federal agency or consortium, for any reason, including:

- (a) the cost of developing or implementing the core standards for Utah public schools;
- (b) the proposed core standards for Utah public schools are inconsistent with

community values; or

- (c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Part 9, Implementing Federal or National Education Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;

- (ii) conflicts with Utah law;

- (iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The State Board of Education shall annually report to the Education Interim Committee on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53A-1-402.8.

Section 2. Section **53A-13-101** is amended to read:

**53A-13-101. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.**

(1) As used in this section:

(a) "Age appropriate" means topics, messages, and teaching methods suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(b) "Board" means the State Board of Education.

(c) "Evidence-based information" means information that is evaluated using rigorous research design, including:

(i) measuring knowledge, attitude, and behavior;

(ii) having an adequate sample size;

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(iii) using sound research methods and processes;

(iv) replicating in different locations and finding similar evaluation results; and

(v) publishing results in a peer-reviewed journal.

(d) (i) "Human health" or "human health education" means evidence-based information about:

(A) human reproduction, reproductive anatomy, and reproductive physiology;

(B) all methods to prevent unintended pregnancy and sexually transmitted diseases and infections, including HIV and AIDS; and

(C) the link between human papillomavirus and cancer and other types of cancer involving the human reproductive systems, including prostate, testicular, ovarian, and uterine cancer.

(ii) "Human health" includes information about the correct and consistent use of sexual abstinence, contraception, condoms, and other birth control barrier methods.

(e) "Positive youth development" means an approach that:

(i) is inclusive of all youth, collaborative, and strength-based; and

(ii) emphasizes the many positive attributes of young people and focuses on developing inherent strengths and assets to promote health.

(f) "Sexual abstinence" means not engaging in oral, vaginal, or anal intercourse or genital skin-to-skin contact.

~~[(1)(a)]~~ (2) The ~~[State Board of Education]~~ board shall establish curriculum requirements under Section 53A-1-402~~[-]~~ that include health instruction in:

~~[(1)]~~ (a) community and personal health;

~~[(1)]~~ (b) physiology;

~~[(1)]~~ (c) personal hygiene; ~~[and]~~

~~[(1)]~~ (d) prevention of communicable disease~~[-]~~; and

(e) subject to Subsection (3), human health.

~~[(b) (i) That instruction shall stress:]~~

~~[(A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and]~~

~~[(B) personal skills that encourage individual choice of abstinence and fidelity.]~~

~~[(ii) (A) At no time may instruction be provided, including responses to spontaneous~~

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questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.]

~~[(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.]~~

(3) (a) The human health education curriculum established under Subsection (2)(e) shall:

(i) (A) encourage and facilitate parental or guardian involvement and family communication; and

(B) be made available to assist parental, guardian, and family discussion about human health education;

(ii) include instruction to help students develop skills for making responsible and healthy decisions about human sexuality, personal power, boundary setting, developing safe and healthy relationships, and resisting peer pressure, including:

(A) not making unwanted verbal, physical, and sexual advances; and

(B) not making assumptions about a person's supposed sexual intentions based on that person's appearance;

(iii) teach human sexuality as a normal and healthy aspect of human development;

(iv) include information about the physical, social, and emotional changes of adolescence and subsequent stages of human maturation, including how pregnancy happens;

(v) include evidence-based information shown to be effective in changing behaviors that contribute to pregnancy at a young age and sexually transmitted diseases and infections, including:

(A) sexual abstinence and delaying sexual initiation;

(B) reducing the frequency of sexual intercourse;

(C) reducing the number of sexual partners; and

(D) increasing the use of condoms and other contraceptives;

(vi) include discussions and information on how to recognize and respond safely and effectively in situations where sexual or physical violence may be occurring or where there may be a risk for these behaviors to occur;

(vii) include discussions of how alcohol and drug use impair responsible and healthy decision making;

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(viii) be comprehensive, age appropriate, rely on evidence-based information, be inclusive of a positive youth development framework, and be medically accurate; and

(ix) provide instruction about the health benefits and potential side effects of using contraceptives and barrier methods to prevent pregnancy, including instruction regarding emergency contraception and the availability of contraceptive methods.

~~[(c)]~~ (b) (i) The board shall recommend instructional materials for use in the ~~[curricula]~~ curriculum required under Subsection ~~[(1)(a)]~~ (2) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(ii) The State Instructional Materials Commission shall consult with parents, teachers, school nurses, and community members in evaluating instructional materials for a human health education curriculum that complies with this section.

~~[(ii)]~~ (iii) A local school board or charter school governing board may choose to adopt:

(A) the instructional materials recommended under Subsection ~~[(1)(c)]~~ (3)(b)(i); or

(B) other instructional materials as provided in ~~[state]~~ board rule.

~~[(iii)]~~ (iv) The ~~[state]~~ board rule made under Subsection ~~[(1)(c)(ii)]~~ (3)(b)(iii)(B) shall include, at a minimum:

(A) that the materials adopted by a local school board or charter school governing board under Subsection ~~[(1)(c)(ii)]~~ (3)(b)(iii)(B) shall be based upon recommendations of the school district's ~~[Curriculum Materials Review Committee]~~ or charter school's curriculum review committee that comply with state law and ~~[state]~~ board rules ~~[emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:];~~

~~[(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

~~[(II) the advocacy of homosexuality;]~~

~~[(III) the advocacy or encouragement of the use of contraceptive methods or devices; or]~~

~~[(IV) the advocacy of sexual activity outside of marriage;]~~

(B) that the adoption of instructional materials shall take place in an open and regular meeting of the local school board or charter school governing board for which prior notice is given to parents and guardians of students attending schools in the district and an opportunity for them to express their views and opinions on the materials at the meeting;

(C) provision for an appeal and review process of the local school board's or charter

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school governing board's decision; and

(D) provision for a report to the board by the local school board [~~to the State Board of Education~~] or charter school governing board of the action taken and the materials adopted by the local school board or charter school governing board under Subsections [~~(1)(c)(ii)~~] (3)(b)(iii)(B) and [~~(1)(c)(iii)~~] (3)(b)(iv).

[~~(2)~~] (4) (a) Instruction in the courses described in Subsection [~~(1)~~] (2):

(i) shall be consistent and systematic in grades [~~eight~~] 8 through 12[-]; and

(ii) may not be taught in kindergarten through grade 3.

(b) At the request of the board, the Department of Health shall cooperate with the board in [~~developing programs to provide instruction in those areas~~] establishing curriculum requirements as described in Subsection (2).

[~~(3)(a)~~] (5) The board shall adopt rules that:

[~~(i)~~] (a) provide that the parental consent requirements of [~~Sections 76-7-322 and 76-7-323~~] Section 53A-13-101.2 are complied with; and

[~~(ii)~~] (b) require a student's parent or legal guardian to be notified in advance and have an opportunity to review the information for which parental consent is required under [~~Sections 76-7-322 and 76-7-323~~] Section 53A-13-101.2.

[~~(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.~~]

[~~(4)(a) In keeping with the requirements of Section 53A-13-109, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.~~]

[~~(b) To ensure the effective performance of school personnel, the limitations described in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official capacities if:~~]

[~~(i) they knew or should have known that their action could result in a material and substantial interference or disruption in the normal activities of the school; and~~]

[~~(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.~~]

[~~(c) Neither the State Board of Education nor local school districts may allow training~~



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~~of school employees or volunteers that supports or encourages criminal conduct.]~~

~~[(d)] (6) The [State Board of Education] board shall adopt rules implementing this section.~~

~~[(e) Nothing in this section limits the ability or authority of the State Board of Education and local school boards to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.]~~

~~[(5)] (7) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.~~

~~[(6)] (8) (a) [Local] A local school [boards] board or charter school governing board and [their] that board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.~~

(b) Each school district and charter school shall provide appropriate inservice training for its teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the information, values, and character traits referred to in this section and Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and distribute appropriate written materials on the information, values, character traits, and conduct to each individual receiving the inservice training.

(c) The written materials shall also be made available to classified employees, students, and parents and guardians of students.

(d) In order to assist school districts in providing the inservice training required under Subsection ~~[(6)] (8)(b)~~, the ~~[State Board of Education] board~~ shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection ~~[(6)] (8)(b)~~ to develop and disseminate model teacher inservice programs ~~[which] that~~ districts may use to train the individuals referred to in Subsection ~~[(6)] (8)(b)~~ to effectively teach the values and qualities of character referenced in ~~[that subsection] Subsection (8)(b)~~.

~~[(e) In accordance with the provisions of Subsection (4)(c), inservice training may not support or encourage criminal conduct.]~~

~~[(7)] (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision,~~

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subsection, sentence, clause, phrase, or word.

### Section 3. Section 53A-13-101.2 is amended to read:

#### **53A-13-101.2. Waivers of participation -- Required parental consent for human sexuality instruction.**

(1) As used in this section:

(a) (i) "Human sexuality instruction" means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

- (A) sexual abstinence;
- (B) human sexuality;
- (C) human reproduction;
- (D) reproductive anatomy;
- (E) physiology;
- (F) pregnancy;
- (G) marriage;
- (H) childbirth;
- (I) parenthood;
- (J) contraception;
- (K) HIV/AIDS; or
- (L) sexually transmitted diseases.

(ii) "Human sexuality instruction" does not include child sexual abuse prevention instruction described in Section 53A-13-112.

(b) "Parent" means a parent or legal guardian.

(c) "School" means a public school.

(2) If a parent of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent or the secondary student may request:

- (a) a waiver of the requirement to participate; or
- (b) a reasonable alternative that requires reasonably equivalent performance by the

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student of the secular objectives of the curriculum or activity in question.

(3) The school shall promptly notify a student's parent if the secondary student makes a request under Subsection (2).

(4) If a request is made under Subsection (2), the school shall:

- (a) waive the participation requirement;
- (b) provide a reasonable alternative to the requirement; or
- (c) notify the requesting party that participation is required.

(5) The school shall ensure that the provisions of Subsection 53A-13-101.3(3) are met in connection with any required participation under Subsection (4)(c).

(6) (a) A school shall obtain prior written consent from a student's parent before the school may provide human sexuality instruction to the student.

(b) A notice to obtain prior written consent shall:

(i) be printed in 14-point font;

(ii) include the following statement in the same or substantially similar format:

"In accordance with state law, this notice is to obtain the written consent of a parent or legal guardian for a student to receive human sexuality instruction. Your student will not receive human sexuality instruction at school without your written consent.

Human sexuality instruction encourages and facilitates parental or guardian involvement and family communication and is made available to assist parental, guardian, and family discussion about human health education. This instruction helps students develop skills for making responsible and healthy decisions about human sexuality, personal power, boundary setting, developing safe and healthy relationships, and resisting peer pressure, including not making unwanted verbal, physical, and sexual advances, and not making assumptions about a person's supposed sexual intentions based on that person's appearance.

Human sexuality instruction teaches human sexuality as a normal and healthy aspect of human development and includes information about the physical, social, and emotional changes of adolescence and subsequent stages of human maturation, including how pregnancy happens. The instruction uses evidence-based information shown to be effective in changing behaviors that contribute to pregnancy at a young age and sexually transmitted diseases and infections, including sexual abstinence and delaying sexual initiation, reducing the frequency of sexual intercourse, reducing the number of sexual partners, and increasing the use of

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### condoms and other contraceptives.

Your student's class discussions and information will focus on how to recognize and respond safely and effectively in situations where sexual or physical violence may be occurring or where there may be a risk for these behaviors to occur and discussions of how alcohol and drug use impair responsible and healthy decision making. Classroom discussions will provide instruction about the health benefits and potential side effects of using contraceptives and barrier methods to prevent pregnancy, including instruction regarding emergency contraception and the availability of contraceptive methods.

Human sexuality instruction is meant to be comprehensive, age appropriate, reliant on evidence-based information, inclusive of a positive youth development framework, and to provide medically accurate information.";

(iii) include information on, if the parent does not provide consent, whether the school will waive the requirement or provide a reasonable alternative as described in this section;

(iv) include any other information necessary to assist a parent in making an informed decision about a student's participation in human sexuality instruction; and

(v) provide for the date and signature of the parent.

(7) If a student's parent chooses not to have the student participate in human sexuality instruction, a school shall:

(a) waive the requirement for the student to participate in the human sexuality instruction; or

(b) provide the student with a reasonable alternative to the human sexuality instruction requirement.

(8) In cooperation with the student's teacher or school, a parent shall take responsibility for the parent's student's human sexuality instruction if a school:

(a) waives the student's human sexuality instruction requirement in Subsection (7)(a);  
or

(b) provides the student with a reasonable alternative to the human sexuality instruction requirement described in Subsection (7)(b).

(9) A student's academic or citizenship performance may not be penalized if:

(a) the secondary student or the student's parent chooses to exercise a religious right or right of conscience in accordance with the provisions of this section; or

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(b) the student's parent chooses not to have the student participate in human sexuality instruction as described in Subsection (7).

Section ~~{3}~~4. Section 76-7-324 is amended to read:

**76-7-324. Violation of restrictions on public funds for contraceptive or abortion services as misdemeanor.**

Any agent of a state agency or political subdivision, acting alone or in concert with others, who violates Section [~~76-7-322, 76-7-323, or~~] 76-7-331 is guilty of a class B misdemeanor.

Section ~~{4}~~5. **Repealer.**

This bill repeals:

Section 76-7-321, **Contraceptive and abortion services -- Funds -- Minor --**

**Definitions.**

Section 76-7-322, **Public funds for provision of contraceptive or abortion services restricted.**

Section 76-7-323, **Public funds for support entities providing contraceptive or abortion services restricted.**

Section 76-7-325, **Notice to parent or guardian of minor requesting contraceptive -- Definition of contraceptives -- Penalty for violation.**

~~f~~

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~