

**Senator Mark B. Madsen** proposes the following substitute bill:

**HOME SCHOOL AND EXTRACURRICULAR**

**ACTIVITY AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Ben C. Ferry

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**LONG TITLE**

**General Description:**

This bill modifies procedures for exempting minors who are home schooled from attendance at a public or private school and addresses charter school, private school, and home school students' eligibility to participate in extracurricular activities.

**Highlighted Provisions:**

This bill:

- ▶ provides that any rule, bylaw, or policy that denies eligibility to participate in interschool contests or competitions based on a student's transferring from one high school to another does not apply to a student transferring to a charter school in the first three years of the charter school's existence;
- ▶ requires a local school board to issue a certificate excusing a minor from attendance within 30 days of receipt of a signed affidavit stating that the minor will attend a home school;
- ▶ provides that a minor who is enrolled in a private school or a home school shall be eligible to participate in extracurricular activities at a public school;
- ▶ provides that, with certain exceptions, a private school or a home school student may only participate in extracurricular activities at the public school within whose



26 boundaries the student's custodial parent or legal guardian resides or a public school within the  
27 student's school district of residence that is open for enrollment of nonresident students; and

28       ▶ provides that, with certain exceptions, private school students and home school  
29 students shall be eligible for extracurricular activities at a public school consistent  
30 with eligibility standards for fully enrolled public school students.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       This bill coordinates with H.B. 207 by providing that certain amendments in this bill  
35 supersede the amendments in H.B. 207.

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **53A-11-102**, as last amended by Chapter 253, Laws of Utah 2005

39       **53A-11-102.5**, as last amended by Chapter 221, Laws of Utah 2003

40 ENACTS:

41       **53A-1a-511.5**, Utah Code Annotated 1953



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

44       Section 1. Section **53A-1a-511.5** is enacted to read:

45       **53A-1a-511.5. Eligibility for participating in interschool contests or competitions.**

46       Any rule, bylaw, or policy governing students' eligibility to participate in interschool  
47 contests or competitions that denies eligibility to participate in interschool contests or  
48 competitions based on a student's transferring from one high school to another does not apply  
49 to students transferring to a charter school in the first three years of the charter school's  
50 existence. A student who transfers to a charter school in the first three years of the charter  
51 school's existence shall remain eligible for participation in interschool contests or competitions  
52 if the student meets all other eligibility criteria.

53       Section 2. Section **53A-11-102** is amended to read:

54       **53A-11-102. Minors exempt from school attendance.**

55       (1) (a) A school-age minor may be excused from attendance by the local board of  
56 education and a parent exempted from application of Subsections 53A-11-101(2) and (3) for

57 any of the following reasons:

58 (i) a minor over age 16 may receive a partial release from school to enter employment  
59 if the minor has completed the eighth grade; or

60 (ii) on an annual basis, a minor may receive a full release from attending a public,  
61 regularly established private, or part-time school or class if:

62 (A) the minor has already completed the work required for graduation from high  
63 school, or has demonstrated mastery of required skills and competencies in accordance with  
64 Subsection 53A-15-102(1);

65 (B) the minor is in a physical or mental condition, certified by a competent physician if  
66 required by the district board, which renders attendance inexpedient and impracticable;

67 (C) proper influences and adequate opportunities for education are provided in  
68 connection with the minor's employment; or

69 (D) the district superintendent has determined that a minor over the age of 16 is unable  
70 to profit from attendance at school because of inability or a continuing negative attitude toward  
71 school regulations and discipline.

72 (b) Minors receiving a partial release from school under Subsection (1)(a)(i) are  
73 required to attend:

74 (i) school part-time as prescribed by the local school board; or

75 (ii) a home school part-time.

76 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)  
77 must be sufficient to satisfy the local board.

78 (2) (a) On an annual basis, a school-age minor shall be excused from attendance by a  
79 local board of education and a parent exempted from application of Subsections 53A-11-101(2)  
80 and (3), if the minor's parent files a signed affidavit with the minor's school district of  
81 residence, as defined in Section 53A-2-201, stating that the minor will attend a home school  
82 and receive instruction as required by Subsection (2)(b).

83 (b) Each minor who attends a home school shall receive instruction:

84 (i) in the subjects the State Board of Education requires to be taught in public schools  
85 in accordance with the law; and

86 (ii) for the same length of time as minors are required by law to receive instruction in  
87 public schools, as provided by rules of the State Board of Education.

88 (c) Subject to the requirements of Subsection (2)(b), a parent of a minor who attends a  
89 home school is solely responsible for:

90 (i) the selection of instructional materials and textbooks;

91 (ii) the time, place, and method of instruction, and

92 (iii) the evaluation of the home school instruction.

93 (d) A local school board may not:

94 (i) require a parent of a minor who attends a home school to maintain records of  
95 instruction or attendance;

96 (ii) require credentials for individuals providing home school instruction;

97 (iii) inspect home school facilities; or

98 (iv) require standardized or other testing of home school students.

99 (3) (a) Boards excusing minors from attendance as provided by Subsections (1) and (2)  
100 shall issue a certificate stating that the minor is excused from attendance during the time  
101 specified on the certificate.

102 (b) A local school board shall issue a certificate excusing a minor from attendance  
103 within 30 days after receipt of a signed affidavit filed by the minor's parent pursuant to  
104 Subsection (2).

105 (4) Nothing in this section may be construed to prohibit or discourage voluntary  
106 cooperation, resource sharing, or testing opportunities between a school or school district and a  
107 parent or guardian of a minor attending a home school.

108 Section 3. Section **53A-11-102.5** is amended to read:

109 **53A-11-102.5. Dual enrollment.**

110 (1) "District school" means a public school under the control of a local board of  
111 education elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and  
112 Local School Boards.

113 [~~(1)~~] (2) A person having control of a minor under this part who is enrolled in a  
114 regularly established private school or a home school may also enroll the minor in a public  
115 school for dual enrollment purposes.

116 [~~(2)~~] (3) The minor may participate in any academic activity in the public school  
117 available to students in the minor's grade or age group, subject to compliance with the same  
118 rules and requirements that apply to a full-time student's participation in the activity.

119 ~~[(3) Except as otherwise provided in Sections 53A-11-101 and 53A-11-102, a]~~

120 (4) A student enrolled in a public school may also be enrolled in a private school or a  
121 home school for dual enrollment purposes.

122 ~~[(4)]~~ (5) (a) A student enrolled in a dual enrollment program in a district school is  
123 considered a student of the district in which the [public] district school of attendance is located  
124 for purposes of state funding to the extent of the student's participation in the [public] district  
125 school programs.

126 (b) A student enrolled in a dual enrollment program in a charter school is considered a  
127 student of the charter school for purposes of state funding to the extent of the student's  
128 participation in the charter school programs.

129 ~~[(5)]~~ (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
130 Act, the State Board of Education shall make rules for purposes of dual enrollment to govern  
131 and regulate the transferability of credits toward graduation that are earned in a private or home  
132 school.

133 ~~[(6) The State Board of Education shall determine the policies and procedures~~  
134 ~~necessary to permit students enrolled under Subsection (1) to participate in public school~~  
135 ~~extracurricular activities.]~~

136 (7) (a) A minor who is enrolled in a private school or a home school shall be eligible to  
137 participate in extracurricular activities at a public school as provided in this Subsection (7).

138 (b) A private school student may only participate in extracurricular activities at a public  
139 school that are not offered by the student's private school.

140 (c) Except as provided in Subsection (7)(d), a private school student or a home school  
141 student may only participate in extracurricular activities at:

142 (i) the district school within whose attendance boundaries the student's custodial parent  
143 or legal guardian resides;

144 (ii) a district school:

145 (A) within the student's school district of residence; and

146 (B) that is open for enrollment of nonresident students pursuant to Section 53A-2-207  
147 or 53A-2-213;

148 (iii) a charter school at which the student is enrolled in one or more courses or classes;

149 or

- 150 (iv) any charter school on a space available basis.
- 151 (d) A school district may allow a private school student or a home school student who  
152 does not reside within the district's boundaries to participate in extracurricular activities other  
153 than:
- 154 (i) interschool competitions of athletic teams sponsored and supported by a public  
155 school; or
- 156 (ii) interschool contests or competitions for music, drama, or forensic groups or teams  
157 sponsored and supported by a public school.
- 158 (e) (i) Private school students and home school students shall be eligible for  
159 extracurricular activities at a public school consistent with eligibility standards as applied to  
160 fully enrolled public school students, except as provided in Subsections (7)(f) through (h); and
- 161 (ii) a school district or public school may not impose additional requirements on  
162 private school students or home school students to participate in extracurricular activities that  
163 are not imposed on fully enrolled public school students.
- 164 (f) Eligibility requirements based on school attendance are not applicable to home  
165 school students.
- 166 (g) To demonstrate a home school student's compliance with scholastic eligibility  
167 requirements, the individual providing the primary instruction of a home school student shall  
168 submit ~~§~~→ [a written statement] an affidavit ←~~§~~ that indicates:
- 169 (i) the student is mastering the material in each course or subject being taught; and  
170 (ii) the student is maintaining satisfactory progress towards advancement or promotion.
- 171 (h) A public school student who has been declared to be academically ineligible to  
172 participate in an extracurricular activity and who subsequently enrolls in a home school shall  
173 lose eligibility for participation in the extracurricular activity until the student:
- 174 (i) demonstrates academic eligibility by providing test results or a portfolio of the  
175 student's work;
- 176 (ii) returns to public school and reestablishes academic eligibility; or  
177 (iii) enrolls in a private school and establishes academic eligibility.
- 178 (i) When selection to participate in an extracurricular activity at a public school is  
179 made on a competitive basis, a private school student and a home school student shall be  
180 eligible to try out for and participate in the activity as provided in this Subsection (7).

181 Section 4. **Coordinating S.B. 81 with H.B. 207 -- Substantively superseding**  
182 **amendments.**

183 If this S.B. 81 and H.B. 207, School Truancy and Compulsory Education Amendments,  
184 both pass, it is the intent of the Legislature that when the Office of Legislative Research and  
185 General Counsel prepares the Utah Code database for publication, the amendments to  
186 Subsection 53A-11-102.5(4) in this bill supercede the amendments to Subsection  
187 53A-11-102.5(3) in H.B. 207.

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**Fiscal Note****S.B. 81 1st Sub. (Green) - Home School and Extracurricular Activity  
Amendments**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. However, the overall cost of the Minimum School Program Program may increase over time due to the school districts including non-district students in enrollment counts for extracurricular activities as provided in board rule.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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