

## HB0164S01 compared with HB0164

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inserted text shows text that was not in HB0164 but was inserted into HB0164S01.

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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.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**53A-1-603**, as last amended by Laws of Utah 2015, Chapters 258, 415, and 444

**53A-1-609**, as last amended by Laws of Utah 2013, Chapter 161

**53A-15-1403**, as last amended by Laws of Utah 2015, Chapter 444

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

Section 1. Section **53A-1-603** is amended to read:

**53A-1-603. Duties of State Board of Education.**

(1) The State Board of Education shall:

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

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

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

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

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

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic academic subjects

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of the core standards for Utah public schools;

- (b) an online writing assessment to all students in grades 5 and 8;
- (c) college readiness assessments as detailed in Section 53A-1-611; and
- (d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

- (a) adopted by the State Board of Education; and
- (b) aligned to the core standards for Utah public schools.

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

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

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

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

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

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

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

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

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

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

- (i) a student's academic grade for the appropriate course; or
- (ii) whether a student may advance to the next grade level.

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

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

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

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

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

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

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

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

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

- (i) five members appointed by the chair of the State Board of Education;
- (ii) five members appointed by the speaker of the House of Representatives; and
- (iii) five members appointed by the president of the Senate.

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

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

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are

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appointed every two years.

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

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

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

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

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

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

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

Section ~~{2}~~3. Section **53A-15-1403** is amended to read:

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

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

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

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

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

(i) consistent with federal law; and

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

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

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

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

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

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

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

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

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

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

(a) testing out of the course; or

(b) demonstrating competency in course standards.

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

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

(i) is federally mandated;

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

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

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

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

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

(i) ~~[to]~~ establish a statewide procedure for excusing a student under Subsection (9)(a) that:

(A) does not place an undue burden on a parent or guardian; and

(B) may be completed online; ~~[and]~~

(ii) ~~[to]~~ prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school grading or employee evaluations due to a student not taking a test under Subsection (9)(a)~~[-]; and~~

(iii) subject to Subsection (9)(c)(iii), establish conditions under which incentives or rewards may be offered to a student for taking an assessment described in Subsection (9)(a).

(c) An LEA:

(i) shall follow the procedures outlined in rules made by the State Board of Education under Subsection (9)(b) to excuse a student under Subsection (9)(a);

(ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the State Board of Education under Subsection (9)(b); ~~[and]~~

~~[(iii) may not reward a student for taking an assessment described in Subsection (9)(a).]~~

(iii) may not penalize a student who is excused from taking an assessment under Subsection (9)(a) for not taking the assessment; and

(iv) may require a student who is excused from taking an assessment under Subsection (9)(a) to complete an alternate assignment if the alternate assignment is not more rigorous than the state's content or end-of-grade-level assessment.

(d) The State Board of Education shall:

(i) maintain and publish a list of state assessments~~[-]~~ and state assessment systems~~[-]~~ ~~and software~~ that qualify under Subsection (9)(a); and

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(ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53A-11-903; and

(ii) a parent's or guardian's signature acknowledging receipt of the school's discipline and conduct policy.

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

Section ~~33~~4. **Effective date.**

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

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

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

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**