

HB0211S01 compared with HB0211

~~{deleted text}~~ shows text that was in HB0211 but was deleted in HB0211S01.

inserted text shows text that was not in HB0211 but was inserted into HB0211S01.

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Representative Adam Robertson proposes the following substitute bill:

SCHOOL FEES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Adam Robertson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to elementary and secondary school fees.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ ~~{with certain exceptions, prohibits a local education agency (LEA) from charging an elementary school student a fee;~~
- ▶ ~~with certain exceptions, prohibits an LEA from charging}~~ prescribes the fees an LEA may charge a secondary school student ~~{a fee}~~ for a curricular activity or portions of a co-curricular activity;
- ▶ authorizes an LEA to charge a secondary school student a fee for an extracurricular activity;

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▶ prohibits an LEA from charging a general fee;

- ▶ amends provisions related to a fee waiver;
- ▶ repeals provisions related to fees for textbooks;
- ▶ prohibits charging a student in grade 6 a fee for a remediation program;
- ▶ repeals outdated language; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351

53E-8-401, as last amended by Laws of Utah 2020, Chapter 408

53E-10-305, as last amended by Laws of Utah 2020, Chapters 220 and 365

53G-6-302, as last amended by Laws of Utah 2020, Chapter 408

53G-6-303, as last amended by Laws of Utah 2019, Chapter 293

53G-6-701, as enacted by Laws of Utah 2018, Chapter 3

53G-7-501, as last amended by Laws of Utah 2020, Chapter 51

53G-7-503, as last amended by Laws of Utah 2021, Chapter 341

53G-7-504, as last amended by Laws of Utah 2020, Chapter 408

53G-9-803, as last amended by Laws of Utah 2019, Chapter 293

53G-10-503, as last amended by Laws of Utah 2021, Chapter 247

RENUMBERS AND AMENDS:

53G-7-506, (Renumbered from 53G-7-602, as last amended by Laws of Utah 2020, Chapter 138)

53G-7-507, (Renumbered from 53G-7-603, as repealed and reenacted by Laws of Utah 2019, Chapter 223)

53G-7-508, (Renumbered from 53G-7-606, as last amended by Laws of Utah 2019, Chapters 223 and 293)

REPEALS:

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53G-7-601, as last amended by Laws of Utah 2020, Chapter 138

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

Section 1. Section **53E-1-201** is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

~~[(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;]~~

[~~(k)~~] (k) the report described in Section 53F-4-407 by the state board on UPSTART;

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~~[(m)]~~ (l) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

~~[(n)]~~ (m) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the report described in Section 53G-7-503 by the state board regarding fees that

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LEAs charge during the 2020-2021 school year;

(l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

Section 2. Section **53E-8-401** is amended to read:

53E-8-401. Eligibility for services of the Utah Schools for the Deaf and the Blind.

(1) Except as provided in Subsections (3), (4), and (5), an individual is eligible to receive services of the Utah Schools for the Deaf and the Blind if the individual is:

(a) a resident of Utah;

(b) younger than 22 years [~~of age~~] old;

(c) referred to the Utah Schools for the Deaf and the Blind by:

(i) the individual's school district of residence;

(ii) a local early intervention program; or

(iii) if the referral is consistent with the Individual with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the Parent Infant Program; and

(d) identified as deaf, blind, or deafblind through:

(i) the special education eligibility determination process; or

(ii) the Section 504 eligibility determination process.

(2) (a) In determining eligibility for an individual who is younger than age three and is deafblind, the following information may be used:

(i) ophthalmological and audiological documentation;

(ii) functional vision or hearing assessments and evaluations; or

(iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

(i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

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(ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

(3) (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

(4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with the rules of the state board described in Subsection (6).

(b) [~~The~~] Notwithstanding Section 53G-7-503, the rules shall require the payment of tuition for services provided to a nonresident.

(5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and

(b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the resident is younger than 22 years [~~of age~~] old.

Section 3. Section **53E-10-305** is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the Utah Board of Higher Education or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The Utah Board of Higher Education may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application

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fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(6)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

~~[(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.]~~

Section 4. Section **53G-6-302** is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section 62A-2-108.1.

(2) The school district of residence of a minor child whose custodial parent resides within Utah is:

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- (a) the school district in which the custodial parent resides; or
 - (b) the school district in which the child resides:
 - (i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;
 - (ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;
 - (iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - (A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
 - (B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and
 - (C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the state board;
 - (iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - (A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
 - (B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and
 - (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the state board; or
 - (v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.
- (3) A minor child whose custodial parent does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the state board, if:
- (a) the child is married or an emancipated minor under Subsection (2)(b)(v);
 - (b) the child lives with a resident of the district who is a responsible adult and whom

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the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent moves from the state;

(ii) the child's parent executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall

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agree to:

(i) assume responsibility for any fees [~~or other charges~~], as defined in Section 53G-7-501, relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 5. Section **53G-6-303** is amended to read:

53G-6-303. Guardianship for residency purposes by responsible adult --

Procedure to obtain -- Termination.

(1) For purposes of this part, "responsible adult" means a person 21 years [~~of age~~] old or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.

(2) A local school board may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent does not reside within the state upon compliance with the following requirements:

(a) submission to the school district of a signed and notarized affidavit by the child's custodial parent stating that:

(i) the child's presence in the district is not for the primary purpose of attending the public schools;

(ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;

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(iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

(iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;

(v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and

(vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

(b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:

(i) the affiant is a resident of the school district and desires to become the guardian of the child;

(ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and

(iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

(c) submission to the school district of a signed and notarized affidavit by the child stating that:

(i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and

(ii) the child will abide by all applicable policies of any public school which the child

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may attend after guardianship is awarded; and

(d) if the child's custodial parent cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.

(4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the local school board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the local school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

(5) (a) If a local school board has adopted a policy permitting the local school board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.

(b) The court shall uphold the decision of the local school board unless it finds, by clear and convincing evidence, that the local school board's decision was arbitrary and capricious.

(c) An applicant may, rather than appealing the local school board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the local school board.

(6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.

(7) (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which

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the school district is located.

(b) The court may not charge the school district a fee for filing guardianship papers under this section.

(8) (a) The authority and responsibility of a custodial parent submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:

(i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2)(a) requesting termination of the guardianship; or

(ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.

(b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.

(9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.

(10) (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.

(b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:

(i) void any guardianship, authorization, or action which was based upon the false or misleading information; and

(ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, as defined in Section 53G-7-501, and other unpaid school charges, together with any related costs of recovery.

(c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, as defined in Section 53G-7-501,

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continue in enrollment until the end of the school year unless excluded from attendance for cause.

Section 6. Section **53G-6-701** is amended to read:

53G-6-701. Definitions.

~~[Reserved]~~ As used in this part, "fee" means the same as that term is defined in Section 53G-7-501.

Section 7. Section **53G-7-501** is amended to read:

53G-7-501. Definitions.

As used in this part:

- (1) "Co-curricular activity" means an activity, a course, or a program that:
 - (a) is an extension of a curricular activity;
 - (b) is included in an instructional plan and supervised or conducted by a teacher or education professional;
 - (c) is conducted outside of regular school hours;
 - (d) is provided, sponsored, or supported by an LEA; and
 - (e) includes a required regular school day activity, course, or program.
- (2) "Curricular activity" means an activity, a course, or a program that is:
 - (a) intended to deliver instruction;
 - (b) provided, sponsored, or supported by an LEA; and
 - (c) conducted only during school hours.
- (3) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.
 - (4) (a) "Elementary school student" means a student enrolled in an elementary school.
 - (b) "Elementary school student" does not include a secondary school student.
- (5) (a) "Extracurricular activity" means an activity, a course, or a program that is:
 - (i) not directly related to delivering instruction;
 - (ii) not a curricular activity or co-curricular activity; and
 - (iii) provided, sponsored, or supported by an LEA.
 - (b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.
- (6) (a) "Fee" means a charge, expense, deposit, rental, or payment:

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(i) regardless of how the charge, expense, deposit, rental, or payment is termed, described, requested, or required directly or indirectly;

(ii) in the form of money, goods, or services; and

(iii) that is a condition to a student's full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.

(b) "Fee" includes:

(i) money or something of monetary value raised by a student or the student's family through fundraising;

(ii) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

(iii) payments made to a third party that provides a part of a school activity, class, or program;

(iv) charges or expenditures for classroom:

~~[(A) textbooks;]~~

~~[(B)]~~ (A) supplies; or

~~[(C)]~~ (B) materials;

(v) charges or expenditures for school activity clothing; and

(vi) a fine other than a fine described in Subsection (6)(c)(i).

(c) "Fee" does not include:

(i) a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, or as described in Section 53G-8-212; or

(C) improper use of school property, including a parking violation;

(ii) a payment for school breakfast or lunch;

(iii) a deposit that is:

(A) a pledge securing the return of school property; and

(B) refunded upon the return of the school property; or

(iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program.

(7) (a) "Fundraising" means an activity or event provided, sponsored, or supported by

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an LEA that uses students to generate funds or raise money to:

- (i) provide financial support to a school or a school's class, group, team, or program; or
 - (ii) benefit a particular charity or for other charitable purposes.
- (b) "Fundraising" does not include an alternative method of raising revenue without students.

(8) (a) "Instructional equipment and supplies" means an activity-related, a course-related, or program-related equipment, supply, tool~~{ or }~~, instrument, or other material that:

(i) ~~{ }~~ is required for a student to use as part of an activity, course, or program in a secondary school;

(ii) typically becomes the property of the student upon exiting the activity, course, or program; and

(iii) is subject to a fee waiver.

(b) "Instructional equipment and supplies"~~{ includes }~~ may include:

(i) shears or styling tools;

~~{~~ ~~(ii) a musical instrument;~~

~~— (iii) a camera;~~

~~{~~ ~~(~~iv~~)ii) a stethoscope;~~

~~(~~v~~)iii) sports equipment, including a bat, mitt, or tennis racquet;~~~~{ or }~~

~~(~~vi~~)iv) an item that is medically prescribed, such as footwear;~~

~~— (c) "Instructional equipment" does not include an instructional supply or school equipment;~~

~~— (9) (a) "Instructional supply" means a consumable or non-reusable supply that is necessary for a student to use as part of an activity, course, or program in a secondary school.~~

~~— (b) "Instructional supply" includes:~~

~~— (i) brushes or other art supplies, including~~~~{~~;

~~(~~v~~) clay, paint, or an art canvas;~~

~~(~~iii~~)vi) ~~{ }~~ wood for wood shop;~~

~~(~~iii~~)vii) ~~{ }~~ Legos for Lego robotics;~~

~~(~~iv~~)viii) ~~{ }~~ film; or~~

~~(~~v~~)ix) ~~{ }~~ filament used for ~~{3D}~~3d printing.~~

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(c) "Instructional ~~supply~~ equipment and supplies" does not include ~~instructional equipment or~~ school equipment.

[(8)] (~~10~~;9) (a) "School activity clothing" means special shoes or items of clothing:

(i) (A) that meet specific requirements, including requesting a specific brand, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that is worn by a student for a co-curricular or extracurricular activity.

(b) "School activity clothing" does not include:

(i) a school uniform; or

(ii) clothing that is commonly found in students' homes.

(~~11~~;10) (a) "School equipment" means a durable school-owned machine, equipment, facility, or tool used by a student as part of an activity, course, or program in a secondary school.

(b) "School equipment" does not mean instructional equipment or an instructional supply.

[(9)] (~~12~~;11) (a) "School uniform" means special shoes or an item of clothing:

(i) (A) that meet specific requirements, including a requested specific color, style, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that is worn by a student for a curricular activity.

(b) "School uniform" does not include school activity clothing.

[(10)] (~~13~~;12) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

[(11)] (~~14~~;13) "Secondary school student":

(a) means a student enrolled in a secondary school; and

(b) includes a student in grade 6 if the student attends a secondary school.

[(12)] (~~15~~;14) (a) "Textbook" means ~~[the same as that term is defined in Section 53G-7-601.]~~ instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.

(b) "Textbook" includes:

(i) a hardcopy book or printed pages of instructional material, including a consumable

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workbook; or

(ii) computer hardware, software, or digital content.

(c) "Textbook" does not include instructional equipment or an instructional supply.

~~[(13)]~~ ~~(16)~~ (15) "Waiver" means a full or partial release from a requirement to pay a fee and from any provision in lieu of fee payment.

Section 8. Section **53G-7-503** is amended to read:

53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement.

(1) An LEA may only charge a fee if the fee is:

(a) authorized; and

(b) noticed by the LEA governing board in accordance with Section 53G-7-505.

~~[(2)]~~ (a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.~~[(2)]~~

~~[(2)]~~ (a) Except as provided in Sections 53G-6-402 and 53G-6-503, an LEA may not charge an elementary school student a fee.

~~[(b)]~~ (b) An LEA may not charge a student who is in grade 6 a fee regardless of whether the student is enrolled in an elementary school or secondary school.

~~[(b)]~~ ~~[(c)]~~

(b) An elementary school or elementary school teacher may compile and provide to [a] an elementary school student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish only on a voluntary basis those supplies for student use.

~~[(c)]~~ ~~[(d)]~~ A list provided to an elementary school student's parent in accordance with Subsection (2) ~~[(b)]~~ ~~[(c)]~~ shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(3) Beginning with the 2022-23 school year:

(a) ~~[(1)]~~ for a curricular activity, an LEA may charge a secondary student a fee only for the following:

(i) instructional equipment;

~~[(ii)]~~ an additional discretionary project if the student chooses;

~~[(A)]~~ a project in lieu of, or in addition to, a required classroom project, which may

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~~include a fee for an instructional supply; or~~

~~(B) project materials other than those materials provided for a project, which may include a fee for an instructional supply;~~

~~(iii) and supplies;~~

(ii) an Advanced Placement test;

(~~iv~~)~~iii~~) a driver education course as described in Section 53G-10-504;

(~~v~~)~~iv~~) a payment authorized in Section 53G-6-402, 53G-6-503, or 53G-9-803; ~~or~~

(~~vi~~)~~v~~) a payment described in Subsection (~~6~~)~~5~~; or

(vi) a music instrument rental; and

(b) for that portion of a co-curricular activity that is during regular school hours, an LEA may charge a secondary student a fee only for those fees listed in Subsection (3)(a).

(4) Beginning with the 2022-23 school year, and except as provided in Subsection (6), an LEA may charge a secondary student a fee for:

(a) ~~that~~ that portion of a co-curricular activity that is outside of regular school hours; and

(b) an extracurricular activity.

(5) An LEA may charge a secondary student or an individual a fee for an adult education course in accordance with Section 53E-10-202.

(6) An LEA may not charge a fee:

(a) for school equipment; or

(b) that is:

(i) general in nature; and

(ii) paid for a service or good that does not have a direct benefit to the student paying the fee.

(7) An LEA governing board shall authorize each fee individually.

[~~3~~] (8) (a) Beginning with or after the 2022-2023 school year, if an LEA imposes a fee, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee, including a fee to supplant or subsidize an expense incurred by the LEA for:

(i) a curricular activity; or

(ii) an expense incurred by that portion of a co-curricular activity that occurs during

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regular school hours.

~~[(4)]~~ (9) (a) Beginning with or after the 2021-2022 school year, and notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part [~~or Part 6, Textbook Fees~~], the state board shall impose corrective action against the LEA, which may include:

(i) requiring an LEA to repay improperly charged fees;

(ii) withholding state funds; and

(iii) suspending the LEA's authority to charge fees for an amount of time specified by the state board.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) that require notice and an opportunity to be heard for an LEA affected by a state board action described in Subsection ~~[(4)]~~ (9)(a); and

(ii) to administer this Subsection ~~[(4)]~~ (9).

~~[(5) (a) For each fee on an LEA's fee schedule described in Section 53G-7-505, the LEA shall:]~~

~~[(i) by July 1, 2020, determine whether the fee is curricular, co-curricular, or extracurricular;]~~

~~[(ii) for the 2020-2021 school year, measure the total number of:]~~

~~[(A) students who pay each fee; and]~~

~~[(B) money received for each fee;]~~

~~[(iii) for the 2020-2021 school year, measure the total:]~~

~~[(A) number of students who receive a fee waiver; and]~~

~~[(B) value of each waiver for each waived fee; and]~~

~~[(iv) by July 1, 2021, report the separate categories of data gathered under Subsections (5)(a)(ii) and (iii) to the state board.]~~

~~[(b) The state board shall report on the data the board receives under Subsection (5)(a) to the Education Interim Committee on or before the date of the November interim meeting in 2021.]~~

Section 9. Section **53G-7-504** is amended to read:

53G-7-504. Waiver of fees -- Appeal of decision.

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(1) (a) If an LEA or a school within an LEA charges one or more fees, the LEA shall grant a waiver to a student if charging the fee would deny the student the opportunity to fully participate or complete a requirement because of an inability to pay the fee.

(b) An LEA governing board shall:

(i) adopt policies for granting a waiver; and

(ii) in accordance with Section 53G-7-505, give notice of waiver eligibility and policies.

(2) (a) An LEA that charges a fee under this part [~~and Part 6, Textbook Fees,~~] may provide a variety of alternatives for a student or family to satisfy a fee requirement, including allowing a student to provide:

(i) tutorial assistance to other students;

(ii) assistance before or after school to teachers and other school personnel on school related matters; and

(iii) general community or home service.

(b) Each LEA governing board may add to the list of alternatives provided by the state board, subject to approval by the state board.

(3) With regard to a student who is in the custody of the Division of Child and Family Services who is also eligible under Title IV-E of the federal Social Security Act, an LEA governing board shall require fee waivers or alternatives in accordance with this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) requiring a parent of a student applying for a fee waiver to provide documentation and certification to the school verifying:

(i) the student's eligibility to receive the waiver; and

(ii) if applicable, that the student has complied with alternatives for satisfying the fee requirements under Subsection (2) to the fullest extent reasonably possible according to the individual circumstances of the student and the LEA; and

(b) specifying the acceptable forms of documentation for the requirement under Subsection (4)(a), which shall include verification based on income tax returns or current pay stubs.

(5) Notwithstanding the requirements under Subsection (4), an LEA is not required to

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keep documentation on file after the verification is completed.

(6) If a school denies a student or parent request for a fee waiver, the school shall provide the student or parent:

- (a) the school's written decision to deny a waiver; and
- (b) the procedure to appeal in accordance with LEA policy.

Section 10. Section **53G-7-506**, which is renumbered from Section 53G-7-602 is renumbered and amended to read:

~~[53G-7-602].~~ **53G-7-506. State policy on providing free textbooks.**

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

(3) ~~[(a)] Beginning with the 2022-23 school year, an LEA ~~[(i) except as provided in Subsection (3)(a)(ii);]~~ may not sell textbooks or otherwise charge a fee for textbooks ~~[or the maintenance costs of school equipment; and (ii) may only charge a fee for a textbook required for an Advanced Placement or, as described in Section 53E-10-302, a concurrent enrollment course].~~~~

~~[(b) The LEA shall waive a fee described in Subsection (3)(a)(ii) in full or in part if a student qualifies for a waiver in accordance with Section 53G-7-504.]~~

Section 11. Section **53G-7-507**, which is renumbered from Section 53G-7-603 is renumbered and amended to read:

~~[53G-7-603].~~ **53G-7-507. Purchase of textbooks -- Textbooks provided to teachers.**

(1) An LEA governing board may purchase textbooks directly from the textbook publisher at prices and terms approved by the state board.

(2) An LEA governing board shall purchase each textbook necessary for a teacher to conduct his or her class.

(3) An LEA may pay the LEA's cost of furnishing textbooks from school operating funds, the textbook fund, or from other available funds.

(4) A textbook remains the property of the LEA.

Section 12. Section **53G-7-508**, which is renumbered from Section 53G-7-606 is renumbered and amended to read:

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~~[53G-7-606].~~ 53G-7-508. Disposal of textbooks.

(1) An LEA may not dispose of textbooks without first notifying all other LEAs in the state of the LEA's intent to dispose of the textbooks.

(2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.

(3) The state board shall develop rules and procedures directing the disposal of textbooks.

Section 13. Section **53G-9-803** is amended to read:

53G-9-803. Remediation programs for secondary students.

(1) For purposes of this section:

(a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(b) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the state board.

(3) (a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.

(b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.

(4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until they meet the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter their first year of high school to complete their remediation program during that first year.

(5) (a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.

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(b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

(6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs unless the secondary school student is in grade 6.

Section 14. Section **53G-10-503** is amended to read:

53G-10-503. Driver education funding -- Reimbursement of a local education agency for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1) (a) Except as provided in Subsection (1)(b), a local education agency that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a local education agency may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A local education agency may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2) (a) The state superintendent shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each local education agency that applied for reimbursement in accordance with this section.

(b) A local education agency that maintains driver education classes that conform to this part and the rules prescribed by the state board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a local education agency may:

(a) employ personnel who are not licensed by the state board under Section 53E-6-201;

or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education

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Tax Account in the Uniform School Fund and may not exceed:

- (a) \$100 per student who has completed driver education during the school year;
- (b) \$30 per student who has only completed the classroom portion in the school during the school year; or
- (c) \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent shall allocate the money to each local education agency in the same proportion that the local education agency's reimbursable costs bear to the total reimbursable costs of all local education agencies.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the state superintendent may allocate the excess funds to local education agencies:

- (a) to reimburse each local education agency that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and
- (b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) (a) A local school board shall, in accordance with Chapter 7, Part 5, Student Fees, establish the student fee for driver education for the local education agency.

(b) Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 15. **Repealer.**

This bill repeals:

Section **53G-7-601, Definitions.**