

# HB0391S01 compared with HB0391

~~{deleted text}~~ shows text that was in HB0391 but was deleted in HB0391S01.

inserted text shows text that was not in HB0391 but was inserted into HB0391S01.

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~~{HOME SCHOOL}~~ Representative Paul A. Cutler proposes the following substitute bill:

## STUDENT TRANSFER ~~{TO PUBLIC SCHOOL}~~

### ~~}~~AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul A. Cutler**

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

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#### LONG TITLE

##### General Description:

This bill addresses what a local education agency is required to do when a home school student transfers to a public school within the local education agency.

##### Highlighted Provisions:

This bill:

- ▶ requires each local education agency to create:
  - a policy regarding the transfer of a home school student to a school within the local education agency; and
  - a procedure that ensures that, if a school rejects a nonresident student entry, the parent of the student is given an explanation in writing for the denial; and

## HB0391S01 compared with HB0391

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**53G-6-204**, as last amended by Laws of Utah 2023, Chapter 162

**53G-6-402**, as last amended by Laws of Utah 2023, Chapter 44

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

Section 1. Section **53G-6-204** is amended to read:

**53G-6-204. School-age children exempt from school attendance.**

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

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

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

## HB0391S01 compared with HB0391

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

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

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the

## **HB0391S01 compared with HB0391**

school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed and notarized affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

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

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

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

## HB0391S01 compared with HB0391

(iii) inspect home school facilities; or

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

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed and notarized affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) (a) An LEA **that issues credit toward high school graduation** shall adopt a policy for accepting a transfer of credits for different subject areas for a school-age child who has been attending home school in accordance with Subsection (2)(a)(ii) and is seeking to enroll in a school within an LEA.

(b) The policy described in Subsection (4)(a) shall require a demonstration of competency by a school-age child that is:

(i) relevant to the subject area for which the school-age child is seeking to transfer credits; and

(ii) is based on:

## HB0391S01 compared with HB0391

(A) a review of a portfolio created by the school-age child;

(B) testing; or

(C) other reasonable means as determined by the LEA.

(c) If a school denies a transfer of credits under the policy created under Subsection (4)(a), the school shall provide, in writing, a detailed explanation for the denial to the parent of the school-age child seeking to enroll in the school.

~~[(4)]~~ (5) (a) ~~[Nothing in this section may be construed to]~~ This section does not prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 2. Section 53G-6-402 is amended to read:

**53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.**

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district, giving priority to a child of a military service member, as that term is defined in 53B-8-102.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident

## HB0391S01 compared with HB0391

students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the state board;

(iii) (A) submission of applications from November 15 through the first Friday in February by those seeking admission during the early enrollment period for the following year;  
or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; [and]

(vii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year[-]; and

## HB0391S01 compared with HB0391

(viii) a nonresident student that is rejected entry into the school, a written notification detailing the explanation for the rejection to the parent of the nonresident student.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; or

(d) except for a student described in Subsection (6)(e), the district determines that enrollment within the school will exceed the school's open enrollment threshold; or

(e) for a child of a military service member, as that term is defined in Section 53B-8-102, who moves from temporary to permanent housing outside of the relevant school district boundaries following a permanent change of station:

(i) in kindergarten through grade 10, the student completes the current school year; or

(ii) in grades 11 and 12, the student graduates.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery



## HB0391S01 compared with HB0391

system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the

## HB0391S01 compared with HB0391

provisions of 42 U.S.C. [Section] Sec. 675.

Section ~~{2}~~3. **Effective date.**

This bill takes effect on May 1, 2024.