

SCHOOL FEES MODIFICATIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Adam Robertson

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions related to school fees.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ increases the allowable amount a school district may charge for an enrollment fee;
- ▶ provides refund and waiver provisions for an enrollment fee in certain circumstances;
- ▶ repeals allowances for a school district or charter school to charge secondary students a certain one-time processing fee for enrollment or a fee for remediation programs;
- ▶ prohibits a local education agency (LEA) from charging a fee:
 - unless the LEA governing board authorizes the individual fee and gives certain notice;
 - to a student in grade 6, regardless of elementary or secondary enrollment;
 - to a secondary school student, with certain exceptions, for a curricular activity and other certain items; or
 - to supplant or subsidize an expense for a curricular or certain co-curricular activities;
- ▶ requires an LEA governing board to reduce total secondary school student fees for



curricular activities by a certain percentage each year;

- ▶ amends provisions regarding a fee waiver and alternatives to payment of a fee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-8-401, as last amended by Laws of Utah 2019, Chapters 186 and 314

53G-6-302, as last amended by Laws of Utah 2019, Chapters 293 and 316

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

53G-6-402, as last amended by Laws of Utah 2019, Chapter 293

53G-6-503, 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 2019, Chapter 223

53G-7-503, as last amended by Laws of Utah 2019, Chapters 223 and 293

53G-7-504, as last amended by Laws of Utah 2019, Chapters 223 and 293

53G-7-505, as last amended by Laws of Utah 2019, Chapters 223 and 293

53G-9-306, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

53G-10-503, as last amended by Laws of Utah 2019, Chapters 293 and 325

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

Section 1. 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;
- (c) referred to the Utah Schools for the Deaf and the Blind by:

- 59 (i) the individual's school district of residence;
- 60 (ii) a local early intervention program; or
- 61 (iii) if the referral is consistent with the Individual with Disabilities Education Act, 20
- 62 U.S.C. Sec. 1400 et seq., the Parent Infant Program; and
- 63 (d) identified as deaf, blind, or deafblind through:
- 64 (i) the special education eligibility determination process; or
- 65 (ii) the Section 504 eligibility determination process.
- 66 (2) (a) In determining eligibility for an individual who is younger than age three and is
- 67 deafblind, the following information may be used:
- 68 (i) ophthalmological and audiological documentation;
- 69 (ii) functional vision or hearing assessments and evaluations; or
- 70 (iii) informed clinical opinion conducted by a person with expertise in deafness,
- 71 blindness, or deafblindness.
- 72 (b) Informed clinical opinion shall be:
- 73 (i) included in the determination of eligibility when documentation is incomplete or not
- 74 conclusive; and
- 75 (ii) based on pertinent records related to the individual's current health status and
- 76 medical history, an evaluation and observations of the individual's level of sensory functioning,
- 77 and the needs of the family.
- 78 (3) (a) A student who qualifies for special education shall have services and placement
- 79 determinations made through the IEP process.
- 80 (b) A student who qualifies for accommodations under Section 504 shall have services
- 81 and placement determinations made through the Section 504 team process.
- 82 (4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the
- 83 Blind in accordance with rules of the state board.
- 84 (b) ~~[The]~~ Notwithstanding Section 53G-7-503, the rules shall require the payment of
- 85 tuition for services provided to a nonresident.
- 86 (5) An individual is eligible to receive services from the Utah Schools for the Deaf and
- 87 the Blind under circumstances described in Section 53E-8-408.
- 88 (6) The state board:
- 89 (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.

Section 2. 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:

(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 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 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 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;

152 (ii) the child's parent executes a power of attorney under Section 75-5-103 that:
153 (A) meets the requirements of Subsection (4); and
154 (B) delegates powers regarding care, custody, or property, including schooling, to a
155 responsible adult with whom the child resides;
156 (iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the
157 district;
158 (iv) the child's physical, mental, moral, or emotional health will best be served by
159 considering the child to be a resident for school purposes;
160 (v) the child is prepared to abide by the policies of the school and school district in
161 which attendance is sought; and
162 (vi) the child's attendance in the school will not be detrimental to the school or school
163 district.
164 (4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the
165 district may require the person with whom the child lives to be designated as the child's
166 custodian in a durable power of attorney, issued by the party who has legal custody of the child,
167 granting the custodian full authority to take any appropriate action, including authorization for
168 educational or medical services, in the interests of the child.
169 (b) Both the party granting and the party empowered by the power of attorney shall
170 agree to:
171 (i) assume responsibility for any fees ~~[or other charges]~~, as defined in Section
172 53G-7-501, relating to the child's education in the district; and
173 (ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the
174 school district with all financial information requested by the district for purposes of
175 determining eligibility for fee waivers.
176 (c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of
177 this section and accepted by the school district shall remain in force until the earliest of the
178 following occurs:
179 (i) the child reaches the age of 18, marries, or becomes emancipated;
180 (ii) the expiration date stated in the document; or
181 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,
182 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 3. 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 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;

(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 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 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](#), continue in enrollment until the end of the school year unless excluded from attendance for cause.

Section 4. 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.

(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 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 December 1 through the third 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.

(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) A school district may charge a one-time [~~\$5 processing~~] \$25 enrollment fee, to be paid at the time of application.

(b) A school district shall refund the enrollment fee described in Subsection (5)(a) if a nonresident student enrolls and attends the school for which the nonresident paid the fee.

(c) The enrollment fee described in Subsection (5)(a) is a fee, as defined in Section 53G-7-501, and a school district shall waive the enrollment fee if a nonresident student is eligible for a fee waiver in accordance with Section 53G-7-504.

(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) the district determines that enrollment within the school will exceed the school's open enrollment threshold.

(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 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 provisions of 42 U.S.C. Section 675.

Section 5. Section **53G-6-503** is amended to read:

53G-6-503. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

(a) "Nonresident school district" means a school district other than a student's school district of residence.

(b) "School district of residence" means a student's school district of residence as determined under Section **53G-6-302**.

(c) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

(2) (a) The state board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) the school's opening date, if the school has not yet opened, or the school calendar; and

(C) information on how a student may transfer from a charter school to another charter school or a district school;

(ii) written notification to a student's parent of an offer of admission;

(iii) written acceptance of an offer of admission by a student's parent;

(iv) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and

(v) the admission of students at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is

enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

(b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.

(5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.

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

(7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:

- (i) the student's grade level, if the student is an elementary school student; or
- (ii) the core classes that the student needs to take, if the student is a secondary school student.

(c) State board rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).

(8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.

~~[(9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.]~~

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;

~~[(a)]~~ (c) is conducted outside of regular school hours;

~~[(b)]~~ (d) is provided, sponsored, or supported by an LEA; and

~~[(c)]~~ (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;

~~[(a)]~~ (b) provided, sponsored, or supported by an LEA; and

493 ~~[(b)]~~ (c) conducted only during school hours.

494 (3) "Elementary school" means a school that provides instruction to students in grades
495 kindergarten, 1, 2, 3, 4, 5, or 6.

496 (4) (a) "Elementary school student" means a student enrolled in an elementary school.

497 (b) "Elementary school student" does not include a secondary school student.

498 (5) (a) "Extracurricular activity" means an activity, a course, or a program that is:

499 (i) not directly related to delivering instruction;

500 (ii) not a curricular activity or co-curricular activity; and

501 (iii) provided, sponsored, or supported by an LEA.

502 (b) "Extracurricular activity" does not include a noncurricular club as defined in
503 Section 53G-7-701.

504 (6) (a) "Fee" means a charge, expense, deposit, rental, or payment:

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

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

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

510 (b) "Fee" includes:

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

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

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

517 (iv) charges or expenditures for classroom:

518 (A) textbooks;

519 (B) supplies; or

520 (C) materials;

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

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

523 (c) "Fee" does not include:

- 524 (i) a student fine specifically approved by an LEA for:
525 (A) failing to return school property;
526 (B) losing, wasting, or damaging private or school property through intentional,
527 careless, or irresponsible behavior, or as described in Section 53G-8-212; or
528 (C) improper use of school property, including a parking violation;
529 (ii) a payment for school breakfast or lunch;
530 (iii) a deposit that is:
531 (A) a pledge securing the return of school property; and
532 (B) refunded upon the return of the school property; or
533 (iv) a charge for insurance, unless the insurance is required for a student to participate
534 in an activity, course, or program.
- 535 (7) (a) "Fundraising" means an activity or event provided, sponsored, or supported by
536 an LEA that uses students to generate funds or raise money to:
537 (i) provide financial support to a school or a school's class, group, team, or program; or
538 (ii) benefit a particular charity or for other charitable purposes.
539 (b) "Fundraising" does not include an alternative method of raising revenue without
540 students.
- 541 (8) (a) "School activity clothing" means special shoes or items of clothing:
542 (i) (A) that meet specific requirements, including requesting a specific color, style,
543 fabric, or imprint; and
544 (B) that a school requires a student to provide; and
545 (ii) that is worn by a student for a co-curricular or extracurricular activity.
546 (b) "School activity clothing" does not include a school uniform.
- 547 (9) (a) "School uniform" means special shoes or an item of clothing:
548 (i) (A) that meet specific requirements, including a requested specific color, style,
549 fabric, or imprint; and
550 (B) that a school requires a student to provide; and
551 (ii) that is worn by a student for a curricular activity.
552 (b) "School uniform" does not include school activity clothing.
- 553 (10) "Secondary school" means a school that provides instruction to students in grades
554 7, 8, 9, 10, 11, or 12.

(11) "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) "Textbook" means the same as that term is defined in Section [53G-7-601](#).

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

(i) authorized under this part; and

(ii) authorized and noticed by the LEA governing board in accordance with Section [53G-7-505](#).

(b) An LEA may not charge a fee authorized under this part unless the LEA governing board authorizes and gives notice of the fee in accordance with Section [53G-7-505](#).

(2) (a) (i) ~~[An]~~ Except for an enrollment fee described in Section [53G-6-402](#), an LEA may not ~~[require]~~ charge an elementary school student a fee, including a fee for:

(A) elementary school activities that are part of the regular school day; or ~~[for]~~

(B) supplies used during the regular school day.

(ii) 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 a secondary school.

(b) (i) 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)]~~ (ii) A list provided to an elementary school student's parent in accordance with Subsection (2)(b)(i) 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) Subject to Subsection (1), an LEA may charge a secondary school student a fee for:

(a) an extracurricular activity; or

(b) a co-curricular activity only if the fee is limited to an expense that is directly related

to cost for the portion of the co-curricular activity that is outside of regular school hours.

(4) (a) Notwithstanding Subsection (6), an LEA may require a secondary school student to provide materials or charge a secondary school student a fee for:

(i) an additional discretionary project if the student chooses:

(A) a project in lieu of, or in addition to, a required classroom project; or

(B) project materials other than those materials provided for a project;

(ii) an Advanced Placement test;

(iii) a driver education course as described in Section [53G-10-504](#); or

(iv) a musical instrument used by the student in a curricular activity.

(b) Notwithstanding Subsection (6), an LEA may charge a secondary student or an individual a fee for an adult education course in accordance with Sections [53E-10-202](#) and [53E-10-204](#).

(5) An LEA may not charge a secondary school student a fee:

(a) except as provided in Section [53G-6-402](#), to apply to, register with, enroll in, or attend school; or

(b) for use of a school facility or amenity that is used within the course of the delivery of instruction or ordinary school activities, including a locker rental.

(6) (a) An LEA governing board shall:

(i) beginning with the 2021-22 school year, reduce by 25% each year the total secondary school student fees for curricular activities in an individual school; and

(ii) no later than April 1, 2021, adopt a plan to comply with Subsection (6)(a).

(b) For the 2024-25 school year and each school year thereafter, an LEA may not charge fees to secondary school students for curricular activities.

~~[(3)]~~ (7) (a) Beginning with or after the 2021-2022 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:

(i) supplant or subsidize an expense that the LEA incurs for:

(A) a curricular activity; or

(B) an expense incurred by that portion of a co-curricular activity that occurs during school hours; or

(ii) supplant or subsidize another fee.

~~[(4)]~~ (8) (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) 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)]~~ (8)(a); and

(ii) for the imposition of a fee and to administer this Subsection ~~[(4)]~~ (8).

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

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

(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]~~ shall provide a variety of alternatives for a student or family who qualifies for a fee waiver to satisfy a fee requirement, in addition to the outright waiver of the fee.

(b) The state board shall develop and provide a list of waiver alternatives for LEAs, 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.

648 ~~[(b)]~~ (c) Each LEA governing board may add to the list of alternatives provided by the
649 state board, subject to approval by the state board.

650 (d) An LEA governing board may establish policies providing partial fee waivers or
651 other alternatives for those students who, because of extenuating circumstances, are not in a
652 financial position to pay the entire fee.

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

656 (4) The state board shall make rules:

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

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

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

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

666 (5) Notwithstanding the requirements under Subsection (4), an LEA is not required to
667 keep documentation on file after the verification is completed.

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

670 (a) the school's written decision to deny a waiver; and

671 (b) the procedure to appeal in accordance with LEA policy.

672 Section 10. Section **53G-7-505** is amended to read:

673 **53G-7-505. Approval and notice of student fees and waivers.**

674 (1) An LEA governing board shall annually:

675 (a) adopt fee policies and a fee schedule~~;~~ and that authorizes each fee:

676 (i) individually; and

677 (ii) with a reasonably specific dollar amount; and

678 (b) provide the fee schedule to each student and parent.

(2) For the fee schedule, the LEA governing board shall:

(a) before approving the fee schedule, provide at least two opportunities for the public to comment on the proposed fee schedule;

(b) encourage public participation in the development of the fee schedule; and

(c) approve the fee schedule in a regularly scheduled public meeting.

(3) (a) The fee schedule shall include the following:

(i) a specific amount for each fee on the fee schedule;

(ii) if a student is responsible for multiple fees related to one activity, class, or program, a clear and easy to understand delineation of each fee and the fee total for each activity, class, or program;

(iii) the LEA's fee waiver policy, including an easily understandable statement informing a parent that a student:

(A) may be eligible to have one or more fees waived; and

(B) may appeal the LEA's decision if the LEA denies a request for a fee waiver; and

(iv) a corresponding spending plan for each fee.

(b) The LEA shall:

(i) publish the fee schedule on each of the LEA's school's websites; and

(ii) include a copy of the LEA's fee schedule with the LEA's registration materials.

Section 11. Section **53G-9-306** is amended to read:

53G-9-306. Immunization record part of student's record -- School review process at enrollment -- Transfer.

(1) Each school:

(a) shall request an immunization record for each student at the time the student enrolls in the school;

(b) may not charge a fee, as that term is defined in Section [53G-7-501](#), related to receiving or reviewing an immunization record or a vaccination exemption form; and

(c) shall retain an immunization record for each enrolled student as part of the student's permanent school record.

(2) (a) Within five business days after the day on which a student enrolls in a school, an individual designated by the school principal or administrator shall:

(i) determine whether the school has received an immunization record for the student;

(ii) review the student's immunization record to determine whether the record complies with Subsection 53G-9-302(1); and

(iii) identify any deficiencies in the student's immunization record.

(b) If the school has not received a student's immunization record or there are deficiencies in the immunization record, the school shall:

(i) place the student on conditional enrollment, in accordance with Section 53G-9-308; and

(ii) within five days after the day on which the school places the student on conditional enrollment, provide the written notice described in Subsection 53G-9-308(2).

(3) A school from which a student transfers shall provide the student's immunization record to the student's new school upon request of the student's legally responsible individual.

Section 12. 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.

(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.]~~

Section 13. Section **53G-10-503** is amended to read:

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

(1) (a) Except as provided in Subsection (1)(b), a school district 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 school district 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 school district 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 school district that applied for reimbursement in accordance with this section.

(b) A school district 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 school district 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 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 school district in the same proportion that its reimbursable costs bear to the total reimbursable costs of all school districts.

(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 school districts:

(a) to reimburse each school district 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 school district.

(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 14. **Effective date.**

This bill takes effect July 1, 2020.