

- 1 student achievement in targeted academic areas;
- 2 (b) development and implementation of an accountability program to measure student
3 achievement against targets established in the action plan referred to in Subsection (2)(a);
- 4 (c) development and implementation of a plan to effectively implement technology into
5 the curriculum in such a way that students have the opportunity to learn using that technology;
- 6 (d) except as otherwise provided in this part, the qualification requirements listed in
7 Section 53A-1a-302 for a centennial school and the school director requirements listed in
8 Subsection 53A-1a-303.5(4) for a modified centennial school; and
- 9 (e) if the applicant is a centennial or modified centennial school, it may not receive
10 centennial or modified centennial moneys if selected to participate in this program.
- 11 (3) (a) The school's directors shall develop the action plan required under Subsection
12 (2)(a).
- 13 (b) The plan shall include, at a minimum, the following:
- 14 (i) identification of three areas of academic performance in which the school shall show
15 improvement in student achievement during the three-year program;
- 16 (ii) priority given to improvement in reading, writing, and mathematics, unless the school
17 documents a need for improvement in another academic area after having given due consideration
18 to reading, writing, and mathematics skills;
- 19 (iii) identification of and proposed actions to improve at least two conditions related to
20 teaching and learning, which could include, but not be limited to, conditions such as school safety,
21 increasing the number of parents participating in student education plans or student education -
22 occupation plans, reducing truancy or drop out rates, or enhancing professional development as
23 related to the action plan;
- 24 (iv) identification of the uses of all improvement funds and programs at the school, both
25 state and federal, and, where appropriate, relating these funds and programs to the action plan;
- 26 (v) the development and plans for implementation of meaningful student learning goals
27 by teachers, parents, and students;
- 28 (vi) identification of a means of measuring by objective and quantifiable methods the
29 extent to which the plan has been achieved; and
- 30 (vii) provisions for the professional development of educators at the school focused on
31 improving student performance, for seeking technical assistance in developing and implementing

1 the plan, and for identifying effective models of school improvement.

2 Section 3. Section **53A-1a-403** is enacted to read:

3 **53A-1a-403. Selection of schools -- Funding -- Incentive awards.**

4 (1) The State Board of Education, in collaboration with the governor's office, shall develop
5 and implement application procedures and a process for the selection of up to 60 schools each year
6 over a three-year period for participation in the Schools for the 21st Century Program authorized
7 under this part.

8 (2) Selected schools shall participate in the program and be eligible for funding for three
9 consecutive years.

10 (3) (a) The Legislature shall provide an annual appropriation to fund the program.

11 (b) The board, through the State Office of Education, shall administer and distribute the
12 appropriation in the following manner:

13 (i) each school selected as a first-year participant shall receive a base amount of between
14 \$5,000 to \$10,000 depending on the size of the school;

15 (ii) each first-year school shall also receive an additional per student allocation of up to
16 \$27, based upon the number of students as of October 1 in the program as related to the amount
17 of appropriation available for distribution after the base amount has been calculated for all the
18 schools participating on a first-year basis under Subsection (3)(b)(i);

19 (iii) each school in its second year shall receive \$9 per student and be eligible to receive
20 an incentive award based upon its achievement of second-year goals; and

21 (iv) each school in its third year shall be eligible to receive major incentive awards based
22 upon achievement of third-year goals.

23 (c) (i) The board shall determine the amount of incentive award money given to schools
24 under Subsections (3)(b)(iii) and (iv) on the basis of goal attainment and student enrollment, with
25 a minimum threshold of 50% attainment of goals for second-year schools and a minimum
26 threshold of 60% attainment for third-year schools in order to receive a portion of the award
27 money.

28 (ii) It is estimated that the incentive award money generated for successful second-year
29 schools would be up to \$500 per certificated professional staff member at each participating school
30 and increase to up to \$2,000 per certificated professional staff member for each successful
31 third-year school.

1 (d) (i) First-year schools shall use their allocations for program development,
2 implementation, and evaluation, technical assistance, and teacher development, including the
3 establishment of performance goals and identification of a system of measurement and evaluation.

4 (ii) (A) Second-year schools shall use their per student allocations for continuing program
5 operation, modification, and evaluation.

6 (B) If participating schools meet the threshold established in Subsection(3)(c)(i), based
7 upon documentation of the school's progress provided to the board by the school, the appropriate
8 share of incentive award money shall be distributed each year at the school level as determined by
9 the school directors.

10 (C) The distribution may include giving award shares to the school as a whole or to
11 individual programs at the school or to professional staff members or any combination of these
12 options.

13 (iii) Third-year schools shall receive all appropriate incentive moneys under the program
14 based on year-end evaluation of goal attainment and shall distribute it on the same basis as
15 second-year schools distribute incentive award money under Subsections (3)(d)(ii)(B) and (C).

16 Section 4. Section **53A-1a-404** is enacted to read:

17 **53A-1a-404. Accountability plans -- Reporting and monitoring of program.**

18 (1) Each participant school under this part shall develop an accountability plan to measure
19 student achievement against targets established by the school.

20 (2) The accountability plan shall document the progress towards attaining identified
21 performance goals at the school and report the results annually.

22 (3) (a) The accountability plan shall include the following:

23 (i) documentation of present student achievement levels;

24 (ii) norm-referenced tests which can reasonably assess the performance of students in the
25 areas the school has targeted for improvement, including the Stanford Achievement Test required
26 in grades 5, 8, and 11, where applicable;

27 (iii) criterion-referenced tests which can reasonably assess the performance of students in
28 the areas the school has targeted for improvement, to include the state core assessments; and

29 (iv) documentation of progress toward improving conditions for teaching and learning.

30 (b) The plan may include additional measurements of student performance such as writing
31 assessments or student portfolios.

1 **53A-1-504. Proposal.**

2 (1) A proposal to establish a charter school may be made by an individual or groups of
3 individuals, including teachers and parents or guardians of students who will attend the school, or
4 a legal entity organized under the laws of this state.

5 (2) (a) The principal, teachers, or parents of students at an existing public school may
6 submit a proposal to convert the school or a portion of the school to charter status.

7 (b) (i) At least two-thirds of the certificated educators employed at the school and at least
8 two-thirds of the parents or guardians of students enrolled at the school must have signed a petition
9 approving the proposal prior to its submission to the sponsoring entity if the entire school is
10 applying for charter status.

11 (ii) The percentage is reduced to a simple majority if the conversion is for only a portion
12 of the school.

13 (3) A parochial school or home school is not eligible for charter school status.

14 Section 9. Section **53A-1a-505** is enacted to read:

15 **53A-1-505. Sponsors of charter schools -- Application process.**

16 (1) An applicant for a charter school shall seek sponsorship of its charter from the State
17 Board of Education.

18 (2) (a) The State Board of Education shall review and, by majority vote, either approve
19 or deny the application within 60 days after the application is received by the board.

20 (b) (i) The applicant shall also provide a copy of the application to the local school board
21 of the school district in which the proposed charter school shall be located at the same time it files
22 its application with the state board.

23 (ii) The local board may review the application and may offer suggestions or
24 recommendations to the applicant or the state board prior to its acting on the application.

25 (iii) The state board shall give due consideration to suggestions or recommendations made
26 by the local school board under Subsection (2)(b)(ii).

27 (c) The state board's action under Subsection (2)(a) is final action subject to judicial
28 review.

29 (3) (a) The applicant and the state board shall set forth the terms and conditions for the
30 operation of the charter school in a written contractual agreement.

31 (b) The contract is the school's charter.

1 (4) The State Office of Education and the school district in which the school is to be
2 located may provide technical assistance to an applicant upon written request.

3 Section 10. Section **53A-1a-506** is enacted to read:

4 **53A-1a-506. Eligible students.**

5 (1) All resident students of the state qualify for admission to a charter school, subject to
6 the limitations set forth in this section.

7 (2) (a) A charter school shall enroll an eligible student who submits a timely application,
8 unless the number of applications exceeds the capacity of a program, class, grade level, or the
9 school.

10 (b) (i) If the number of applications exceeds the capacity of a program, class, grade level,
11 or the school, then students shall be selected on a random basis except that the school may give
12 preference to a student of a parent who has actively participated in the development of the school
13 and to siblings of students presently enrolled in the school, not to exceed 30% of the student
14 population for preferential selection.

15 (ii) The school may give preference to students who reside within the school district in
16 which the school is located.

17 (c) When a public school converts to charter status, the school shall give enrollment
18 preference to students who would have otherwise attended it as a regular public school.

19 (3) A charter school may not discriminate in its admission policies or practices on the
20 same basis as other public schools may not discriminate in their admission policies and practices.

21 Section 11. Section **53A-1a-507** is enacted to read:

22 **53A-1a-507. Requirements for charter schools.**

23 (1) A charter school shall be nonsectarian in its programs, admission policies, employment
24 practices, and operations.

25 (2) A charter school may not charge tuition or fees, except those fees normally charged
26 by other public schools.

27 (3) A charter school shall meet all applicable state and local health, safety, and civil rights
28 requirements.

29 (4) (a) A charter school shall make the same annual reports required of other public
30 schools under Title 53A, including an annual financial audit report.

31 (b) The school shall make its reports directly to the State Board of Education and provide

1 a copy to the local school board of the district in which the school is located.

2 (5) A charter school shall be accountable to the state board for performance as provided
3 in Section 53A-1a-509.

4 (6) A charter school may not advocate unlawful behavior.

5 Section 12. Section **53A-1a-508** is enacted to read:

6 **53A-1a-508. Content of a charter -- Term -- Renewal.**

7 (1) The major issues involving the operation of a charter school shall be considered in
8 advance by the applicant for a charter school and written into the school's charter.

9 (2) The governing body of the charter school and the State Board of Education shall sign
10 the charter.

11 (3) The charter shall address:

12 (a) the age or grade levels to be served by the school;

13 (b) the governance structure of the charter school;

14 (c) the financial plan for the school and the provisions which will be made for auditing the
15 school under Subsection 53A-1a-507(4)(a);

16 (d) the mission and education goals of the school, the curriculum offered, and the methods
17 of assessing whether students are meeting educational goals, to include at a minimum participation
18 in the state's public education statewide assessment program and end-of-level core curriculum
19 assessments;

20 (e) admission and dismissal procedures, including suspension procedures;

21 (f) procedures to review complaints of parents regarding the operation of the school;

22 (g) the opportunity for parental involvement at the school;

23 (h) how the school will provide adequate liability and other appropriate insurance for the
24 school, its governing body, and its employees, including its ability to participate in the state's risk
25 management insurance program;

26 (i) the proposed school calendar, including the length of the school day and school year;

27 (j) whether any agreements have been entered into or plans developed with school districts
28 regarding participation of charter school students in extracurricular activities within the school
29 districts;

30 (k) the physical facility in which the school will be located, if known at the time of
31 application, and its address;

1 (l) the qualifications to be required of the teachers; and
2 (m) in the case of an existing public school converting to charter status, alternative
3 arrangements for current students who choose not to attend the charter school and for current
4 teachers who choose not to teach at the school after its conversion to charter status.

5 (4) A charter is for three years and may be modified during the three-year term by mutual
6 agreement of the state board and the governing body of the school.

7 Section 13. Section **53A-1a-509** is enacted to read:

8 **53A-1a-509. Accountability report.**

9 (1) The governing body of a charter school shall make annual progress reports to the State
10 Board of Education and the Legislature through its Education Interim Committee.

11 (2) The report shall contain at least the following information:

12 (a) the school's progress toward achieving its goals as set out in the charter; and

13 (b) financial records of the school, including revenues, expenditures, and employee salary
14 and benefit levels.

15 Section 14. Section **53A-1a-510** is enacted to read:

16 **53A-1a-510. Termination or nonrenewal of a charter.**

17 (1) The State Board of Education may terminate a school's charter during the term of the
18 charter for any of the following reasons:

19 (a) failure of the school to meet the requirements for student performance stated in the
20 charter;

21 (b) failure to meet generally accepted standards of fiscal management;

22 (c) violation of law; or

23 (d) other good cause shown.

24 (2) (a) The board shall notify the governing body of the school of the proposed action in
25 writing, state the grounds for the action, and stipulate that the governing body may request an
26 informal hearing before the board.

27 (b) The board shall conduct the hearing within 30 days after receiving a written request
28 under Subsection (2)(a).

29 (3) (a) The board may terminate a charter immediately if good cause has been shown or
30 if the health, safety, or welfare of the students at the school is threatened.

31 (b) If a charter is terminated under Subsection (3)(a), the school district in which the

1 school is located may assume operation of the school.

2 (4) (a) If a charter is terminated, a student who attended the school may apply to and shall
3 be enrolled in another public school under the enrollment provisions of Title 53A, Chapter 2, Part
4 2, subject to space availability.

5 (b) Normal application deadlines shall be disregarded under Subsection (4)(a).

6 Section 15. Section **53A-1a-511** is enacted to read:

7 **53A-1a-511. Waivers from state board rules.**

8 (1) A charter school shall operate in accordance with its charter and is subject to Title 53A
9 and other state laws applicable to public schools, except as otherwise provided in this part.

10 (2) (a) A charter school may apply to the State Board of Education for a waiver of any
11 state board rule that inhibits or hinders the charter school from accomplishing the mission or
12 educational goals set out in its charter.

13 (b) The state board shall grant the waiver, unless:

14 (i) the waiver would cause the school to be in violation of state or federal law; or

15 (ii) the waiver would threaten the health, safety, or welfare of students at the school.

16 Section 16. Section **53A-1a-512** is enacted to read:

17 **53A-11-512. Employees of charter schools.**

18 (1) A charter school shall select its own employees.

19 (2) The school's governing body shall determine the level of compensation and all terms
20 and conditions of employment, except as otherwise provided in this part.

21 (3) (a) To accommodate differentiated staffing and better meet student needs, a charter
22 school, under rules adopted by the State Board of Education, shall employ teachers who:

23 (i) are certificated; or

24 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
25 certification or authorization programs.

26 (b) The school's governing body shall disclose the qualifications of its teachers to the
27 parents of its students.

28 (4) (a) An employee of a school district may request a leave of absence in order to work
29 in a charter school upon approval of the local school board.

30 (b) While on leave, the employee may retain seniority accrued in the school district and
31 may continue to be covered by the benefit program of the district if the charter school and the

1 district mutually agree.

2 Section 17. Section **53A-1a-513** is enacted to read:

3 **53A-1a-513. Funding for charter schools.**

4 (1) (a) A student enrolled in a charter school is considered a resident student of the school
5 district in which the school is located for purposes of state funding, including, but not limited to,
6 moneys the student would generate as a result of qualifying for such programs as special
7 education, students at risk, and gifted and talented.

8 (b) (i) The State Board of Education shall adopt rules to provide:

9 (A) that the school district in which a charter school student resides shall pay to the school
10 district in which the charter school is located 1/2 of the amount by which the resident district's per
11 student expenditure exceeds the value of the state funding under Subsection (1)(a); and

12 (B) for the distribution of moneys to charter schools under this section.

13 (ii) The rules adopted pursuant to Subsection (b)(i)(A) that require 1/2 rather than all of
14 the amount take into account state school funding laws that require certain local moneys to remain
15 within the resident district.

16 (c) If a charter school is providing eligible programs or services to eligible students funded
17 by federal moneys, any eligible student enrolled in a charter school in the school district shall
18 receive federal moneys for the same level of service provided students in the schools operated by
19 the local school board.

20 (2) (a) The board shall also adopt rules relating to the transportation of students to and
21 from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

22 (b) The governing body of the charter school may provide transportation through an
23 agreement or contract with the local school board, a private provider, or with parents.

24 (3) (a) The State Superintendent of Public Instruction may allocate grants for start-up costs
25 to eligible charter school applicants from monies appropriated for the implementation of this act.

26 (b) Applications for the grants shall be filed on a form determined by the state
27 superintendent and in conjunction with the application for a charter.

28 (c) The amount of a grant may vary based upon the size, scope, and special circumstances
29 of the charter school.

30 (d) The governing board of the charter school shall use the grant to meet the expenses of
31 the school as established in the school's charter.

1 (4) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
2 endowment, gift, or donation of any property made to the school for any of the purposes of this
3 part.

4 (b) It is unlawful for any person affiliated with a charter school to demand or request any
5 gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the
6 charter school as a condition for employment or enrollment at the school or continued attendance
7 at the school.

8 (5) (a) The State Office of Education shall publish and make available to charter school
9 applicants a list of vacant and unused portions of buildings that are owned by the state or by school
10 districts in the state and that may be suitable for the operation of a charter school.

11 (b) The list shall include the address and owner of each building and a short description
12 of the building.

13 (c) Nothing in this Subsection (5) requires the owner of a building on the list to sell or
14 lease the building or a portion of the building to a charter school.

15 Section 18. Section **53A-1a-514** is enacted to read:

16 **53A-1a-514. Tort liability.**

17 (1) An employee of a charter school is a public employee and the governing body is a
18 public employer in the same manner as a local school board for purposes of tort liability.

19 (2) The governing body of a charter school and the school are solely liable for any
20 damages resulting from a legal challenge involving the operation of the school.

21 Section 19. **Appropriation.**

22 (1) There is appropriated for fiscal year 1998-99, \$1,500,000 to the State Board of
23 Education to fund that component of the Schools for the 21st Century established under Title 53A,
24 Chapter 1a, Part 4.

25 (2) It is the intent of the Legislature that this appropriation be ongoing.

26 (3) It is also the intent of the Legislature that the appropriation currently used to fund the
27 Centennial Schools Program shall be a revenue source for the Schools for the 21st Century
28 Program in fiscal years 1999 and 2000 as the Centennial Schools Program is phased out and the
29 Schools for the 21st Century Program is phased in.

30 (4) There is appropriated for fiscal year 1998-99, \$500,000 to the State Board of Education
31 to fund the Charter Schools component established under Title 53A, Chapter 1a, Part 5.

- 1 Section 20. **Effective date.**
- 2 This act takes effect on July 1,1998.

Legislative Review Note
as of 2-10-98 10:20 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel