

CHARTER SCHOOL AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

This act modifies provisions related to the State System of Public Education to amend the Utah Charter Schools Act. The act removes the pilot program status of charter schools. It authorizes the creation of an additional four charter schools under the sponsorship of the State Board of Education for the 2001-02 school year and an increase of \$ up to \$ four per year for

§ [each consecutive] THE FOLLOWING § school year. The act provides a procedure to remedy noncompliance with the Utah Charter Schools Act by a charter school and allows for termination of the school's charter if the school does not come into compliance within an established timeline. The act modifies the funding formula to provide additional monies for charter schools. The act provides for sponsoring of charter schools by local school boards. The act takes effect July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-1a-502, as enacted by Chapter 231, Laws of Utah 1998

§ 53A-1a-505, as enacted by Chapter 231, Laws of Utah 1998

53A-1a-506, as enacted by Chapter 231, Laws of Utah 1998 §

53A-1a-508, as enacted by Chapter 231, Laws of Utah 1998

53A-1a-509, as enacted by Chapter 231, Laws of Utah 1998

53A-1a-513, as enacted by Chapter 231, Laws of Utah 1998

ENACTS:

53A-1a-515, Utah Code Annotated 1953

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

Section 1. Section **53A-1a-502** is amended to read:

53A-1a-502. Authorization - Creation of charter schools.

(1) (a) ~~[As a second part of the Schools for the 21st Century initiative the]~~ The Legislature authorizes the creation of up to ~~[eight]~~ 12 charter schools for ~~[a three-year pilot program]~~ the



28 2001-02 school year.

29 § § [(b) The number of charter schools authorized under this section shall be increased by § UP
 29a TO § four § FOR THE 2002-03 SCHOOL YEAR, WITH NO FURTHER INCREASES IN THE NUMBER
 29b AUTHORIZED UNDER THIS SUBSECTION (1) UNTIL THE PROGRAM HAS BEEN THOROUGHLY
 29c EVALUATED BY THE STATE BOARD OF EDUCATION AND A RECOMMENDATION MADE TO THE
 29d LEGISLATURE AS TO WHETHER THE PROGRAM SHOULD BE EXPANDED FURTHER. §
 30 per year for each school year beginning with the 2002-03 school year:] §

30a § (c) (i) THE ADDITIONAL CHARTER SCHOOLS AUTHORIZED UNDER SUBSECTIONS (1)(a) AND (b)
 30b MAY BE ESTABLISHED ONLY AFTER AN APPLICANT:

30c (A) HAS SOUGHT AND BEEN DENIED SPONSORSHIP BY A LOCAL SCHOOL BOARD UNDER
 30d SECTION 53A-1a-515; AND

30e (B) SUBSEQUENTLY SEEKS AND IS GRANTED SPONSORSHIP BY THE STATE BOARD OF
 30f EDUCATION UNDER SECTION 53A-1a-505.

30g (ii) (A) IN ACCORDANCE WITH TITLE 63, CHAPTER 46a, UTAH ADMINISTRATIVE
 30h RULEMAKING ACT, THE STATE BOARD OF EDUCATION SHALL MAKE A RULE PROVIDING A
 30i TIMELINE THAT WOULD ALLOW AN APPLICANT DENIED SPONSORSHIP BY A LOCAL SCHOOL
 30j BOARD TO APPLY FOR AND RECEIVE SPONSORSHIP APPROVAL BY THE STATE BOARD OF
 30k EDUCATION AND BEGIN OPERATING IN THE SAME SCHOOL YEAR AS ANTICIPATED IN ITS
 30l ORIGINAL APPLICATION TO THE LOCAL SCHOOL BOARD.

30m (B) THE TIMELINE SHALL BE CONSISTENT WITH THE APPLICATION AND APPROVAL
 30n PROCESS SET OUT IN SECTION 53A-1a-515. §

31 (2) Charter schools are considered to be part of the state's public education system.

32 (3) A charter school may be established by creating a new school or converting an existing
 33 public school to charter status.

33a **§ Section 2. Section 53A-1a-505 is amended to read:**

33b **53A-1a-505. Sponsors of charter schools -- Application process.**

33c **(1) An applicant for a charter school shall seek sponsorship of its charter from the State**
 33d **Board of Education, EXCEPT ~~§ THAT AN EXISTING PUBLIC SCHOOL SEEKING TO CONVERT TO A~~**
 33e **~~CHARTER SCHOOL MUST BE SPONSORED BY A LOCAL SCHOOL BOARD~~ § AS § OTHERWISE § PROVIDED**
 33f **IN**
 33f **SECTION 53A-1a-515.**

33g **(2) (a) (i) The applicant shall also provide a copy of the application to the local school board of**
 33h **the school district in which the proposed charter school shall be located either before or at the same**
 33i **time it files its application with the state board.**

33j **(ii) The local board shall review the application and may offer suggestions or**
 33k **recommendations to the applicant or the state board prior to its acting on the application.**

33l **(iii) The state board shall give due consideration to suggestions or recommendations made**
 33m **by the local school board under Subsection (2)(a)(ii).**

33n **(b) The State Board of Education shall review and, by majority vote, either approve or deny**
 33o **the application within 60 days after the application is received by the board.**

33p **(c) The state board's action under Subsection (2)(b) is final action subject to judicial review.**

33q **(3) (a) The applicant and the state board shall set forth the terms and conditions for the**
 33r **operation of the charter school in a written contractual agreement.**

33s **(b) The contract is the school's charter.**

33t **(4) The State Office of Education and the school district in which the school is to be located**
 33u **may provide technical assistance to an applicant upon written request.**

33v **Section ~~[2]~~ 3 . Section 53A-1-506 is amended to read:**

33w **53A-1a-506. Eligible students.**

33x **(1) All resident students of the state qualify for admission to a charter school, subject to the**
 33y **limitations set forth in this section.**

33z **(2) (a) A charter school shall enroll an eligible student who submits a timely application,**
 33aa **unless the number of applications exceeds the capacity of a program, class, grade level, or the**
 33ab **school.**

33ac **(b) (i) If the number of applications exceeds the capacity of a program, class, grade level, or**
 33ad **the school, then students shall be selected on a random basis except that the school may give**
 33ae **preference to a student of a parent who has actively participated in the development of the school and**
 33af **to siblings of students presently enrolled in the school]; ~~not to exceed 20% of the student population~~**
 33ag **for preferential selection].**

33ah **(ii) The school may give preference to students who reside within the school district in which**
 33ai **the school is located.**

33aj **(c) When a public school converts to charter status, the school shall give enrollment**
 33ak **preference to students who would have otherwise attended it as a regular public school.**

33al **(3) A charter school may not discriminate in its admission policies or practices on the same**
 33am **basis as other public schools may not discriminate in their admission policies and practices. §**

34 Section § ~~[2.]~~ 4 § Section 53A-1a-508 is amended to read:

35 **53A-1a-508. Content of a charter -- Term -- Renewal.**

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

38 (2) The governing body of the charter school and the State Board of Education shall sign
 39 the charter **§ , EXCEPT ~~h~~ [THAT AN EXISTING PUBLIC SCHOOL CONVERTING TO CHARTER STATUS**

39a **SHALL SIGN ITS CHARTER WITH THE SPONSORING LOCAL SCHOOL BOARD] AS OTHERWISE PROVIDED ~~h~~**
 39b **UNDER SECTION**

39c **53A-1a-515 § .**

40 (3) The charter shall include:

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

42 (b) the governance structure of the [~~charter~~] school;

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

45 (d) the mission and education goals of the school, the curriculum offered, and the methods
 46 of assessing whether students are meeting educational goals, to include at a minimum participation
 47 in the [~~state's public education statewide assessment program and end-of-level core curriculum~~
 48 ~~assessments]~~ Utah Performance Assessment System for Students under Chapter 1, Part 6,

49 Achievement Tests;

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

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

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

53 (h) how the school will provide adequate liability and other appropriate insurance for the

54 school, its governing body, and its employees, including its ability to participate in the state's risk
55 management insurance program;

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

57 (j) whether any agreements have been entered into or plans developed with school districts

58 regarding participation of charter school students in extracurricular activities within the school

59 districts;

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

62 (l) the qualifications to be required of the teachers; and

63 (m) in the case of an existing public school converting to charter status, alternative
64 arrangements for current students who choose not to attend the charter school and for current
65 teachers who choose not to teach at the school after its conversion to charter status.

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

68 Section 3. Section **53A-1a-509** is amended to read:

69 **53A-1a-509. Accountability report -- Noncompliance.**

70 (1) The governing body of a charter school shall make annual progress reports to the State
71 Board of Education, the local school board of the district in which the school is located, and the
72 Legislature through its Education Interim Committee.

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

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

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

77 (3) (a) If a charter school is found to be out of compliance with the requirements of Section
78 53A-1a-507 or Subsections 53A-1a-509(1) and (2), then the State Board of Education shall notify
79 the school's governing board in writing that the school has a reasonable time to remedy the
80 deficiency, except as otherwise provided in Subsection 53A-1a-510(3)(a).

81 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
82 State Board of Education shall make a rule regarding the timeline for remedying deficiencies under
83 Subsection (3)(a).

84 (c) (i) If the school does not remedy the deficiency within the established timeline, then
85 the State Board of Education may terminate the school's charter.

86 (ii) Subsections 53A-1a-510(2)(a) and (b) do not apply to an action taken under this
87 Subsection (3).

88 Section 4. Section **53A-1a-513** is amended to read:

89 **53A-1a-513. Funding for charter schools.**

90 (1) (a) A student enrolled in a charter school is considered a resident student of the school
 91 district in which the school is located for purposes of state funding, including, but not limited to,
 92 [~~moneys~~] monies the student would generate as a result of qualifying for such programs as special
 93 education, students at risk, and gifted and talented.

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

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

98 (B) for the distribution of [~~moneys~~] monies to charter schools under this section.

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

102 (c) The Legislature shall provide an appropriation for charter schools for each of their
 103 students equal to § THE LESSER OF § 1/2 of the statewide school district average per student
 103a expenditure in excess of
 104 state funding under Subsection (1)(a) § OR 1/2 OF THE AMOUNT BY WHICH THE RESIDENT
 104a DISTRICT'S PER STUDENT EXPENDITURE EXCEEDS THE VALUE OF THE STATE FUNDING UNDER
 104b SUBSECTION (1)(a) § to supplement the local monies received by a charter school
 105 under Subsection (1)(b)(i)(A).

106 [~~(e)~~] (d) If a charter school is providing eligible programs or services to eligible students
 107 funded by federal [~~moneys~~] monies, any eligible student enrolled in a charter school in the school
 108 district shall receive federal [~~moneys~~] monies for the same level of service provided students in
 109 the schools operated by the local school board.

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

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

114 (3) (a) (i) The state superintendent of public instruction may allocate grants for both
 115 start-up and ongoing costs to eligible charter school applicants from monies appropriated for the
 116 implementation of this [~~act~~] part.

117 [~~(b)~~] (ii) Applications for the grants shall be filed on a form determined by the state
 118 superintendent and in conjunction with the application for a charter.

119 [~~(e)~~] (iii) The amount of a grant may vary based upon the size, scope, and special
 120 circumstances of the charter school.

121 ~~[(d)]~~ (iv) The governing board of the charter school shall use the grant to meet the
122 expenses of the school as established in the school's charter.

123 (b) The State Board of Education shall coordinate the distribution of federal monies
124 appropriated to help fund costs for establishing and maintaining charter schools within the state.

125 (4) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
126 endowment, gift, or donation of any property made to the school for any of the purposes of this
127 part~~[, except that federal grants targeted specifically for charter schools may not be used to fund~~
128 ~~charter schools under the pilot program if the State Board of Education or the charter school~~
129 ~~determines that conditions attached to using the grant would compromise the integrity of the pilot~~
130 ~~program].~~

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

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

138 (b) The locally elected school board of the district in which a district owned building is
139 located must give its approval before the building can be placed on the list under Subsection (5)(a).

140 (c) The list shall include the address and owner of each building and a short description
141 of the building.

142 (d) Nothing in this Subsection (5) requires the owner of a building on the list to sell or
143 lease the building or a portion of the building to a charter school.

144 Section 5. Section **53A-1a-515** is enacted to read:

145 **53A-1a-515. Charters sponsored by local school boards.**

146 (1) Individuals and entities identified in Section 53A-1a-505 may enter into an agreement
147 with a local school board to establish and operate a charter school within the geographical
148 boundaries of the school district administered by the board, subject to the same requirements
149 established in Sections 53A-1a-504 through 53A-1a-514, except as otherwise provided in this
150 section.

151 (2) These schools are in addition to the limited number of charter schools authorized under

152 the sponsorship of the State Board of Education in Section 53a-1a-502.

153 (3) (a) An existing public school that converts to charter status may:

154 (i) continue to receive the same services from the school district that it received prior to
155 its conversion; or

156 (ii) contract out for some or all of those services with other public or private providers.

157 (b) Any other charter school sponsored by a local school board may contract with the
158 board to receive some or all of the services referred to in Subsection (3)(a).

159 (4) (a) (i) A public school that converts to a charter school under Subsection (3)(a) shall
160 receive funding on the same basis as it did prior to its conversion to a charter school.

161 (ii) The school may also receive federal monies designated for charter schools under any
162 federal program.

163 (b) (i) Any other charter school sponsored by a local school board shall receive funding
164 as provided under Subsection (4)(a), except as otherwise provided in Subsection (4)(b)(ii).

165 (ii) If the charter school is not operating out of a facility owned by the school district, then
166 the funding provisions of Section 53A-1a-513 apply.

167 (5) (a) A local school board that receives an application for a charter school under this
168 section shall, within 45 days, either accept or reject the application.

169 (b) If the board rejects the application, it shall notify the applicant in writing of the reason
170 for the rejection.

171 (c) The applicant may submit a revised application for reconsideration by the board.

172 (d) If the local school board refuses to sponsor the applicant, then the applicant may seek
173 a charter from the State Board of Education under Section 53A-1a-505.

174 (e) The local board's action under Subsection (5)(d) is final action subject to judicial
175 review.

175a **§ (6) A LOCAL SCHOOL BOARD IS LIMITED IN THE NUMBER OF CHARTER SCHOOLS IT MAY**
175b **SPONSOR UNDER THIS SECTION AS FOLLOWS:**

175c **(a) THERE IS NO LIMITATION ON THE NUMBER OF EXISTING PUBLIC SCHOOLS WITHIN A**
175d **SCHOOL DISTRICT THAT MAY CONVERT TO CHARTER STATUS UNDER THIS SECTION; AND**

175e **(b) THE NUMBER OF CHARTER SCHOOLS NOT CONVERTED FROM EXISTING PUBLIC**
175f **SCHOOLS IS LIMITED TO AN ENROLLMENT EQUAL TO 4% OF THE SCHOOL DISTRICT'S STUDENT**
175g **POPULATION AS REPORTED IN THE MOST RECENT ANNUAL STATISTICAL REPORT REQUIRED**
175h **UNDER SECTION 53A-3-403.**

176 **[~~(6)~~ (7) § A local school board may terminate a charter school it sponsors under this section for**
177 **the same reasons and under the same procedures followed by the State Board of Education under**
178 **Subsection 53A-1a-509(3).**

179 **Section 6. Effective date.**

180 **This act takes effect on July 1, 2001.**

Legislative Review Note
as of 1-26-01 2:19 PM

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

Office of Legislative Research and General Counsel