

28 (1) (a) [~~The Legislature authorizes the~~] The State Board of Education [~~to~~] may sponsor
29 [~~up to~~]:

- 30 (i) [~~16~~] effective July 1, 2003, 20 charter schools; [~~and~~]
- 31 (ii) effective each subsequent July 1, an additional four charter schools; and
- 32 [~~(it)~~] (iii) six New Century High Schools, magnet charter schools focused on math,
33 science, and technology.

34 [~~(b) (i) The State Board of Education shall evaluate the charter school program and~~
35 ~~submit an evaluation report to the Education Interim Committee by October 31, 2002.~~]

36 [~~(ii) The report shall include a recommendation of whether or not the program should~~
37 ~~be expanded further.~~]

38 [~~(c)~~] (b) (i) The charter schools authorized under [~~Subsection~~] Subsections (1)(a)(i) and
39 (1)(a)(ii) may be established only after an applicant:

40 (A) has sought and been denied sponsorship by a local school board under Section
41 53A-1a-515; and

42 (B) subsequently seeks and is granted sponsorship by the State Board of Education
43 under Section 53A-1a-505.

44 (ii) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
45 Act, the State Board of Education shall make a rule providing a timeline that would allow an
46 applicant denied sponsorship by a local school board to apply for and receive sponsorship
47 approval by the State Board of Education and begin planning or operating in the same school
48 year as anticipated in its original application to the local school board.

49 (B) The timeline shall be consistent with the application and approval process set out
50 in Section 53A-1a-515.

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

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

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

55 **53A-1a-505. Sponsors of charter schools -- Application process -- Contract.**

56 (1) (a) An applicant for a charter school [~~shall~~] may seek sponsorship of its charter
57 from the State Board of Education[~~, except as otherwise provided in Section 53A-1a-515.~~] only
58 after the applicant has sought and been denied sponsorship by a local school board.

59 (b) Subsection (1)(a) does not apply to an applicant for a New Century High School as
 60 described in Section 53A-1a-502.

61 (2) (a) [~~(i) The~~] Except as provided in Subsection (2)(b), an applicant seeking
 62 sponsorship of a charter from the State Board of Education shall [also] provide [a copy] notice
 63 of the application to the local school board of the school district in which the proposed charter
 64 school shall be located either before or at the same time it files its application with the state
 65 board.

66 (b) (i) An applicant seeking sponsorship of a New Century High School from the State
 67 Board of Education who has not sought and been denied sponsorship by a local school board
 68 shall provide a copy of the application to the local school board of the school district in which
 69 the proposed New Century High School shall be located either before or at the same time it
 70 files its application with the state board.

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

73 (iii) The state board shall give due consideration to suggestions or recommendations
 74 made by the local school board under Subsection (2)[~~(a)~~](b)(ii).

75 [~~(b)~~] (c) The State Board of Education shall review and, by majority vote, either
 76 approve or deny the application within 60 days after the application is received by the board.

77 [~~(c)~~] (d) The state board's action under Subsection (2)[~~(b)~~](c) is final action subject to
 78 judicial review.

79 (3) (a) [~~The~~] After approval of a charter school application, the applicant and the state
 80 board shall set forth the terms and conditions for the operation of the charter school in a written
 81 contractual agreement.

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

83 Section 3. Section **53A-1a-508** is amended to read:

84 **53A-1a-508. Content of a charter -- Modification of charter.**

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

87 (2) The governing body of the charter school and the State Board of Education shall
 88 sign the charter, except as otherwise provided under Section 53A-1a-515.

89 (3) The charter shall include:

- 90 (a) the age or grade levels to be served by the school;
- 91 (b) the projected maximum number of students to be enrolled in the school and the
- 92 projected enrollment in each of the first three years of operations;
- 93 ~~[(b)]~~ (c) the governance structure of the school;
- 94 ~~[(c)]~~ (d) the financial plan for the school and the provisions which will be made for
- 95 auditing the school under Subsection 53A-1a-507(4)(a);
- 96 ~~[(d)]~~ (e) the mission and education goals of the school, the curriculum offered, and the
- 97 methods of assessing whether students are meeting educational goals, to include at a minimum
- 98 participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6,
- 99 Achievement Tests;
- 100 ~~[(e)]~~ (f) admission and dismissal procedures, including suspension procedures;
- 101 ~~[(f)]~~ (g) procedures to review complaints of parents regarding the operation of the
- 102 school;
- 103 ~~[(g)]~~ (h) the opportunity for parental involvement at the school;
- 104 ~~[(h)]~~ (i) how the school will provide adequate liability and other appropriate insurance
- 105 for the school, its governing body, and its employees, including ~~[its ability]~~ whether the school
- 106 intends to participate in the state's risk management insurance program;
- 107 ~~[(i)]~~ (j) the proposed school calendar, including the length of the school day and school
- 108 year;
- 109 ~~[(j)]~~ (k) whether any agreements have been entered into or plans developed with school
- 110 districts regarding participation of charter school students in extracurricular activities within
- 111 the school districts;
- 112 ~~[(k)]~~ (l) the physical facility in which the school will be located~~[- if known at the time~~
- 113 ~~of application,]~~ and its address;
- 114 ~~[(l)]~~ (m) the qualifications to be required of the teachers; and
- 115 ~~[(m)]~~ (n) in the case of an existing public school converting to charter status,
- 116 alternative arrangements for current students who choose not to attend the charter school and
- 117 for current teachers who choose not to teach at the school after its conversion to charter status.
- 118 (4) A charter may be modified by mutual agreement of the board and the governing
- 119 body of the school.

Section 4. Section **53A-1a-509** is amended to read:

121 **53A-1a-509. Noncompliance -- Rulemaking.**

122 ~~[(1) The governing body of a charter school shall make annual progress reports to the~~
 123 ~~State Board of Education, the local school board of the district in which the school is located,~~
 124 ~~and the Legislature through its Education Interim Committee.]~~

125 ~~[(2) The report shall contain at least the following information:]~~

126 ~~[(a) the school's progress toward achieving its goals as set out in the charter; and]~~

127 ~~[(b) financial records of the school, including revenues, expenditures, and employee~~
 128 ~~salary and benefit levels.]~~

129 ~~[(3)]~~ (1) (a) If a charter school is found to be out of compliance with the requirements
 130 of Section 53A-1a-507 ~~[or Subsections 53A-1a-509(1) and (2), then]~~, the State Board of
 131 Education shall notify the school's governing board in writing that the school has a reasonable
 132 time to remedy the deficiency, except as otherwise provided in Subsection 53A-1a-510(3)(a).

133 (b) (i) If the school does not remedy the deficiency within the established timeline,
 134 ~~[then]~~ the State Board of Education may terminate the school's charter.

135 (ii) Subsections 53A-1a-510(2)(a) and (b) do not apply to an action taken under this
 136 Subsection ~~[(3)]~~ (1).

137 ~~[(4)]~~ (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
 138 Act, the State Board of Education shall make rules:

139 (a) specifying the timeline for remedying deficiencies under Subsection ~~[(3)]~~ (1)(a);
 140 and

141 (b) ensuring the compliance of a charter school with its approved charter.

142 Section 5. Section **53A-1a-510** is amended to read:

143 **53A-1a-510. Termination of a charter.**

144 (1) The State Board of Education may terminate a school's charter ~~[during the term of~~
 145 ~~the charter]~~ for any of the following reasons:

146 (a) failure of the school to meet the requirements stated in the charter;

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

148 (c) subject to Subsection (5), failure to make adequate yearly progress under the No
 149 Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425;

150 ~~[(c)]~~ (d) violation of law; or

151 ~~[(d)]~~ (e) other good cause shown.

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

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

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

159 (b) If a charter is terminated under Subsection (3)(a), the school district in which the
160 school is located may assume operation of the school.

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

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

165 (5) The State Board of Education may terminate a charter pursuant to Subsection (1)(c)
166 under the same circumstances that local educational agencies are required to implement
167 alternative governance arrangements under 20 U.S.C. Sec. 6316.

168 Section 6. Section **53A-1a-512.5** is enacted to read:

169 **53A-1a-512.5. Criminal background checks on school personnel -- Notice --**
170 **Payment of cost -- Request for review.**

171 (1) The chief administrative officer of a charter school:

172 (a) shall require a potential employee or a volunteer who will be given significant
173 unsupervised access to a student in connection with the volunteer's assignment to submit to a
174 criminal background check as a condition for employment or appointment; and

175 (b) where reasonable cause exists, may require an existing employee or volunteer to
176 submit to a criminal background check.

177 (2) The applicant, volunteer, or employee shall receive written notice that the
178 background check has been requested.

179 (3) (a) Fingerprints of the individual shall be taken, and the Criminal Investigations and
180 Technical Services Division of the Department of Public Safety, established in Section
181 53-10-103, shall release the individual's full record of criminal convictions to the administrator
182 requesting the information.

183 (b) The division shall maintain a separate file of fingerprints submitted under
184 Subsection (3)(a) and notify the State Office of Education when a new entry is made against a
185 person whose fingerprints are held in the file regarding:

186 (i) any matters involving an alleged sexual offense;

187 (ii) any matters involving an alleged felony or class A misdemeanor drug offense; or

188 (iii) any matters involving an alleged offense against the person under Title 76, Chapter
189 5, Offenses Against the Person.

190 (c) The cost of maintaining the separate file shall be paid by the State Office of
191 Education from fees charged to those submitting fingerprints.

192 (4) The chief administrative officer or governing body of a charter school shall
193 consider only those convictions which are job-related in deciding whether to employ, appoint,
194 or dismiss an employee, applicant, or volunteer.

195 (5) (a) The charter school shall pay the cost of the background check, except as
196 otherwise provided in Subsection (5)(b), and the monies collected shall be credited to the
197 Criminal Investigations and Technical Services Division to offset its expenses.

198 (b) The charter school may require an applicant to pay the costs of a background check
199 as a condition for consideration for employment or appointment, if the applicant:

200 (i) has passed an initial review;

201 (ii) is one of a pool of no more than five candidates for a position; and

202 (iii) has not been the subject of a criminal background check of similar scope during
203 the preceding two years that was requested by a potential employer or the State Board of
204 Education.

205 (6) The Criminal Investigations and Technical Services Division shall, upon request,
206 seek additional information from regional or national criminal data files in responding to
207 inquiries under this section.

208 (7) (a) The applicant, volunteer, or employee shall have the opportunity to respond to
209 any information received as a result of the background check.

210 (b) A charter school shall resolve any request for review by an applicant, volunteer, or
211 employee seeking employment or employed by the charter school through normal
212 administrative procedures established by the charter school.

213 (8) If a person is denied employment or is dismissed from employment because of

214 information obtained through a criminal background check, the person shall receive written
215 notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons
216 under the procedures set forth in Subsection (7).

217 (9) Information obtained under this part is confidential and may only be disclosed as
218 provided in this section.

219 Section 7. Section **53A-1a-515** is amended to read:

220 **53A-1a-515. Charters sponsored by local school boards.**

221 (1) Individuals and entities identified in Section 53A-1a-504 may enter into an
222 agreement with a local school board to establish and operate a charter school within the
223 geographical boundaries of the school district administered by the board~~[, subject to the same~~
224 ~~requirements established in Sections 53A-1a-504 through 53A-1a-514, except as otherwise~~
225 ~~provided in this section].~~

226 (2) These schools are in addition to the limited number of charter schools authorized
227 under the sponsorship of the State Board of Education in Section 53a-1a-502.

228 (3) (a) An existing public school that converts to charter status under a charter granted
229 by a local school board may:

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

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

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

235 (4) (a) (i) A public school that converts to a charter school under ~~[Subsection (3)(a)]~~ a
236 charter granted by a local school board shall receive funding:

237 (A) through the school district; and

238 (B) on the same basis as it did prior to its conversion to a charter school.

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

241 ~~[(b) (i) Any other charter school sponsored by a local school board shall receive~~
242 ~~funding as provided under Subsection (4)(a), except as otherwise provided in Subsection~~
243 ~~(4)(b)(ii).]~~

244 ~~[(ii) If the charter school is not operating out of]~~

245 (b) (i) A local school board-sponsored charter school operating in a facility owned by
 246 the school district[~~-, then the funding provisions of Section 53A-1a-513 apply.~~] and not paying
 247 reasonable rent to the school district shall receive funding:

248 (A) through the school district; and

249 (B) on the same basis that other district schools receive funding.

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

252 (c) Any other charter school sponsored by a local school board shall receive funding as
 253 provided in Section 53A-1a-513.

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

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

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

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

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

263 [~~(6) A local school board is limited in the number of charter schools it may sponsor~~
 264 ~~under this section as follows:]~~

265 [~~(a) there is no limitation on the number of existing public schools within a school~~
 266 ~~district that may convert to charter status under this section; and]~~

267 [~~(b) the number of charter schools not converted from existing public schools is limited~~
 268 ~~to an enrollment equal to 4% of the school district's student population as reported in the most~~
 269 ~~recent annual statistical report required under Section 53A-3-403.]~~

270 [(7)] (6) A local school board may terminate a charter school it sponsors under this
 271 section for the same reasons and under the same procedures followed by the State Board of
 272 Education under [Subsection] Section 53A-1a-509[(3)].

273 (7) The governing body of a local school board-sponsored charter school shall be
 274 independent of the local school board except as otherwise specifically provided in this chapter.

275 Section 8. **Effective date.**

276

This act takes effect on July 1, 2003.

Legislative Review Note
as of 1-22-03 2:31 PM

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

Office of Legislative Research and General Counsel

State Impact

Passage of this bill authorizes the creation of additional charter schools. The implementation will increase state funding to charter schools for the portion of local funding required. The increase may not be realized until FY 2005 depending on when the charter schools are approved, begin operation and have student enrollment numbers. Funding is dependent on the number of schools chartered and enrollment. It is anticipated that additional funding will be requested through the budgetary process based on prior year enrollment. This may also require consideration of supplemental funding by the 2004 Legislature. The total impact may increase if the Legislature appropriates start-up funds for new charter schools. Full implementation could cost as much as \$1,520,000 in FY 2005.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Uniform School Fund	\$0	\$1,520,000	\$0	\$0
TOTAL	\$0	\$1,520,000	\$0	\$0

Individual and Business Impact

None
