

28 terminated during a school year; and
29 ▶ makes technical amendments.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **53A-1a-501.6**, as enacted by Chapter 251, Laws of Utah 2004
- 37 **53A-1a-504**, as last amended by Chapter 224, Laws of Utah 2000
- 38 **53A-1a-505**, as last amended by Chapter 251, Laws of Utah 2004
- 39 **53A-1a-506**, as last amended by Chapter 259, Laws of Utah 2001
- 40 **53A-1a-508**, as last amended by Chapter 251, Laws of Utah 2004
- 41 **53A-1a-509**, as last amended by Chapter 251, Laws of Utah 2004
- 42 **53A-1a-510**, as last amended by Chapter 251, Laws of Utah 2004
- 43 **53A-1a-512**, as last amended by Chapters 251 and 330, Laws of Utah 2004
- 44 **53A-1a-513**, as last amended by Chapter 257, Laws of Utah 2004
- 45 **53A-1a-515**, as last amended by Chapter 251, Laws of Utah 2004

46 REPEALS:

- 47 **53A-1a-502**, as last amended by Chapter 251, Laws of Utah 2004



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

50 Section 1. Section **53A-1a-501.6** is amended to read:

51 **53A-1a-501.6. Power and duties of State Charter School Board.**

52 (1) The State Charter School Board shall:

53 (a) authorize and promote the establishment of charter schools, subject to the
54 ~~[limitations in Sections 53A-1a-502 and]~~ procedures in Section 53A-1a-505;

55 (b) annually review and evaluate the performance of charter schools authorized by the
56 State Charter School Board and hold the schools accountable for their performance;

57 (c) monitor charter schools authorized by the State Charter School Board for
58 compliance with federal and state laws, rules, and regulations;

59 (d) provide technical support to charter schools and persons seeking to establish charter
60 schools by:

61 (i) identifying and promoting successful charter school models;

62 (ii) facilitating the application and approval process for charter school authorization;

63 (iii) directing charter schools and persons seeking to establish charter schools to
64 sources of private funding and support;

65 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of
66 supporting and strengthening proposals before an application for charter school authorization is
67 submitted to the State Charter School Board or a local school board; and

68 (v) assisting charter schools to understand and carry out their charter obligations;

69 (e) provide technical support, as requested, to a local school board relating to charter
70 schools;

71 (f) make recommendations on legislation and rules pertaining to charter schools to the
72 Legislature and State Board of Education, respectively; and

73 (g) make recommendations to the State Board of Education on the funding of charter
74 schools.

75 (2) The State Charter School Board may:

76 (a) contract;

77 (b) sue and be sued; and

78 (c) (i) at the discretion of the charter school, provide administrative services to, or
79 perform other school functions for, charter schools authorized by the State Charter School
80 Board; and

81 (ii) charge fees for the provision of services or functions.

82 Section 2. Section **53A-1a-504** is amended to read:

83 **53A-1a-504. Proposal.**

84 (1) A proposal to establish a charter school may be made by an individual or groups of
85 individuals, including teachers and parents or guardians of students who will attend the school,
86 or a not-for-profit legal entity organized under the laws of this state.

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

89 (b) (i) At least 2/3 of the licensed educators employed at the school and at least

90 two-thirds of the parents or guardians of students enrolled at the school must have signed a
91 petition approving the proposal prior to its submission to the [~~sponsoring~~] chartering entity if
92 the entire school is applying for charter status.

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

95 (c) A proposal submitted under Subsection (2)(a) must first be approved by the local
96 school board based on its determination that:

97 (i) students opting not to attend the proposed converted school would have access to a
98 comparable public education alternative; and

99 (ii) current teachers who choose not to teach at the converted charter school or who are
100 not retained by the school at the time of its conversion would receive a first preference for
101 transfer to open teaching positions for which they qualify within the school district. If no
102 positions are open, contract provisions or board policy regarding reduction in staff would
103 apply.

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

105 Section 3. Section **53A-1a-505** is amended to read:

106 **53A-1a-505. Application process -- Contract.**

107 (1) (a) An applicant seeking authorization of a charter school[~~, including a New~~
108 ~~Century High School,~~] from the State Charter School Board shall provide a copy of the
109 application to the local school board of the school district in which the proposed charter school
110 shall be located either before or at the same time it files its application with the State Charter
111 School Board.

112 (b) The local board may review the application and may offer suggestions or
113 recommendations to the applicant or the State Charter School Board prior to its acting on the
114 application.

115 (c) The State Charter School Board shall give due consideration to suggestions or
116 recommendations made by the local school board under Subsection (1)(b).

117 (d) The State Charter School Board shall review and, by majority vote, either approve
118 or deny the application [~~within 60 days after the application is received by the board~~].

119 (e) The State Board of Education shall, by majority vote, within 60 days after action by
120 the State Charter School Board under Subsection (1)(d):

121 (i) approve or deny an application approved by the State Charter School Board; or
 122 (ii) hear an appeal, if any, of an application denied by the State Charter School Board.
 123 (f) The State Board of Education's action under Subsection (1)(d) is final action subject
 124 to judicial review.

125 (2) The State Board of Education shall make a rule providing a timeline for the
 126 opening of a charter school following the approval of a charter school application by the State
 127 Charter School Board.

128 (3) (a) After approval of a charter school application, the applicant and the State
 129 Charter School Board shall set forth the terms and conditions for the operation of the charter
 130 school in a written contractual agreement.

131 (b) The agreement is the school's charter.

132 (4) (a) A school holding a charter granted by a local school board may request a charter
 133 from the State Charter School Board.

134 (b) This section shall govern the application and approval of a charter requested under
 135 Subsection (4)(a).

136 ~~[(c) The restrictions on the number of charter schools authorized by the State Charter
 137 School Board in Section 53A-1a-502 do not apply to a school requesting a charter under
 138 Subsection (4)(a).]~~

139 Section 4. Section **53A-1a-506** is amended to read:

140 **53A-1a-506. Eligible students.**

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

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

146 (b) (i) If the number of applications exceeds the capacity of a program, class, grade
 147 level, or the school, then students shall be selected on a random basis, except that the school
 148 may give preference to:

149 (A) a student of a parent who has actively participated in the development of the school
 150 ~~[and to];~~

151 (B) siblings of students presently enrolled in the school[-];

- 152 (C) a student of a parent who is employed by the school;
- 153 (D) students articulating between charter schools offering similar programs that are
- 154 governed by the same governing body; and
- 155 (E) students articulating from one charter school to another pursuant to an articulation
- 156 agreement between the charter schools that is approved by the State Charter School Board.
- 157 (ii) The school may give preference to students who reside within the school district in
- 158 which the school is located.
- 159 (c) When a public school converts to charter status, the school shall give enrollment
- 160 preference to students who would have otherwise attended it as a regular public school.
- 161 (3) A charter school may not discriminate in its admission policies or practices on the
- 162 same basis as other public schools may not discriminate in their admission policies and
- 163 practices.

164 Section 5. Section **53A-1a-508** is amended to read:

165 **53A-1a-508. Content of a charter -- Modification of charter.**

- 166 (1) The major issues involving the operation of a charter school shall be considered in
- 167 advance by the applicant for a charter school and written into the school's charter.
- 168 (2) The governing body of the charter school and the chartering entity shall sign the
- 169 charter.
- 170 (3) The charter shall include:
- 171 (a) the age or grade levels to be served by the school;
- 172 (b) the projected maximum number of students to be enrolled in the school and the
- 173 projected enrollment in each of the first three years of operations;
- 174 (c) the governance structure of the school;
- 175 (d) the financial plan for the school and the provisions which will be made for auditing
- 176 the school under Subsection 53A-1a-507(4);
- 177 (e) the mission and education goals of the school, the curriculum offered, and the
- 178 methods of assessing whether students are meeting educational goals, to include at a minimum
- 179 participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6,
- 180 Achievement Tests;
- 181 (f) admission and dismissal procedures, including suspension procedures;
- 182 (g) procedures to review complaints of parents regarding the operation of the school;

- 183 (h) the opportunity for parental involvement at the school;
- 184 (i) how the school will provide adequate liability and other appropriate insurance for
185 the school, its governing body, and its employees;
- 186 (j) the proposed school calendar, including the length of the school day and school
187 year;
- 188 (k) whether any agreements have been entered into or plans developed with school
189 districts regarding participation of charter school students in extracurricular activities within
190 the school districts;
- 191 (l) the district within which the school will be located and the address of the school's
192 physical facility, if known at the time the charter is signed;
- 193 (m) the qualifications to be required of the teachers;
- 194 (n) in the case of an existing public school converting to charter status, alternative
195 arrangements for current students who choose not to attend the charter school and for current
196 teachers who choose not to teach at the school after its conversion to charter status;
- 197 (o) the school's intention to create a library;
- 198 (p) a description of school administrative and supervisory services;
- 199 (q) fiscal procedures to be used by the school; and
- 200 (r) the school's policies and procedures regarding:
- 201 ~~[(i) employee termination;]~~
- 202 ~~[(ii)]~~ (i) employee evaluation; and
- 203 ~~[(iii)]~~ (ii) employment of relatives.
- 204 (4) A charter may be modified by mutual agreement of the board and the governing
205 body of the school.

206 Section 6. Section **53A-1a-509** is amended to read:

207 **53A-1a-509. Noncompliance -- Rulemaking.**

208 (1) (a) ~~[(i)]~~ If a charter school is found to be out of compliance with the requirements
209 of Section 53A-1a-507 or the school's charter, the chartering entity shall notify the school's
210 governing board in writing that the school has a reasonable time to remedy the deficiency,
211 except as otherwise provided in Subsection 53A-1a-510(3)(a).

212 ~~[(ii) Subsections 53A-1a-510(2)(a) and (b) do not apply to a notification of~~
213 ~~noncompliance taken under Subsection (1)(a)(i).]~~

214 (b) If the school does not remedy the deficiency within the established timeline, the
215 chartering entity may:

216 (i) remove a school director or finance officer;

217 (ii) remove governing board members;

218 (iii) appoint an interim director or mentor to work with the charter school; or

219 (iv) terminate the school's charter.

220 (c) The costs of an interim director or mentor appointed pursuant to Subsection (1)(b)

221 shall be paid from the funds of the charter school for which the interim director or mentor is

222 working.

223 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
224 State Board of Education shall make rules:

225 (a) specifying the timeline for remedying deficiencies under Subsection (1)(a); and

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

227 Section 7. Section **53A-1a-510** is amended to read:

228 **53A-1a-510. Termination of a charter.**

229 (1) A chartering entity may terminate a school's charter for any of the following

230 reasons:

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

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

233 (c) subject to Subsection (5), failure to make adequate yearly progress under the No

234 Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;

235 (d) violation of law; or

236 (e) other good cause shown.

237 (2) (a) The chartering entity shall notify the governing body of the school of the
238 proposed [~~action~~] termination in writing, state the grounds for the [~~action~~] termination, and
239 stipulate that the governing body may request an informal hearing before the chartering entity.

240 (b) The chartering entity shall conduct the hearing in accordance with Title 63, Chapter
241 46b, Administrative Procedures Act, within 30 days after receiving a written request under
242 Subsection (2)(a).

243 (c) If the chartering entity, by majority vote, approves a motion to terminate a charter
244 school, the governing body of the charter school may appeal the decision to the State Board of

245 Education.

246 (d) (i) The State Board of Education shall hear an appeal of a termination made
 247 pursuant to Subsection (2)(c).

248 (ii) The State Board of Education's action is final action subject to judicial review.

249 (3) [~~(a)~~] The chartering entity may terminate a charter immediately if good cause has
 250 been shown or if the health, safety, or welfare of the students at the school is threatened.

251 [~~(b)~~] (4) If a charter is terminated [~~under Subsection (3)(a),~~] during a school year:

252 (a) the school district in which the school is located may assume operation of the
 253 school[;]; or

254 (b) a private management company may be hired to operate the school.

255 [~~(4)~~] (5) (a) If a charter is terminated, a student who attended the school may apply to
 256 and shall be enrolled in another public school under the enrollment provisions of Title 53A,
 257 Chapter 2, Part 2, District of Residency, subject to space availability.

258 (b) Normal application deadlines shall be disregarded under Subsection [~~(4)~~] (5)(a).

259 [~~(5)~~] (6) A chartering entity may terminate a charter pursuant to Subsection (1)(c)
 260 under the same circumstances that local educational agencies are required to implement
 261 alternative governance arrangements under 20 U.S.C. Sec. 6316.

262 Section 8. Section **53A-1a-512** is amended to read:

263 **53A-1a-512. Employees of charter schools.**

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

265 (2) The school's governing body shall determine the level of compensation and all
 266 terms and conditions of employment, except as otherwise provided in Subsections (6) and (7)
 267 and under this part.

268 (3) The following statutes governing public employees and officers do not apply to
 269 charter schools:

270 (a) Chapter 8, Utah Orderly School Termination Procedures Act;

271 (b) Chapter 10, Educator Evaluation; and

272 (c) Title 52, Chapter 3, Prohibiting Employment of Relatives.

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

275 (i) are licensed; or

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

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

280 (5) (a) An employee of a school district may request a leave of absence in order to
281 work in a charter school upon approval of the local school board.

282 (b) While on leave, the employee may retain seniority accrued in the school district and
283 may continue to be covered by the benefit program of the district if the charter school and the
284 locally elected school board mutually agree.

285 (6) Except as provided under Subsection (7), an employee of a charter school shall be a
286 member of a retirement system under Title 49, Utah State Retirement and Insurance Act.

287 (7) (a) At the time of application for a charter school, whether [~~sponsored by the state~~]
288 the chartering entity is the State Charter School Board or a school district, a proposed charter
289 school may make an election of nonparticipation as an employer for retirement programs under
290 Title 49, Chapter 12, Public Employees' Contributory Retirement Act and under Title 49,
291 Chapter 13, Public Employees' Noncontributory Retirement Act.

292 (b) A charter school that was approved prior to July 1, 2004 may make an election of
293 nonparticipation prior to December 31, 2004.

294 (c) An election provided under this Subsection (7):

295 (i) is a one-time election made at the time specified under Subsection (7)(a) or (b);

296 (ii) shall be documented by a resolution adopted by the governing body of the charter
297 school;

298 (iii) is irrevocable; and

299 (iv) applies to the charter school as the employer and to all employees of the charter
300 school.

301 (d) The governing body of a charter school may offer employee benefit plans for its
302 employees:

303 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

304 or

305 (ii) under any other program.

306 Section 9. Section **53A-1a-513** is amended to read:

307 **53A-1a-513. Funding for charter schools.**

308 (1) (a) Charter schools shall receive funding as described in this section, except
309 Subsections (2) through (7) do not apply to charter schools described in Subsection (1)(b).

310 (b) Charter schools [~~sponsored~~] authorized by local school boards that are converted
311 from district schools or operate in district facilities without paying reasonable rent shall receive
312 funding as prescribed in Section 53A-1a-515.

313 (2) (a) Except as provided in Subsection (2)(b), a charter school shall receive state
314 funds, as applicable, on the same basis as a school district receives funds.

315 (b) In distributing funds under Title 53A, Chapter 17a, Minimum School Program Act,
316 to charter schools, charter school pupils shall be weighted, where applicable, as follows:

317 (i) .55 for kindergarten pupils;

318 (ii) .9 for pupils in grades 1-6;

319 (iii) .99 for pupils in grades 7-8; and

320 (iv) 1.2 for pupils in grades 9-12.

321 (c) The State Board of Education shall make rules in accordance with Title 63, Chapter
322 46a, Utah Administrative Rulemaking Act, to administer Subsection (2)(b), including hold
323 harmless provisions to maintain a charter elementary school's funding level for a period of two
324 years after the effective date of the distribution formula.

325 (d) Subsection (2)(b) does not apply to funds appropriated to charter schools to replace
326 local property tax revenues.

327 (3) The State Board of Education shall adopt rules to provide for the distribution of
328 monies to charter schools under this section.

329 (4) (a) The Legislature shall provide an appropriation for charter schools for each of
330 their students to replace some of the local property tax revenues that are not available to charter
331 schools. The amount of money provided for each charter school student shall be determined
332 by:

333 (i) calculating the sum of:

334 (A) school districts' operations and maintenance revenues derived from local property
335 taxes, except revenues from imposing a minimum basic tax rate pursuant to Section
336 53A-17a-135;

337 (B) school districts' capital projects revenues derived from local property taxes; and

338 (C) school districts' expenditures for interest on debt; and
339 (ii) dividing the sum by the total average daily membership of the districts' schools.
340 (b) Of the monies provided to a charter school under Subsection (4)(a), 10% shall be
341 expended for funding school facilities only.
342 (5) Charter schools are eligible to receive federal funds if they meet all applicable
343 federal requirements and comply with relevant federal regulations.
344 (6) The State Board of Education shall distribute funds for charter school students
345 directly to the charter school.
346 (7) (a) Notwithstanding Subsection (2), a charter school is not eligible to receive state
347 transportation funding.
348 (b) The board shall also adopt rules relating to the transportation of students to and
349 from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.
350 (c) The governing body of the charter school may provide transportation through an
351 agreement or contract with the local school board, a private provider, or with parents.
352 (8) (a) (i) The state superintendent of public instruction may allocate grants for both
353 start-up and ongoing costs to eligible charter school applicants from monies appropriated for
354 the implementation of this part.
355 (ii) Applications for the grants shall be filed on a form determined by the state
356 superintendent and in conjunction with the application for a charter.
357 (iii) The amount of a grant may vary based upon the size, scope, and special
358 circumstances of the charter school.
359 (iv) The governing board of the charter school shall use the grant to meet the expenses
360 of the school as established in the school's charter.
361 (b) The State Board of Education shall coordinate the distribution of federal monies
362 appropriated to help fund costs for establishing and maintaining charter schools within the
363 state.
364 (9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
365 endowment, gift, or donation of any property made to the school for any of the purposes of this
366 part.
367 (b) It is unlawful for any person affiliated with a charter school to demand or request
368 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated

369 with the charter school as a condition for employment or enrollment at the school or continued
370 attendance at the school.

371 (10) The State Office of Education shall use up to \$1,044,000 of funding provided for
372 new growth to fund additional growth needs in charter schools in fiscal year 2005.

373 Section 10. Section **53A-1a-515** is amended to read:

374 **53A-1a-515. Charters authorized by local school boards.**

375 (1) Individuals and entities identified in Section 53A-1a-504 may enter into an
376 agreement with a local school board to establish and operate a charter school within the
377 geographical boundaries of the school district administered by the board.

378 [~~(2) These schools are in addition to the limited number of charter schools authorized~~
379 ~~by the State Charter School Board in Section 53A-1a-502.~~]

380 [(~~3~~)] (2) (a) An existing public school that converts to charter status under a charter
381 granted by a local school board may:

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

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

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

387 [(~~4~~)] (3) (a) (i) A public school that converts to a charter school under a charter granted
388 by a local school board shall receive funding:

389 (A) through the school district; and

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

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

393 (b) (i) A local school board-authorized charter school operating in a facility owned by
394 the school district and not paying reasonable rent to the school district shall receive funding:

395 (A) through the school district; and

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

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

399 (c) Any other charter school authorized by a local school board shall receive funding as

400 provided in Section 53A-1a-513.

401 ~~[(5)]~~ (4) (a) A local school board that receives an application for a charter school under
402 this section shall, within 45 days, either accept or reject the application.

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

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

406 (d) If the local school board refuses to authorize the applicant, the applicant may seek a
407 charter from the State Charter School Board under Section 53A-1a-505.

408 ~~[(6)]~~ (5) The State Board of Education shall make a rule providing for a timeline for
409 the opening of a charter school following the approval of a charter school application by a local
410 school board.

411 ~~[(7)]~~ (6) (a) After approval of a charter school application, the applicant and the local
412 school board shall set forth the terms and conditions for the operation of the charter school in a
413 written contractual agreement.

414 (b) The agreement is the school's charter.

415 ~~[(8)]~~ (7) A local school board shall:

416 (a) annually review and evaluate the performance of charter schools authorized by the
417 local school board and hold the schools accountable for their performance;

418 (b) monitor charter schools authorized by the local school board for compliance with
419 federal and state laws, rules, and regulations; and

420 (c) provide technical support to charter schools authorized by the local school board to
421 assist them in understanding and performing their charter obligations.

422 ~~[(9)]~~ (8) A local school board may terminate a charter school it authorizes as provided
423 in Sections 53A-1a-509 and 53A-1a-510.

424 ~~[(10)]~~ (9) The governing body of a local school board-authorized charter school shall
425 be independent of the local school board except as otherwise specifically provided in this
426 chapter.

427 Section 11. **Repealer.**

428 This bill repeals:

429 Section **53A-1a-502, State Charter School Board to authorize the establishment of**
430 **charter schools.**

Legislative Review Note

as of 2-2-05 10:13 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0178

Charter School Amendments

11-Feb-05

11:03 AM

State Impact

This bill removes the limit on the number of charter schools that can be approved. Increased State costs would be dependent upon the number of charter schools approved and the enrollment counts as they impact charter school local replacement funding. Currently, the State pays \$1,051 per charter school student in addition to regular weighted pupil unit allocations.

Individual and Business Impact

The bill could encourage additional charter school formation and schooling opportunity for individuals.

Office of the Legislative Fiscal Analyst