

1 **CHARTER SCHOOL AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Howard A. Stephenson**

5 House Sponsor: Rebecca D. Lockhart

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions regarding the operation and governance of charter
10 schools.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ expands the membership of the State Board of Education by including a member of
14 the State Charter School Board as a nonvoting member;

15 ▶ removes a statutory enrollment cap on charter schools;

16 ▶ allows the State Board of Education to approve an increase in charter school
17 enrollment capacity subject to the Legislature appropriating funds for the increase;

18 ▶ modifies procedures for:

19 • admitting students to charter schools; and

20 • transferring from a charter school to a school district or another charter school;

21 ▶ modifies conflict of interest provisions applicable to charter school officers;

22 ▶ provides for the nomination by the State Charter School Board of members of a
23 committee that reviews requests for loans to charter schools; and

24 ▶ makes technical amendments.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 This bill provides an effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53A-1-101**, as last amended by Laws of Utah 2009, Chapter 346

32 **53A-1a-502.5**, as last amended by Laws of Utah 2009, Chapter 391

33 **53A-1a-506.5**, as last amended by Laws of Utah 2008, Chapter 222

34 **53A-1a-515**, as last amended by Laws of Utah 2007, Chapter 344

35 **53A-1a-518**, as enacted by Laws of Utah 2007, Chapter 344

36 **53A-21-401**, as renumbered and amended by Laws of Utah 2008, Chapter 236



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

39 Section 1. Section **53A-1-101** is amended to read:

40 **53A-1-101. State Board of Education -- Members.**

41 (1) Members of the State Board of Education shall be nominated and elected as
42 provided in Title 20A, Chapter 14, Nomination and Election of State and Local School
43 Boards.

44 (2) (a) In addition to the members designated under Subsection (1), the following
45 members shall serve as nonvoting members of the State Board of Education:

46 (i) two members of the State Board of Regents, appointed by the chair of the State
47 Board of Regents; [~~and~~]

48 (ii) one member of the Utah College of Applied Technology Board of Trustees,
49 appointed by the chair of the board of trustees[-]; and

50 (iii) one member of the State Charter School Board, appointed by the chair of the State
51 Charter School Board.

52 (b) A nonvoting member shall continue to serve as a member without a set term until
53 the member is replaced by the chair of the State Board of Regents [~~or the~~], chair of the Utah
54 College of Applied Technology Board of Trustees, or chair of the State Charter School Board,
55 as applicable.

56 Section 2. Section **53A-1a-502.5** is amended to read:

57 **53A-1a-502.5. Approval of increase in charter school enrollment capacity.**

58 ~~[(1) The State Charter School Board and local school boards may only authorize a~~
59 ~~combined maximum student capacity of:]~~

60 ~~[(a) 32,921 students for the charter schools in the 2008-09 school year; and]~~

61 ~~[(b) beginning in the 2009-10 school year, an annual increase in charter school~~
62 ~~enrollment capacity equal to 1.4% of total school district enrollment as of October 1 of the~~
63 ~~previous school year:]~~

64 ~~[(2)(a) The State Board of Education, in consultation with the State Charter School~~
65 ~~Board, shall allocate the students under Subsection (1) between the State Charter School~~
66 ~~Board and local school boards:]~~

67 ~~[(b) One-third of the student capacity described under Subsection (1)(b) shall be~~
68 ~~allocated to increase the maximum student capacity of operating charter schools:]~~

69 ~~[(c) If the operating charter schools do not use the allocation described under~~
70 ~~Subsection (2)(b), the remaining student capacity may be used by new charter schools:]~~

71 ~~[(3) An] (1) The State Board of Education may approve an increase in charter school~~
72 ~~enrollment capacity in the [2011-12] 2012-13 school year or thereafter [shall receive: (a)~~
73 ~~tentative approval by the State Board of Education by November 30 of the year that is two~~
74 ~~years before the year that the increase in charter school enrollment capacity takes effect; and~~
75 ~~(b) final approval by the State Board of Education by the following April 1, subject to~~
76 ~~legislative authorization of] subject to the Legislature appropriating funds for the increase in~~
77 ~~charter school enrollment capacity.~~

78 ~~(2) (a) If the Legislature does not appropriate funds for an increase in charter school~~
79 ~~enrollment capacity that is tentatively approved by the State Board of Education, the State~~
80 ~~Board of Education shall request the State Charter School Board to prioritize the tentatively~~
81 ~~approved schools and expansions based on approved funds.~~

82 ~~(b) The State Charter School Board shall submit a prioritized list of tentatively~~
83 ~~approved schools and expansions to the State Board of Education for final approval.~~

84 ~~(c) A charter school or expansion that is tentatively approved, but not funded, shall be~~
85 ~~considered to be tentatively approved for the next application year and receive priority status~~

86 for available funding.

87 Section 3. Section **53A-1a-506.5** is amended to read:

88 **53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.**

89 (1) As used in this section:

90 (a) "District school" means a public school under the control of a local school board
91 elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School
92 Boards.

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

95 (c) "School district of residence" means a student's school district of residence as
96 determined under Section 53A-2-201.

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

99 ~~[(+)]~~ (2) (a) The State School Board, in consultation with the State Charter School
100 Board, shall make rules describing procedures for students to follow in applying for entry into,
101 or exiting, a ~~[new]~~ charter school ~~[or a charter school that has increased its capacity].~~

102 (b) The rules under Subsection ~~[(+)]~~ (2)(a) shall, at a minimum, provide~~[- as a~~
103 ~~minimum;]~~ for:

104 ~~[(i) distribution to interested parties of information about charter schools, charter~~
105 ~~school opening dates, and how to apply for admission;]~~

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

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

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

110 (II) the school calendar; and

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

113 (ii) use of standard application forms prescribed by the State Board of Education;

114 ~~[(iii) an initial period of applications that shall include:]~~
115 ~~[(A) submission of applications until the third Friday in February by those seeking~~
116 ~~admission for the following year;]~~
117 ~~[(B) (iii) written notification to ~~[the] a~~ student's parent or legal guardian of an offer of~~
118 ~~[acceptance or the rejection of an application by March 31; and] admission;~~
119 ~~[(C) (iv) written acceptance of ~~[the offer by the] an offer of admission by a~~ student's~~
120 ~~parent or legal guardian ~~[by April 30];~~~~
121 ~~[(iv) procedures for the additional submission, notification, and written acceptance of~~
122 ~~applications subsequent to the period described under Subsection (1)(b)(iii), to be concluded~~
123 ~~prior to June 30;]~~
124 (v) written notification to a student's current charter school or ~~[resident] school district~~
125 ~~of residence~~ upon acceptance of ~~[that] the~~ student for enrollment in a charter school; and
126 (vi) the admission of students, provided that the admission does not disqualify the
127 charter school from ~~[any] federal funding, at:~~
128 (A) any time to protect the health or safety of a student; or
129 (B) times other than those permitted under standard policies if there are other
130 conditions of special need that warrant consideration.
131 (c) The rules under Subsection ~~[(1)] (2)~~(a) shall prevent the parent of a student who is
132 enrolled in a charter school or who has accepted an offer ~~[as described in Subsection~~
133 ~~(1)(b)(iii)(C)] of admission to a charter school~~ from duplicating enrollment for ~~[that] the~~
134 student in another charter school or a school district without following the withdrawal
135 procedures described in Subsection ~~[(2)] (3)~~.
136 ~~[(2)] (3)~~ The parent of a student enrolled in a charter school may withdraw the student
137 from ~~[that] the~~ charter school for enrollment in another charter school or a school district by
138 submitting to the charter school:
139 ~~[(a) submitting notice of intent to enroll the student in the district of residence for the~~
140 ~~subsequent year to the student's charter school no later than June 30 of the current school~~
141 ~~year;]~~

142 ~~[(b) submitting notice of intent to enroll the student in another charter school for the~~
143 ~~subsequent school year to the current charter school of attendance, together with a letter of~~
144 ~~acceptance from the proposed charter school of attendance, no later than June 30 of the current~~
145 ~~school year; or]~~

146 ~~[(c) obtaining approval from both the charter school of attendance and the school~~
147 ~~district or charter school in which enrollment is sought, if the parent desires to change the~~
148 ~~student's enrollment during the school year or after June 30.]~~

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

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

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

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

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

157 ~~[(3)]~~ (4) (a) A charter school shall report to a school [districts] district, by the last
158 business day [in April, May, June, July, and August,] of each month the aggregate [numbers]
159 number of new students, sorted by their [resident] school of residence and grade level, who
160 have accepted enrollment in the charter school for the following school year.

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

164 ~~[(4)]~~ (5) When a vacancy occurs because a student has withdrawn from a charter
165 school, [that] the charter school may immediately enroll a new student from its list of
166 applicants.

167 ~~[(5)]~~ (6) Unless provisions have previously been made for enrollment in another
168 school, a charter school releasing a student from enrollment during a school year shall
169 immediately notify the school district of residence, which shall enroll the student in the

170 ~~[resident]~~ school district of residence and take ~~[such]~~ additional steps as may be necessary to
171 ensure compliance with laws governing school attendance.

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

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

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

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

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

189 ~~[(6)]~~ (9) A school district or charter school may charge secondary students a one-time
190 \$5 processing fee, to be paid at the time of application.

191 Section 4. Section **53A-1a-515** is amended to read:

192 **53A-1a-515. Charters authorized by local school boards.**

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

196 ~~[(b) The charter schools described in Subsection (1)(a) are in addition to the limited~~
197 ~~number of charter schools authorized by the State Charter School Board in Section~~

198 ~~53A-1a-502.5.]~~

199 (2) (a) An existing public school that converts to charter status under a charter granted
200 by a local school board may:

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

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

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

206 (3) (a) (i) A public school that converts to a charter school under a charter granted by a
207 local school board shall receive funding:

208 (A) through the school district; and

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

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

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

214 (A) through the school district; and

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

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

218 (c) Subject to the provisions in Section 53A-1a-502.5, a charter school authorized by a
219 local school board shall receive funding as provided in Section 53A-1a-513.

220 (d) (i) A charter school authorized by a local school board, but not described in
221 Subsection (3)(a), (b), or (c) shall receive funding:

222 (A) through the school district; and

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

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

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

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

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

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

233 (5) The State Board of Education shall make a rule providing for a timeline for the
234 opening of a charter school following the approval of a charter school application by a local
235 school board.

236 (6) (a) After approval of a charter school application, the applicant and the local
237 school board shall set forth the terms and conditions for the operation of the charter school in a
238 written contractual agreement.

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

240 (7) A local school board shall:

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

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

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

247 (8) A local school board may terminate a charter school it authorizes as provided in
248 Sections 53A-1a-509 and 53A-1a-510.

249 (9) In addition to the exemptions described in Sections 53A-1a-511 and 53A-1a-512,
250 a charter school authorized by a local school board is:

251 (a) not required to separately submit a report or information required under this title to
252 the State Board of Education if the information is included in a report or information that is
253 submitted by the local school board or school district; and

254 (b) exempt from the requirement under Section 53A-1a-507 that a charter school shall
255 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation
256 Act.

257 Section 5. Section **53A-1a-518** is amended to read:

258 **53A-1a-518. Regulated transactions and relationships -- Definitions --**
259 **Rulemaking.**

260 (1) As used in this section:

261 (a) "Charter school officer" means:

262 (i) a member of a charter school's governing board;

263 (ii) a member of a board or an officer of a nonprofit corporation under which a charter
264 school is organized and managed; [~~and~~] or

265 (iii) the chief administrative officer of a charter school.

266 (b) (i) "Employment" means a position in which a person's salary, wages, pay, or
267 compensation, whether as an employee or contractor, is paid from charter school funds.

268 (ii) "Employment" does not include a charter school volunteer.

269 (c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
270 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
271 sister-in-law, son-in-law, or daughter-in-law.

272 (2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer
273 may not be employed at a charter school.

274 (b) If a relative of a charter school officer is to be considered for employment in a
275 charter school, the charter school officer shall:

276 (i) disclose the relationship, in writing, to the other charter school officers;

277 (ii) submit the employment decision to the charter school's governing board for the
278 approval, by majority vote, [~~to~~] of the charter school's governing board;

279 (iii) abstain from voting on the issue; and

280 (iv) be absent from any meeting when the employment is being considered and
281 determined.

282 (3) (a) ~~[A]~~ Except as provided in Subsections (3)(b) and (3)(c), a charter school officer
283 or a relative of a charter school officer may not have a financial interest in a contract or other
284 transaction involving a charter school in which the charter school officer serves as a charter
285 school officer.

286 (b) If a charter school's governing board considers entering into a contract or executing
287 a transaction in which a charter school officer or a relative of a charter school officer has a
288 financial interest, the charter school officer shall:

289 (i) disclose the financial interest, in writing, to the other charter school officers;

290 (ii) submit the contract or transaction decision to the charter school's governing board
291 for the approval, by majority vote, of the charter school's governing board;

292 (iii) abstain from voting on the issue; and

293 (iv) be absent from any meeting when the contract or transaction is being considered
294 and determined.

295 ~~[(b)]~~ (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of
296 employment for:

297 (i) the chief administrative officer of a charter school; ~~[and]~~ or

298 (ii) ~~[the]~~ a relative of the chief administrative officer of a charter school whose
299 employment is approved in accordance with the provisions in Subsection (2).

300 (4) The State Board of Education or State Charter School Board may not operate a
301 charter school.

302 Section 6. Section **53A-21-401** is amended to read:

303 **53A-21-401. Capital Outlay Loan Program -- School Building Revolving**

304 **Account -- Access to the account.**

305 (1) There is created:

306 (a) the "Capital Outlay Loan Program" to provide:

307 (i) short-term help to school districts to meet district needs for school building
308 construction and renovation; and

309 (ii) assistance to charter schools to meet school building construction and renovation

310 needs; and

311 (b) a nonlapsing "School Building Revolving Account" administered within the
312 Uniform School Fund by the state superintendent of public instruction in accordance with
313 rules adopted by the State Board of Education.

314 (2) The State Board of Education may not allocate funds from the School Building
315 Revolving Account that exceed a school district's bonding limit minus its outstanding bonds.

316 (3) In order to receive monies from the account, a school district shall:

317 (a) levy a combined capital levy rate of at least .0024;

318 (b) contract with the state superintendent of public instruction to repay the monies,
319 with interest at a rate established by the state superintendent, within five years of receipt, using
320 future state capital outlay allocations, local revenues, or both;

321 (c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan
322 repayments, unless the state superintendent of public instruction alters the payment schedule
323 to improve a hardship situation; and

324 (d) meet any other condition established by the State Board of Education pertinent to
325 the loan.

326 (4) (a) The state superintendent shall establish a committee, including representatives
327 from state and local education entities, to:

328 (i) review requests by school districts for loans under this section; and

329 (ii) make recommendations regarding approval or disapproval of the loan applications
330 to the state superintendent.

331 (b) If the committee recommends approval of a loan application under Subsection
332 (4)(a)(ii), the committee's recommendation shall include:

333 (i) the recommended amount of the loan;

334 (ii) the payback schedule; and

335 (iii) the interest rate to be charged.

336 (5) (a) There is established within the School Building Revolving Account the Charter
337 School Building Subaccount administered by the State Board of Education, in consultation

338 with the State Charter School Board, in accordance with rules adopted by the State Board of
339 Education.

340 (b) The Charter School Building Subaccount shall consist of:

341 (i) money appropriated to the subaccount by the Legislature;

342 (ii) money received from the repayment of loans made from the subaccount; and

343 (iii) interest earned on monies in the subaccount.

344 (c) The state superintendent of public instruction shall make loans to charter schools
345 from the Charter School Building Subaccount to pay for the costs of:

346 (i) planning expenses;

347 (ii) constructing or renovating charter school buildings;

348 (iii) equipment and supplies; or

349 (iv) other start-up or expansion expenses.

350 (d) Loans to new charter schools or charter schools with urgent facility needs may be
351 given priority.

352 (6) (a) The State Board of Education shall establish a committee~~[- which shall include~~
353 ~~individuals who have expertise or experience in finance, real estate, and charter school~~
354 ~~administration, one of whom shall be nominated by the governor]~~ to:

355 (i) review requests by charter schools for loans under this section; and

356 (ii) make recommendations regarding approval or disapproval of the loan applications
357 to the State Charter School Board and the State Board of Education.

358 (b) (i) A committee established under Subsection (6)(a) shall include individuals who
359 have expertise or experience in finance, real estate, or charter school administration.

360 (ii) Of the members appointed to a committee established under Subsection (6)(a):

361 (A) one member shall be nominated by the governor; and

362 (B) the remaining members shall be selected from a list of nominees submitted by the
363 State Charter School Board.

364 ~~[(b)]~~ (c) If the committee recommends approval of a loan application under Subsection
365 (6)(a)(ii), the committee's recommendation shall include:

366 (i) the recommended amount of the loan;

367 (ii) the payback schedule; and

368 (iii) the interest rate to be charged.

369 [~~(c)~~] (d) The committee members may not:

370 (i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or

371 (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person

372 or entity that contracts with a loan applicant.

373 (7) The State Board of Education, in consultation with the State Charter School Board,

374 shall approve all loans to a charter school under this section.

375 (8) The term of a loan to a charter school under this section may not exceed five years.

376 (9) The State Board of Education may not approve loans to charter schools under this

377 section that exceed a total of \$2,000,000 in any year.

378 **Section 7. Effective date.**

379 This bill takes effect on May 10, 2010, except the amendments to Section 53A-1a-518

380 take effect on July 1, 2011.