

## HB0289S01 compared with HB0289

~~deleted text~~ shows text that was in HB0289 but was deleted in HB0289S01.

inserted text shows text that was not in HB0289 but was inserted into HB0289S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Sophia M. DiCaro proposes the following substitute bill:

### CHARTER SCHOOL CLOSURE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Sophia M. DiCaro**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies provisions related to the closure of a charter school.

##### Highlighted Provisions:

This bill:

- ▶ amends provisions related to the closure of a charter school;
- ▶ amends a charter school authorizer's duties;
- ▶ grants rulemaking authority to the State Board of Education; and
- ▶ makes technical and conforming changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

None

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### Utah Code Sections Affected:

#### AMENDS:

**53A-1a-502.5**, as last amended by Laws of Utah 2014, Chapter 406

**53A-1a-504**, as last amended by Laws of Utah 2015, Chapter 389

**53A-1a-510.5**, as last amended by Laws of Utah 2014, Chapter 363

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

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

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

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The State Board of Education may approve an increase in charter school enrollment capacity [~~in the 2012-13 school year or thereafter~~] subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.

(4) (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

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(c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after consultation with charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

(i) an expansion of a charter school when another charter school issues a notice of closure; and

(ii) the establishment of a satellite campus.

~~[(5)]~~ (6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(5)]~~ (6)(b) or ~~[(6)]~~ (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the State Board of Education shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection ~~[(6)]~~ (7)(a)(i).

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

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### 53A-1a-504. Charter school application -- Applicants -- Contents.

(1) (a) An application to establish a charter school may be submitted by:

- (i) an individual;
- (ii) a group of individuals; or
- (iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation;

and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements described in Section

53A-1a-512.5;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal

law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

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- (i) students who choose not to continue attending the charter school; and
- (ii) teachers who choose not to continue teaching at the charter school;
- (i) a statement that describes the charter school's plan for establishing the charter

school's facilities, including:

- (i) whether the charter school intends to lease or purchase the charter school's facilities;

and

- (ii) financing arrangements;
- (j) a market analysis of the community the school plans to serve;
- (k) a capital facility plan;
- (l) a business plan;
- (m) other major issues involving the establishment and operation of the charter school;

and

- (n) the signatures of the governing board members of the charter school.

- (3) A charter school authorizer may require a charter school application to include:

- (a) the charter school's proposed:

- (i) curriculum;
- (ii) instructional program; or
- (iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;

- (c) a proposed calendar;
- (d) sample policies;
- (e) a description of opportunities for parental involvement;
- (f) a description of the school's administrative, supervisory, or other proposed services

that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding the expansion of a charter school, including establishing a satellite campus, that provide:]~~

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~~[(a) requirements for a charter school to apply and qualify for expansion; and]~~

~~[(b) procedures and deadlines for the application process.]~~

Section 3. Section **53A-1a-510.5** is amended to read:

### **53A-1a-510.5. Charter school closure.**

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53A-1a-510 or the conversion of a charter school to a private school, the provisions of this section apply.

~~[(2) (a) ~~{}~~ As soon as possible ~~{}~~ If an authorizer decides after the decision is made to close a charter school, ~~{no later than 10 days after the day on which the authorizer makes the decision [is made] to close [a] the charter school,~~ ~~{}~~ notification of the decision, in writing, shall be provided by the charter school to ~~{}~~ ;]~~

(2) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53A-1a-510(2)(c);

(b) when the State Board of Education takes final action described in Subsection 53A-1a-510(2)(d)(ii); or

(c) when a charter school provides notice to the charter ~~{school shall notify the following in writing}~~ school's authorizer that the charter school ~~{will be closed:~~

~~— (i) [its] }~~ is relinquishing the charter school's charter.

(3) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

~~[(i) its] (A) if the charter school made the decision to close,~~ the charter [school] school's authorizer;

~~[(ii)] (B) the State Charter School Board;~~

~~{(iii)} [(iii)] (C) if the State Board of Education did not make the decision to close,~~ the State Board of Education;

~~[(iv)] (D) parents of [its] students enrolled ~~{in}~~ at the charter school;~~

~~[(v) ~~{}~~ its] (E) the charter school's creditors; [and]~~

~~{(vi)} (F) the charter school's lease holders;~~

~~{(vii)} (G) the charter school's bond issuers;~~

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~~{viii}~~ H other entities that may have a claim to the charter school's assets; ~~{and}~~

~~{vi}~~ ~~{ix}~~ I the school district in which the charter school is located and other charter schools located in that school district ~~{~~.

~~— (b) The notification [under] } [-]; and~~

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The [notification under] notice described in Subsection ~~{(2)}~~ (3)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school;

and

(iii) contact information for the charter school during the transition.

~~{(3) [A] No later than 30 days after the day on which an authorizer makes the decision to close a charter school, the } (3) A closing charter school shall: }~~

~~{(a) present a school closure plan to its { } authorizer as soon as possible after the decision to close is made; }~~

(4) After a decision to close a charter school is made, the closing charter school shall:

~~{(b)}~~ (a) designate a custodian for the protection of student files and school business records;

~~{(c)}~~ (b) maintain a base of operation throughout the charter school closing, including:

(i) an office;

(ii) hours of operation; [and]

(iii) operational telephone service with voice messaging stating the hours of operation;

and

(iv) a designated individual to respond to questions or requests during the hours of operation; ~~{and}~~

~~{(d)}~~ (c) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the {authorizer[;]} ~~{~~.

~~— (4) The closing } charter school's { authorizer shall ensure that the closing charter school: }~~

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~~[(e) complete] (a) completes~~ authorizer;

~~[(e)] (d) complete~~ a financial audit or other procedure required by board rule

immediately after the decision to close is made;

~~[(f)] ((b)e) takes~~ inventory ~~{ of }~~ all assets of the charter school; and

~~[(g)] (f) list~~ [(c) lists] all creditors of the charter school and specifically ~~{ }~~ identify ~~{ }~~ identifies secured creditors and assets that are security interests ~~[, and]~~.

~~[(h) protect] [(d) protects]~~ all school assets against theft, misappropriation, and deterioration. ~~{ }~~

~~[(4)] (5) The closing charter school's authorizer shall ensure that:~~

~~(a) any~~ ]

~~[(4) (a) Any] assets held subject to written conditions or limitations in accordance with Section 53A-1a-517 { }~~ shall be ~~{ are }~~ disposed of in accordance with those conditions or limitations ~~{ }, { }~~.

~~[(b) { } All { (i) all } liabilities and obligations of the closing charter school { } shall be { are } paid and discharged { } or {~~

~~{ (ii) } adequate provisions { } shall be { are }~~ made to discharge the liabilities and obligations to the extent of the closing ~~{ charter }~~ school's assets ~~{ }, { } { and~~

~~{ (c) (i) { } The remaining assets shall be returned ]~~

(5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).

(6) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer. { }

~~[(ii) The] (b) The closing charter school's~~ authorizer ~~[ may ] shall~~ liquidate assets at fair market value or assign the assets to another public school. ~~{ }~~

~~[(5) To { (c) to } the extent possible, all leases, service agreements, and other contracts not necessary for the transition of the closing charter school { } should be { are } terminated.]~~

(~~{6}~~7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with board rule.

~~[(6)] (~~{7}~~8) The closing charter school shall:~~

(a) comply with all state and federal reporting requirements; and

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(b) submit all documentation and complete all state and federal reports required by [its] the closing charter school's authorizer or the State Board of Education, including documents to verify [its] the closing charter school's compliance with procedural requirements [~~as well as~~] and satisfaction of all financial issues.

~~[(7)]~~ ~~(18;9)~~ When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

~~[(8) The]~~ ~~(19;10)~~ On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education [~~may~~] shall, after consultation with charter school authorizers, make rules that:

(a) provide additional closure [~~requirements upon~~] procedures for charter schools [~~or that specify elements of charter school closure plans.~~]; and

(b) establish a charter school closure process.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**