

SCHOOLS FOR THE 21ST CENTURY

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Brian R. Allen

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING FOR A THREE-YEAR SCHOOLS FOR THE 21ST CENTURY PROGRAM OF CONTINUOUS IMPROVEMENT; PROVIDING REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM; REQUIRING AN ACTION PLAN; PROVIDING FOR THE SELECTION OF PARTICIPANTS; PROVIDING FOR FUNDING AND INCENTIVE AWARDS; PROVIDING A \$1,300,000 APPROPRIATION; PROVIDING FOR THE CREATION OF UP TO EIGHT PILOT CHARTER SCHOOLS FOR THREE YEARS AS A COMPONENT OF SCHOOLS FOR THE 21ST CENTURY; PROVIDING FOR A CHARTERING PROCESS; DESIGNATING THE STATE BOARD OF EDUCATION AS THE SPONSOR OF CHARTER SCHOOLS; PROVIDING REQUIREMENTS FOR CHARTER SCHOOLS; IDENTIFYING ISSUES TO BE ADDRESSED IN THE SCHOOL'S CHARTER; PROVIDING FOR INPUT FROM THE LOCAL BOARD OF EDUCATION OF THE DISTRICT IN WHICH A PROPOSED CHARTER SCHOOL IS TO BE LOCATED PRIOR TO THE GRANTING OF A CHARTER; PROVIDING FOR AN ACCOUNTABILITY REPORT; PROVIDING FOR TERMINATION OF A CHARTER; PROVIDING FOR WAIVERS; AND PROVIDING AN EFFECTIVE DATE.

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

ENACTS:

53A-1a-401, Utah Code Annotated 1953

53A-1a-402, Utah Code Annotated 1953

53A-1a-403, Utah Code Annotated 1953

53A-1a-404, Utah Code Annotated 1953

53A-1a-501, Utah Code Annotated 1953

53A-1a-502, Utah Code Annotated 1953

53A-1a-503, Utah Code Annotated 1953

- 53A-1a-504, Utah Code Annotated 1953
- 53A-1a-505, Utah Code Annotated 1953
- 53A-1a-506, Utah Code Annotated 1953
- 53A-1a-507, Utah Code Annotated 1953
- 53A-1a-508, Utah Code Annotated 1953
- 53A-1a-509, Utah Code Annotated 1953
- 53A-1a-510, Utah Code Annotated 1953
- 53A-1a-511, Utah Code Annotated 1953
- 53A-1a-512, Utah Code Annotated 1953
- 53A-1a-513, Utah Code Annotated 1953
- 53A-1a-514, Utah Code Annotated 1953
- 63A-4-204.5, Utah Code Annotated 1953

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

Section 1. Section **53A-1a-401** is enacted to read:

Part 4. Schools for the 21st Century

53A-1a-401. Purpose.

(1) The Legislature recognizes that public schools leading educational reform into the 21st Century will be schools that aggressively pursue the goal of continuous improvement and customize their education programs to address individual needs of students, and that the state's Centennial and Modified Centennial Schools Programs have established a strong foundation for the emergence of just such a program.

(2) The Legislature further recognizes that financial incentives can help stimulate and provide opportunities for public schools to discover and implement creative solutions to each school's unique challenges in helping to prepare individual students to compete and succeed in what has become a global society.

Section 2. Section **53A-1a-402** is enacted to read:

53A-1a-402. Establishment of Schools for the 21st Century Program -- Qualifications for participation.

(1) There is established a Schools for the 21st Century Program to allow selected public schools to commit to a challenging course of continuous improvement.

(2) Participation in the program is on a voluntary basis and subject to the following requirements:

(a) development and implementation of a three-year action plan designed to continue to improve student achievement in targeted academic areas;

(b) development and implementation of an accountability program to measure student achievement against targets established in the action plan referred to in Subsection (2)(a);

(c) development and implementation of a plan to effectively implement technology into the curriculum in such a way that students have the opportunity to learn using that technology;

(d) except as otherwise provided in this part, the qualification requirements listed in Section 53A-1a-302 for a centennial school and the school directors requirements listed in Subsection 53A-1a-303.5(4) for a modified centennial school; and

(e) if the applicant is a centennial or modified centennial school, it may not receive centennial or modified centennial moneys if selected to participate in this program.

(3) (a) The school's directors shall develop the action plan required under Subsection (2)(a).

(b) The plan shall include, at a minimum, the following:

(i) identification of three areas of academic performance in which the school shall show improvement in student achievement during the three-year program;

(ii) priority given to improvement in reading, writing, and mathematics, unless the school documents a need for improvement in another academic area after having given due consideration to reading, writing, and mathematics skills;

(iii) identification of and proposed actions to improve at least two conditions related to teaching and learning, which could include, but not be limited to, conditions such as school safety, increasing the number of parents participating in student education plans or student education - occupation plans, reducing truancy or drop out rates, or enhancing professional development as related to the action plan;

(iv) identification of the uses of all improvement funds and programs at the school, both

state and federal, and, where appropriate, relating these funds and programs to the action plan;

(v) the development and plans for implementation of meaningful student learning goals by teachers, parents, and students;

(vi) identification of a means of measuring by objective and quantifiable methods the extent to which the plan has been achieved; and

(vii) provisions for the professional development of educators at the school focused on improving student performance, for seeking technical assistance in developing and implementing the plan, and for identifying effective models of school improvement.

(4) The school board of the district in which the applicant school is located must have reviewed and approved the school's action plan prior to its submittal to the State Board of Education

Section 3. Section **53A-1a-403** is enacted to read:

53A-1a-403. Selection of schools -- Funding -- Incentive awards.

(1) The State Board of Education and local school boards, in collaboration with the governor's office, shall develop and implement application procedures and a process for the selection of up to 60 schools each year over a three-year period for participation in the Schools for the 21st Century Program authorized under this part.

(2) Selected schools shall participate in the program and be eligible for funding for three consecutive years.

(3) (a) The Legislature shall provide an annual appropriation to fund the program.

(b) The board, through the State Office of Education, shall administer and distribute the appropriation in the following manner:

(i) each school selected as a first-year participant shall receive a base amount of either \$5,000 or \$10,000 depending on the size of the school;

(ii) each first-year school shall also receive an additional per student allocation of up to \$27, based upon the number of students as of October 1 in the program as related to the amount of appropriation available for distribution after the base amount has been calculated for all the schools participating on a first-year basis under Subsection (3)(b)(i);

(iii) each school in its second year shall receive \$9 per student and be eligible to receive an

incentive award based upon its achievement of second-year goals; and

(iv) each school in its third year shall be eligible to receive major incentive awards based upon achievement of third-year goals.

(c) (i) The board shall determine the amount of incentive award money given to schools under Subsections (3)(b)(iii) and (iv) on the basis of goal attainment and student enrollment, with a minimum threshold of 50% attainment of goals for second-year schools and a minimum threshold of 60% attainment for third-year schools in order to receive a portion of the award money.

(ii) It is estimated that the incentive award money generated for successful second-year schools would be up to \$500 per certificated professional staff member at each participating school and increase to up to \$2,000 per certificated professional staff member for each successful third-year school.

(d) (i) First-year schools shall use their allocations for program development, implementation, and evaluation, technical assistance, and teacher development, including the establishment of performance goals and identification of a system of measurement and evaluation.

(ii) (A) Second-year schools shall use their per student allocations for continuing program operation, modification, and evaluation.

(B) If participating schools meet the threshold established in Subsection(3)(c)(i), based upon documentation of the school's progress provided to the board by the school, the appropriate share of incentive award money shall be distributed each year at the school level as determined by the school directors.

(C) The distribution may include giving award shares to the school as a whole or to individual programs at the school or to professional staff members or any combination of these options.

(iii) Third-year schools shall receive all appropriate incentive moneys under the program based on year-end evaluation of goal attainment and shall distribute it on the same basis as second-year schools distribute incentive award money under Subsections (3)(d)(ii)(B) and (C).

Section 4. Section **53A-1a-404** is enacted to read:

53A-1a-404. Accountability plans -- Reporting and monitoring of program.

(1) Each participant school under this part shall develop an accountability plan to measure student achievement against targets established by the school.

(2) The accountability plan shall document the progress towards attaining identified performance goals at the school and report the results annually.

(3) (a) The accountability plan shall include the following:

(i) documentation of present student achievement levels;

(ii) norm-referenced tests which can reasonably assess the performance of students in the areas the school has targeted for improvement, including the Stanford Achievement Test required in grades 5, 8, and 11, where applicable;

(iii) criterion-referenced tests which can reasonably assess the performance of students in the areas the school has targeted for improvement, to include the state core assessments; and

(iv) documentation of progress toward improving conditions for teaching and learning.

(b) The plan may include additional measurements of student performance such as writing assessments or student portfolios.

(4) (a) The state board, in cooperation with the local school boards of the districts in which the participant schools are located, shall closely monitor the activities of each school participating in the program and provide assistance if requested by the school's directors.

(b) The state board, in collaboration with the school directors and the local school board of the district in which the participant school is located, shall require an annual evaluation on each school's achievement of its performance goals established pursuant to this part and provide a summary report on the evaluations to the local school boards, the Legislature, and the governor.

Section 5. Section **53A-1a-501** is enacted to read:

Part 5. Charter Schools

53A-1a-501. Short title.

This part is known as "The Utah Charter Schools Act."

Section 6. Section **53A-1a-502** is enacted to read:

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

(1) As a second part of the Schools for the 21st Century initiative the Legislature authorizes

the creation of up to eight charter schools for a three-year pilot program.

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

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

Section 7. Section **53A-1a-503** is enacted to read:

53A-1a-503. Purpose.

The purpose of charter schools is to:

(1) continue to improve student learning;

(2) encourage the use of different and innovative teaching methods;

(3) create new professional opportunities for educators that will allow them to actively participate in designing and implementing the learning program at the school;

(4) increase choice of learning opportunities for students;

(5) establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools; and

(6) provide opportunities for greater parental involvement in management decisions at the school level.

Section 8. Section **53A-1a-504** is enacted to read:

53A-1a-504. Proposal.

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

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

(b) (i) At least two-thirds of the certificated educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the proposal prior to its submission to the sponsoring entity if the entire school is applying for charter status.

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

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

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

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

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

Section 9. Section **53A-1a-505** is enacted to read:

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

(1) An applicant for a charter school shall seek sponsorship of its charter from the State Board of Education.

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

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

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

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

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

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

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

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

Section 10. Section **53A-1a-506** is enacted to read:

53A-1a-506. Eligible students.

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

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

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

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

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

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

Section 11. Section **53A-1a-507** is enacted to read:

53A-1a-507. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools

under Title 53A, including an annual financial audit report.

(b) The school shall make its reports directly to the State Board of Education and provide a copy to the local school board of the district in which the school is located.

(5) A charter school shall be accountable to the state board for performance as provided in Section 53A-1a-509.

(6) A charter school may not advocate unlawful behavior.

Section 12. Section **53A-1a-508** is enacted to read:

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

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

(2) The governing body of the charter school and the State Board of Education shall sign the charter.

(3) The charter shall include:

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

(b) the governance structure of the charter school;

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

(d) the mission and education goals of the school, the curriculum offered, and the methods of assessing whether students are meeting educational goals, to include at a minimum participation in the state's public education statewide assessment program and end-of-level core curriculum assessments;

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

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

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

(h) how the school will provide adequate liability and other appropriate insurance for the school, its governing body, and its employees, including its ability to participate in the state's risk management insurance program;

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

(j) whether any agreements have been entered into or plans developed with school districts regarding participation of charter school students in extracurricular activities within the school districts;

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

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

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

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

Section 13. Section **53A-1a-509** is enacted to read:

53A-1a-509. Accountability report.

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

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

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

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

Section 14. Section **53A-1a-510** is enacted to read:

53A-1a-510. Termination or nonrenewal of a charter.

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

(a) failure of the school to meet the requirements for student performance stated in the charter, which performance should be at least equal to that of similar public schools within the district in which the charter school is located, unless the uniqueness of the school prevents making such comparisons;

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

(c) violation of law; or

(d) other good cause shown.

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

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

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

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

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

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

Section 15. Section **53A-1a-511** is enacted to read:

53A-1a-511. Waivers from state board rules.

(1) A charter school shall operate in accordance with its charter and is subject to Title 53A and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at

the school.

Section 16. Section **53A-1a-512** is enacted to read:

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

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

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

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

(i) are certificated; or

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

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

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

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

Section 17. Section **53A-1a-513** is enacted to read:

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

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

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

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

(B) for the distribution of moneys to charter schools under this section.

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

(c) If a charter school is providing eligible programs or services to eligible students funded by federal moneys, any eligible student enrolled in a charter school in the school district shall receive federal moneys for the same level of service provided students in the schools operated by the local school board.

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

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

(3) (a) The State Superintendent of Public Instruction may allocate grants for start-up costs to eligible charter school applicants from monies appropriated for the implementation of this act.

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

(c) The amount of a grant may vary based upon the size, scope, and special circumstances of the charter school.

(d) The governing board of the charter school shall use the grant to meet the expenses of the school as established in the school's charter.

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

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

at the school.

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

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

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

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

Section 18. Section **53A-1a-514** is enacted to read:

53A-1a-514. Tort liability.

(1) An employee of a charter school is a public employee and the governing body is a public employer in the same manner as a local school board for purposes of tort liability.

(2) The governing body of a charter school and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Section 19. Section **63A-4-204.5** is enacted to read:

63A-4-204.5. Charter school participation is Risk Management Fund.

(1) A charter school established under the authority of Title 53A, Chapter 1a, Part 5, the Utah Charter Schools Act, may participate in the Risk Management Fund upon the approval of the state risk manager and the governing body of the charter school.

(2) (a) For purposes of administration, the state risk manager shall treat each charter school participating in the fund as a state agency.

(b) Each charter school participating in the fund shall comply with the provisions of this part that affect state agencies.

(3) (a) The risk manager shall at least annually:

(i) prepare information summarizing the coverage provided to school teachers by the Risk Management Fund; and

(ii) provide that information to participating charter schools.

(b) Each participating charter school shall provide the coverage information to each school teacher.

Section 20. Appropriation.

(1) There is appropriated for fiscal year 1998-99, \$800,000 to the State Board of Education to fund that component of the Schools for the 21st Century established under Title 53A, Chapter 1a, Part 4.

(2) It is also the intent of the Legislature that the appropriation currently used to fund the Centennial Schools Program shall be a revenue source for the Schools for the 21st Century Program in fiscal years 1999 and 2000 as the Centennial Schools Program is phased out and the Schools for the 21st Century Program is phased in.

(3) There is appropriated for fiscal year 1998-99, \$500,000 to the State Board of Education to fund the Charter Schools component established under Title 53A, Chapter 1a, Part 5.

Section 21. Effective date.

This act takes effect on July 1, 1998.