

CHARTER SCHOOL GOVERNANCE

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Marda Dillree

LONG TITLE

General Description:

This bill modifies the State System of Public Education Code to create a new entity to authorize charter schools and modify requirements imposed on charter schools.

Highlighted Provisions:

This bill:

▶ creates the State Charter School Board consisting of seven members appointed by the governor;

▶ specifies the powers and duties of the State Charter School Board, including the power to:

- authorize and promote the establishment of charter schools **H**, **SUBJECT TO**

APPROVAL OF THE STATE BOARD OF EDUCATION **h** ; and

- hold charter schools accountable for their performance;

▶ provides for a staff director for the State Charter School Board appointed by the superintendent of public instruction, with the consent of the State Charter School Board;

H [~~▶ removes the State Board of Education's power to authorize the establishment of new charter schools;~~] **h**

▶ provides for the dissolution of charters with the State Board of Education and directs the State Charter School Board to grant charters to schools previously chartered by the State Board of Education;

- ▶ expands the purposes of charter schools;

- ▶ expands the provisions to be addressed in a school's charter;



- 28 ▶ exempts charter schools from various state laws and rules of the State Board of
- 29 Education;
- 30 ▶ requires the State Charter School Board to study existing state law and
- 31 administrative rules for the purpose of determining from which laws and rules
- 32 charter schools should be exempt, and submit recommendations to the State Board
- 33 of Education and the Education Interim Committee; and
- 34 ▶ clarifies the duties of local school boards in authorizing charter schools.

35 Monies Appropriated in this Bill:

36 None

37 Other Special Clauses:

38 None

39 Utah Code Sections Affected:

40 AMENDS:

41 **53A-1a-502**, as last amended by Chapter 199, Laws of Utah 2003

42 **53A-1a-503**, as enacted by Chapter 231, Laws of Utah 1998

43 **53A-1a-505**, as last amended by Chapter 199, Laws of Utah 2003

44 **53A-1a-507**, as enacted by Chapter 231, Laws of Utah 1998

45 **53A-1a-508**, as last amended by Chapter 199, Laws of Utah 2003

46 **53A-1a-509**, as last amended by Chapter 199, Laws of Utah 2003

47 **53A-1a-510**, as last amended by Chapter 199, Laws of Utah 2003

48 **53A-1a-511**, as enacted by Chapter 231, Laws of Utah 1998

49 **53A-1a-512**, as last amended by Chapter 224, Laws of Utah 2000

49a **Ĥ 53A-1a-513, as last amended by Chapter 320, Laws of Utah 2003 ĥ**

50 **53A-1a-515**, as last amended by Chapters 199 and 320, Laws of Utah 2003

51 **53A-16-101.5**, as last amended by Chapters 226 and 320, Laws of Utah 2003

52 **63-55b-153**, as last amended by Chapters 131 and 223, Laws of Utah 2003

53 ENACTS:

54 **53A-1a-501.3**, Utah Code Annotated 1953

55 **53A-1a-501.5**, Utah Code Annotated 1953

56 **53A-1a-501.6**, Utah Code Annotated 1953

57 **53A-1a-501.7**, Utah Code Annotated 1953

58 **53A-1a-501.8**, Utah Code Annotated 1953

59 **53A-1a-503.5**, Utah Code Annotated 1953

60 REPEALS:

61 **53A-1a-516**, as enacted by Chapter 313, Laws of Utah 2002



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

64 Section 1. Section **53A-1a-501.3** is enacted to read:

65 **53A-1a-501.3. Definitions.**

66 As used in this part, "chartering entity" means the entity that authorizes the
67 establishment of a charter school.

68 Section 2. Section **53A-1a-501.5** is enacted to read:

69 **53A-1a-501.5. State Charter School Board created.**

70 (1) (a) The State Charter School Board is created consisting of the following members
71 appointed by the governor:

72 (i) two members who have expertise in finance or small business management;

73 (ii) three members who are appointed from a slate of at least six candidates nominated
74 by Utah's charter schools; and

75 (iii) two members who are appointed from a slate of at least four candidates nominated
76 by the State Board of Education.

77 (b) Each appointee shall have demonstrated dedication to the purposes of charter
78 schools as outlined in Section 53A-1a-503.

79 (2) (a) State Charter School Board members shall serve four-year terms, except three of
80 the initial members appointed by the governor shall be appointed for a two-year term.

81 (b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired
82 term.

83 (3) (a) The State Charter School Board shall annually elect a chair from its
84 membership.

85 (b) Four members of the board shall constitute a quorum.

86 (c) Meetings may be called by the chair or upon request of three members of the board.

87 (4) (a) (i) Members who are not state government employees shall receive no
88 compensation or benefits for their services, but may receive per diem and expenses incurred in
89 the performance of the members's official duties at the rates established by the Division of

90 Finance under Sections 63A-3-106 and 63A-3-107.

91 (ii) Members may decline to receive per diem and expenses for their service.

92 (b) (i) State government officer and employee members who do not receive salary, per
93 diem, or expenses from their agency for their service may receive per diem and expenses
94 incurred in the performance of their official duties from the State Charter School Board at the
95 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

96 (ii) State government officer and employee members may decline to receive per diem
97 and expenses for their service.

98 Section 3. Section **53A-1a-501.6** is enacted to read:

99 **53A-1a-501.6. Power and duties of State Charter School Board.**

100 (1) The State Charter School Board shall:

101 (a) authorize and promote the establishment of charter schools, subject to the
102 limitations in **Ĥ [Section] SECTIONS ĥ 53A-1a-502 Ĥ AND 53A-1a-505 ĥ** ;

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

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

107 (d) provide technical support to charter schools and persons seeking to establish charter
108 schools by:

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

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

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

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

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

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

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

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

123 (2) The State Charter School Board may:

124 (a) contract;

125 (b) sue and be sued; and

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

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

130 Section 4. Section **53A-1a-501.7** is enacted to read:

131 **53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.**

132 (1) (a) The staff director for the State Charter School Board shall be appointed by the
133 superintendent of public instruction, with the consent of the State Charter School Board.

134 (b) If the State Charter School Board withholds consent of an appointment, the board
135 shall state its reasons in writing to the superintendent of public instruction.

136 (c) The State Charter School Board may petition the superintendent of public
137 instruction for removal of the staff director for cause; however, the superintendent of public
138 instruction shall have sole authority to remove the staff director.

139 (d) The position of staff director is exempt from the career service provisions of Title
140 67, Chapter 19, Utah State Personnel Management Act.

141 (2) The superintendent of public instruction shall provide space for staff of the State
142 Charter School Board in facilities occupied by the Utah State Office of Education, with costs
143 charged for the facilities equal to those charged other sections and divisions within the Utah
144 State Office of Education and Utah State Office of Rehabilitation.

145 Section 5. Section **53A-1a-501.8** is enacted to read:

146 **53A-1a-501.8. Charter schools authorized by the State Board of Education.**

147 (1) Effective May 3, 2004, the State Board of Education may not authorize the
148 establishment of new charter schools.

149 (2) (a) The State Board of Education shall dissolve each charter or charter agreement it
150 has with a charter school, and the State Charter School Board shall enter into a charter
151 agreement with each of those schools.

152 **(b) The charter agreement made with the State Charter School Board shall contain**
153 **provisions, consistent with this part, giving the charter school the rights and privileges it had**
154 **under its charter with the State Board of Education.**

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

156 **53A-1a-502. State Charter School Board to authorize the establishment of**
157 **charter schools.**

158 ~~[(1)(a)]~~ The State ~~[Board of Education]~~ Charter School Board may sponsor:

159 ~~[(i)]~~ (1) effective July 1, 2003, 24 charter schools;

160 ~~[(ii)]~~ (2) effective each subsequent July 1, an additional eight charter schools; and

161 ~~[(iii)]~~ (3) six New Century High Schools, magnet charter schools focused on math,
162 science, and technology.

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

165 ~~[(A) has sought and been denied sponsorship by a local school board under Section~~
166 ~~53A-1a-515, and]~~

167 ~~[(B) subsequently seeks and is granted sponsorship by the State Board of Education~~
168 ~~under Section 53A-1a-505.]~~

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

174 ~~[(B) The timeline shall be consistent with the application and approval process set out~~
175 ~~in Section 53A-1a-515.]~~

176 ~~[(2) Charter schools are considered to be part of the state's public education system:]~~

177 ~~[(3) A charter school may be established by creating a new school or converting an~~
178 ~~existing public school to charter status:]~~

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

180 **53A-1a-503. Purpose.**

181 The ~~[purpose]~~ purposes of charter schools ~~[is]~~ are to:

182 (1) continue to improve student learning;

- 183 (2) encourage the use of different and innovative teaching methods;
- 184 (3) create new professional opportunities for educators that will allow them to actively
- 185 participate in designing and implementing the learning program at the school;
- 186 (4) increase choice of learning opportunities for students;
- 187 (5) establish new models of public schools and a new form of accountability for
- 188 schools that emphasizes the measurement of learning outcomes and the creation of innovative
- 189 measurement tools; ~~[and]~~
- 190 (6) provide opportunities for greater parental involvement in management decisions at
- 191 the school level[-]; and
- 192 (7) expand public school choice in areas where schools have been identified for school
- 193 improvement, corrective action, or restructuring under the No Child Left Behind Act of 2001,
- 194 20 U.S.C. Sec. 6301 et. seq.

195 Section 8. Section **53A-1a-503.5** is enacted to read:

196 **53A-1a-503.5. Status of charter schools.**

197 (1) Charter schools are:

198 (a) considered to be public schools within the state's public education system; and

199 (b) subject to Subsection 53A-1-401(3).

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

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

203 **53A-1a-505. Application process -- Contract.**

204 ~~[(1)(a) An applicant for a charter school may seek sponsorship of its charter from the~~
205 ~~State Board of Education only after the applicant has sought and been denied sponsorship by a~~
206 ~~local school board.]~~

207 ~~[(b) Subsection (1)(a) does not apply to an applicant for a New Century High School as~~
208 ~~described in Section 53A-1a-502.]~~

209 ~~[(2)(a) Except as provided in Subsection (2)(b), an applicant seeking sponsorship of a~~
210 ~~charter from the State Board of Education shall provide notice]~~

211 (1) (a) An applicant seeking authorization of a charter school, including a New Century
212 High School, from the State Charter School Board shall provide a copy of the application to the
213 local school board of the school district in which the proposed charter school shall be located

214 either before or at the same time it files its application with the ~~[state board]~~ State Charter
 215 School Board.

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

221 ~~[(ii)]~~ (b) The local board ~~[shall]~~ may review the application and may offer suggestions
 222 or recommendations to the applicant or the ~~[state board]~~ State Charter School Board prior to its
 223 acting on the application.

224 ~~[(iii)]~~ (c) The ~~[state board]~~ State Charter School Board shall give due consideration to
 225 suggestions or recommendations made by the local school board under Subsection ~~[(2)(b)(ii)]~~
 226 (1)(b).

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

229a **Ĥ (e) THE STATE BOARD OF EDUCATION SHALL, BY MAJORITY VOTE, WITHIN 60 DAYS AFTER**
 229b **ACTION BY THE STATE CHARTER SCHOOL BOARD UNDER SUBSECTION (1)(d):**

229c **(i) APPROVE OR DENY AN APPLICATION APPROVED BY THE STATE CHARTER SCHOOL**
 229d **BOARD; OR**

229e **(ii) HEAR AN APPEAL, IF ANY, OF AN APPLICATION DENIED BY THE STATE CHARTER**
 229f **SCHOOL BOARD. ĥ**

230 ~~[(d)]~~ **Ĥ** ~~[(e)]~~ (f) **ĥ** The ~~[state board's]~~ State **Ĥ** ~~[Charter School]~~ **ĥ** Board **Ĥ** OF
 230a **EDUCATION'S ĥ** action under Subsection

231 ~~[(2)(e)]~~ (1) **Ĥ** ~~[(d)]~~ (e) **ĥ** is final action subject to judicial review.

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

235 (3) (a) After approval of a charter school application, the applicant and the ~~[state~~
 236 ~~board]~~ State Charter School Board shall set forth the terms and conditions for the operation of
 237 the charter school in a written contractual agreement.

238 (b) The ~~[contract]~~ agreement is the school's charter.

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

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

243 (c) The restrictions on the number of charter schools authorized by the State Charter
 244 School Board in Section 53A-1a-502 do not apply to a school requesting a charter under

245 Subsection (4)(a).

246 Section 10. Section **53A-1a-507** is amended to read:

247 **53A-1a-507. Requirements for charter schools.**

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

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

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

254 (4) ~~Ĥ [f] (a) [h] ĥ~~ A charter school shall make the same annual reports required of other
254a public
255 schools under Title 53A, State System of Public Education, including an annual financial audit
256 report.

256a **Ĥ (b) A CHARTER SCHOOL SHALL FILE ITS ANNUAL FINANCIAL AUDIT REPORT WITH THE**
256b **OFFICE OF THE STATE AUDITOR WITHIN SIX MONTHS OF THE END OF THE FISCAL YEAR. ĥ**

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

259 (5) A charter school shall be accountable to ~~[the state board]~~ its chartering entity for
260 performance as provided in ~~[Section 53A-1a-509]~~ the school's charter.

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

262 Section 11. Section **53A-1a-508** is amended to read:

263 **53A-1a-508. Content of a charter -- Modification of charter.**

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

266 (2) The governing body of the charter school and the ~~[State Board of Education]~~
267 chartering entity shall sign the charter~~[, except as otherwise provided under Section~~
268 ~~53A-1a-515].~~

269 (3) The charter shall include:

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

271 (b) the projected maximum number of students to be enrolled in the school and the
272 projected enrollment in each of the first three years of operations;

273 (c) the governance structure of the school;

274 (d) the financial plan for the school and the provisions which will be made for auditing
275 the school under Subsection 53A-1a-507(4)~~[(a)]~~;

276 (e) the mission and education goals of the school, the curriculum offered, and the
 277 methods of assessing whether students are meeting educational goals, to include at a minimum
 278 participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6,
 279 Achievement Tests;

280 (f) admission and dismissal procedures, including suspension procedures;

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

282 (h) the opportunity for parental involvement at the school;

283 (i) how the school will provide adequate liability and other appropriate insurance for
 284 the school, its governing body, and its employees~~[-including whether the school intends to
 285 participate in the state's risk management insurance program];~~

286 (j) the proposed school calendar, including the length of the school day and school
 287 year;

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

291 (l) the district within which the school will be located and the address of the school's
 292 physical facility, if known at the time the charter is signed;

293 (m) the qualifications to be required of the teachers; ~~and~~

294 (n) in the case of an existing public school converting to charter status, alternative
 295 arrangements for current students who choose not to attend the charter school and for current
 296 teachers who choose not to teach at the school after its conversion to charter status~~[-];~~

297 ~~Ĥ [(o) a statement indicating whether the school will seek accreditation and, if so, the
 298 standards or accrediting body under which the school will seek accreditation;~~

299 ~~(p)] (o) ĥ~~ the school's intention to create a library;

300 ~~Ĥ [(q)] (p) ĥ~~ a description of school administrative and supervisory services;

301 ~~Ĥ [(r)] (q) ĥ~~ fiscal procedures to be used by the school; and

302 ~~Ĥ [(s)] (r) ĥ~~ the school's policies and procedures regarding:

303 (i) employee termination;

304 (ii) employee evaluation; ~~Ĥ AND ĥ~~

305 (iii) employment of relatives ~~Ĥ [-and~~

306 ~~(iv) standards of ethical conduct for school employees and members of the governing] ĥ~~

307 ~~the~~ **[board]** ~~the~~ .

308 (4) A charter may be modified by mutual agreement of the board and the governing
309 body of the school.

310 Section 12. Section **53A-1a-509** is amended to read:

311 **53A-1a-509. Noncompliance -- Rulemaking.**

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

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

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

320 (b) If the school does not remedy the deficiency within the established timeline, the
321 chartering entity may terminate the school's charter.

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

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

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

326 Section 13. Section **53A-1a-510** is amended to read:

327 **53A-1a-510. Termination of a charter.**

328 (1) ~~[The State Board of Education]~~ A chartering entity may terminate a school's charter
329 for any of the following reasons:

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

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

332 (c) subject to Subsection (5), failure to make adequate yearly progress under the No
333 Child Left Behind Act of 2001, ~~[Pub. L. No. 107-110, 115 Stat. 1425]~~ 20 U.S.C. Sec. 6301 et.
334 seq.;

335 (d) violation of law; or

336 (e) other good cause shown.

337 (2) (a) The ~~[board]~~ chartering entity shall notify the governing body of the school of the

338 proposed action in writing, state the grounds for the action, and stipulate that the governing
339 body may request an informal hearing before the [board] chartering entity.

340 (b) The [board] chartering entity shall conduct the hearing in accordance with Title 63,
341 Chapter 46b, Administrative Procedures Act, within 30 days after receiving a written request
342 under Subsection (2)(a).

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

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

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

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

351 (5) [~~The State Board of Education~~] A chartering entity may terminate a charter
352 pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are
353 required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

354 Section 14. Section **53A-1a-511** is amended to read:

355 **53A-1a-511. Waivers from state board rules -- Application of statutes and rules**
356 **to charter schools.**

357 (1) A charter school shall operate in accordance with its charter and is subject to Title
358 53A, State System of Public Education, and other state laws applicable to public schools,
359 except as otherwise provided in this part.

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

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

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

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

369 (c) If the State Board of Education denies the waiver, the reason for the denial shall be
370 provided in writing to the waiver applicant.

371 (3) (a) Except as provided in Subsection (3)(b), State Board of Education rules
372 governing the following do not apply to a charter school:

373 ~~Ĥ (i) accreditation;~~

374 ~~(ii)] (i) ĥ~~ school libraries;

375 ~~Ĥ (iii)] (ii) ĥ~~ required school administrative and supervisory services; and

376 ~~Ĥ (iv)] (iii) ĥ~~ required expenditures for instructional supplies.

377 (b) A charter school shall comply with rules implementing statutes that prescribe how
378 state appropriations may be spent.

379 (4) The following provisions of Title 53A, State System of Public Education, and rules
380 adopted under those provisions, do not apply to a charter school;

381 (a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school
382 community council and school improvement plan;

383 (b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as
384 civic centers;

385 (c) Section 53A-3-420, requiring the use of activity disclosure statements;

386 (d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

387 (e) Section 53A-13-107, requiring annual presentations on adoption; and

388 (f) Chapter 19, Part 1, pertaining to fiscal procedures of school districts and local
389 school boards.

390 (5) For the purposes of Title 63, Chapter 56, Utah Procurement Code, a charter school
391 shall be considered a local public procurement unit.

392 (6) Each charter school shall be subject to:

393 (a) Title 52, Chapter 4, Open and Public Meetings; and

394 (b) Title 63, Chapter 2, Government Records Access and Management Act.

395 (7) (a) The State Charter School Board shall, in concert with the charter schools, study
396 existing state law and administrative rules for the purpose of determining from which laws and
397 rules charter schools should be exempt.

398 (b) (i) The State Charter School Board shall present recommendations for exemption to
399 the State Board of Education for consideration.

400 (ii) The State Board of Education shall consider the recommendations of the State
 401 Charter School Board and respond within 60 days.

402 (c) Annually, the State Charter School Board shall report the results of its review of
 403 state laws and administrative rules, along with the responses received from the State Board of
 404 Education, to the Education Interim Committee by October 1.

405 Section 15. Section **53A-1a-512** is amended to read:

406 **53A-1a-512. Employees of charter schools.**

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

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

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

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

413 (b) Chapter 10, Educator Evaluation; ~~h~~ AND ~~h~~

414 (c) Title 52, Chapter 3, Prohibiting Employment of Relatives ~~h~~ [~~;~~ and

415 ~~(d) Title 67, Chapter 16, Public Officers' and Employees' Ethics Act] ~~h~~ .~~

416 [~~(3)~~] (4) (a) To accommodate differentiated staffing and better meet student needs, a
 417 charter school, under rules adopted by the State Board of Education, shall employ teachers
 418 who:

419 (i) are licensed; or

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

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

424 [~~(4)~~] (5) (a) An employee of a school district may request a leave of absence in order to
 425 work in a charter school upon approval of the local school board.

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

428a ~~h~~ Section 16. Section 53A-1a-513 is amended to read:

428b **53A-1a-513. Funding for charter schools.**

428c (1) (a) Charter schools shall receive funding as described in this section, except Subsections
 428d (2) through (7) do not apply to charter schools described in Subsection (1)(b).

428e (b) Charter schools sponsored by local school boards that are converted from district schools
 428f or operate in district facilities without paying reasonable rent shall receive funding as prescribed in
 428g Section 53A-1a-515.

428h (2) (a) Except as provided in Subsection (2)(b), a charter school shall receive state funds, as
 428i applicable, on the same basis as a school district receives funds. ~~h~~

428j **Ĥ** (b) In distributing funds under Title 53A, Chapter 17a, Minimum School Program Act, to
 428k charter schools, charter school pupils shall be weighted, where applicable, as follows:

- 428l (i) .55 for kindergarten pupils;
 428m (ii) .9 for pupils in grades 1-6;
 428n (iii) .99 for pupils in grades 7-8; and
 428o (iv) 1.2 for pupils in grades 9-12.

428p (c) The State Board of Education shall make rules in accordance with Title 63, Chapter 46a,
 428q Utah Administrative Rulemaking Act, to administer Subsection (2)(b), including hold harmless
 428r provisions to maintain a charter elementary school's funding level for a period of two years after the
 428s effective date of the distribution formula.

428t (d) Subsection (2)(b) does not apply to funds appropriated to charter schools to replace local
 428u property tax revenues.

428v (3) The State Board of Education shall adopt rules to provide for the distribution of monies to
 428w charter schools under this section.

428x (4) The Legislature shall provide an appropriation for charter schools for each of their
 428y students to replace some of the local property tax revenues that are not available to charter schools.
 428z The amount of money provided for each charter school student shall be determined by:

428aa (a) calculating the sum of:

428ab (i) school districts' operations and maintenance revenues derived from local property taxes,
 428ac except revenues from imposing a minimum basic tax rate pursuant to Section 53A-17a-135;

428ad (ii) school districts' capital projects revenues derived from local property taxes; and

428ae (iii) school districts' expenditures for interest on debt; and

428af (b) dividing the sum by the total average daily membership of the districts' schools.

428ag (5) Charter schools are eligible to receive federal funds if they meet all applicable federal
 428ah requirements and comply with relevant federal regulations.

428ai (6) (a) The State Board of Education shall distribute funds for charter school students
 428aj ENROLLED IN A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL BOARD
 428ak directly to the charter school.

428al (b) FUNDING FOR CHARTER SCHOOL STUDENTS ENROLLED IN A CHARTER SCHOOL
 428am AUTHORIZED BY A LOCAL SCHOOL BOARD SHALL BE DISTRIBUTED TO THE CHARTER SCHOOL
 428an BY THE LOCAL SCHOOL BOARD.

428ao (7) (a) Notwithstanding Subsection (2), a charter school is not eligible to receive state
 428ap transportation funding.

428aq (b) The board shall also adopt rules relating to the transportation of students to and from
 428ar charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

428as (c) The governing body of the charter school may provide transportation through an
 428at agreement or contract with the local school board, a private provider, or with parents.

428au (8) (a) (i) The state superintendent of public instruction may allocate grants for both start-up
 428av and ongoing costs to eligible charter school applicants from monies appropriated for the
 428aw implementation of this part.

428ax (ii) Applications for the grants shall be filed on a form determined by the state superintendent
 428ay and in conjunction with the application for a charter.

428az (iii) The amount of a grant may vary based upon the size, scope, and special circumstances of
 428ba the charter school. **ĥ**

428bb (iv) The governing board of the charter school shall use the grant to meet the expenses of the
428bc school as established in the school's charter.

428bd (b) The State Board of Education shall coordinate the distribution of federal monies
428be appropriated to help fund costs for establishing and maintaining charter schools within the state.

428bf (9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
428bg endowment, gift, or donation of any property made to the school for any of the purposes of this part.

428bh (b) It is unlawful for any person affiliated with a charter school to demand or request any gift,
428bi donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter
428bj school as a condition for employment or enrollment at the school or continued attendance at the
428bk school. ^h

429 Section ~~H [16]~~ ⁽¹⁷⁾ ~~h~~ . Section 53A-1a-515 is amended to read:

430 53A-1a-515. Charters authorized by local school boards.

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

434 (2) These schools are in addition to the limited number of charter schools authorized
435 [~~under the sponsorship of the State Board of Education~~] by the State Charter School Board in
436 Section 53a-1a-502.

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

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

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

442 (b) Any other charter school [~~sponsored~~] authorized by a local school board may
443 contract with the board to receive some or all of the services referred to in Subsection (3)(a).

444 (4) (a) (i) A public school that converts to a charter school under a charter granted by a
445 local school board shall receive funding:

446 (A) through the school district; and

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

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

450 (b) (i) A local school [~~board-sponsored~~] board-authorized charter school operating in a
451 facility owned by the school district and not paying reasonable rent to the school district shall
452 receive funding:

453 (A) through the school district; and

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

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

457 (c) Any other charter school [~~sponsored~~] authorized by a local school board shall
458 receive funding as provided in Section 53A-1a-513.

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

461 (b) If the board rejects the application, it shall notify the applicant in writing of the

462 reason for the rejection.

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

464 (d) If the local school board refuses to [~~sponsor~~] authorize the applicant, the applicant
465 may seek a charter from the State [~~Board of Education~~] Charter School Board under Section
466 53A-1a-505.

467 [~~(e) The local board's action under Subsection (5)(d) is final action subject to judicial~~
468 ~~review.~~]

469 (6) The State Board of Education shall make a rule providing for a timeline for the
470 opening of a charter school following the approval of a charter school application by a local
471 school board.

472 (7) (a) After approval of a charter school application, the applicant and the local school
473 board shall set forth the terms and conditions for the operation of the charter school in a written
474 contractual agreement.

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

476 (8) A local school board shall:

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

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

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

482a **Ĥ (9) (a) IF A CHARTER SCHOOL AUTHORIZED BY A LOCAL SCHOOL BOARD IS FOUND TO**
482b **BE OUT OF COMPLIANCE WITH SECTION 53A-1a-507 OR THE SCHOOL'S CHARTER, THE LOCAL**
482c **SCHOOL BOARD SHALL TAKE ACTION AS PROVIDED IN SECTION 53A-1a-509.**

482d **(b) IF THE SCHOOL DOES NOT REMEDY THE DEFICIENCY WITHIN THE ESTABLISHED**
482e **TIMELINE, THE LOCAL SCHOOL BOARD MAY:**

482f **(i) TERMINATE THE SCHOOL'S CHARTER; OR**

482g **(ii) INTERRUPT DISBURSEMENTS OF STATE AID OR WITHHOLD SPECIFIC PROGRAM**
482h **FUNDS.**

482i **(c) (i) A LOCAL SCHOOL BOARD SHALL NOTIFY THE STATE BOARD OF EDUCATION OF ANY**
482j **INTERRUPTION OF STATE FUNDS TO, OR WITHHOLDING OF SPECIFIC PROGRAM FUNDS FROM, A**
482k **CHARTER SCHOOL.**

482l **(ii) A LOCAL SCHOOL BOARD SHALL RETURN TO THE STATE BOARD OF EDUCATION ANY**
482m **STATE FUNDS PERMANENTLY WITHHELD FROM A CHARTER SCHOOL. ĥ**

483 [~~(6)~~] **Ĥ [(9)] (10) ĥ** A local school board may terminate a charter school it [~~sponsors~~ under
483a ~~this~~

484 section for the same reasons and under the same procedures followed by the State Board of
485 Education under ~~Section 53A-1a-509~~ authorizes as provided in Sections 53A-1a-509 and
486 53A-1a-510.

487 [~~(7)~~] (10) The governing body of a local school [~~board-sponsored~~] board-authorized
488 charter school shall be independent of the local school board except as otherwise specifically
489 provided in this chapter.

490 Section 17. Section **53A-16-101.5** is amended to read:

491 **53A-16-101.5. School LAND Trust Program -- Contents -- Purpose --**

492 **Distribution of funds -- School plans for use of funds.**

493 (1) There is established the School LAND (Learning And Nurturing Development)
494 Trust Program for the state's public schools to provide financial resources to enhance or
495 improve student academic achievement and implement a component of the school
496 improvement plan.

497 (2) (a) The program shall be funded each fiscal year from that portion of the Uniform
498 School Fund consisting of the interest and dividends received in the immediately preceding
499 fiscal year from the investment of monies in the permanent State School Fund.

500 (b) On and after July 1, 2003, the program shall be funded as provided in Subsection
501 (2)(a) up to a maximum of \$12,000,000 each fiscal year.

502 (c) The Legislature shall annually allocate, through an appropriation to the State Board
503 of Education, a portion of School LAND Trust Program monies for the administration of the
504 program.

505 (3) (a) The State Board of Education shall allocate the monies referred to in Subsection
506 (2) annually for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter as
507 follows:

- 508 (i) school districts shall receive 10% of the funds on an equal basis; and
- 509 (ii) the remaining 90% of the funds shall be distributed on a per student basis, with
510 each district receiving its allocation on the number of students in the district as compared to the
511 state total.

512 (b) Each school district shall distribute its allocation under Subsection (3)(a) to each
513 school within the district on an equal per student basis.

514 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
515 board may make rules regarding the time and manner in which the student count shall be made
516 for allocation of the monies.

517 (4) ~~[It]~~ Except as provided in Subsection (7), in order to receive its allocation under
518 Subsection (3), a school shall have established a school community council under Section
519 53A-1a-108.

520 (5) (a) The school community council or its subcommittee shall develop a program to
521 use its allocation under Subsection (3) to implement a component of the school's improvement
522 plan, including:

- 523 (i) the school's identified most critical academic needs;

524 (ii) a recommended course of action to meet the identified academic needs;
525 (iii) a specific listing of any programs, practices, materials, or equipment which the
526 school will need to implement a component of its school improvement plan to have a direct
527 impact on the instruction of students and result in measurable increased student performance;
528 and

529 (iv) how the school intends to spend its allocation of funds under this section to
530 enhance or improve academic excellence at the school.

531 (b) The school may develop a multiyear program, but the program shall be presented
532 and approved by the school community council and the local school board of the district in
533 which the school is located annually and as a prerequisite to receiving program funds allocated
534 under this section.

535 (6) (a) Each school shall:

536 (i) implement the program as approved by the school community council and approved
537 by the local school board;

538 (ii) provide ongoing support for the council's or its subcommittee's program;

539 (iii) meet school board reporting requirements regarding financial and performance
540 accountability of the program; and

541 (iv) publicize to its patrons and the general public on how the funds it received under
542 this section were used to enhance or improve academic excellence at the school and implement
543 a component of the school's improvement plan, including the results of those efforts.

544 (b) (i) Each school through its council or its subcommittee shall prepare and present an
545 annual report of the program to its local school board at the end of the school year.

546 (ii) The report shall detail the use of program funds received by the school under this
547 section and an assessment of the results obtained from the use of the funds.

548 (7) The governing board of a charter school shall prepare a plan for the use of school
549 trust monies that includes the elements listed in Subsection (5).

550 Section 18. Section **63-55b-153** is amended to read:

551 **63-55b-153. Repeal dates -- Titles 53, 53A, and 53B.**

552 (1) Subsection 53-3-205(9)(a)(i)(D) is repealed July 1, 2007.

553 (2) Subsection 53-3-804(2)(g) is repealed July 1, 2007.

554 (3) Title 53, Chapter 12, State Olympic Public Safety Command Act, is repealed July

555 1, 2003.
556 (4) Section 53A-1-403.5 is repealed July 1, 2007.
557 (5) Subsection 53A-1a-511(7)(c) is repealed July 1, 2007.
558 [~~5~~] (6) Section 53B-8-104.5 is repealed July 1, 2009.
559 Section 19. **Repealer.**
560 This bill repeals:
561 Section **53A-1a-516, Technical support for charter schools.**

Legislative Review Note
as of 2-6-04 1:20 PM

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

Office of Legislative Research and General Counsel

State Impact

Provisions of this bill create a Charter School Board and provide for board staff. The cost estimate for 2 FTE employees (a staff director and secretary) and the per diem and expenses of the Charter School Board is \$187,100 in FY 2005 and \$200,000 in FY 2006. The State Office of Education currently receives a federal grant for charter schools. Grant provisions enable 5% of the total grant be used to support administrative functions. This amount is estimated at \$164,000 for FY 2005 and FY 2006. The net fiscal impact of the bill may be \$23,100 in FY 2005 and \$36,000 in FY 2006 .

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
Uniform School Fund	\$23,100	\$36,000	\$0	\$0
TOTAL	\$23,100	\$36,000	\$0	\$0

Individual and Business Impact

No Fiscal Impact

Office of the Legislative Fiscal Analyst