

Representative Ron Bigelow proposes the following substitute bill:

CHARTER SCHOOL AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ron Bigelow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to charter schools.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ modifies charter school application and authorization provisions;
- ▶ modifies certain requirements for charter schools, including those relating to charter school assets and school closures;
- ▶ modifies charter school funding provisions;
- ▶ ~~H→~~ **[prohibits certain transactions and relationships relating to charter schools and provides certain penalties] requires the State Board of Education to make rules relating to conflicts of interest and unethical behavior for charter schools ←H** ; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ as an ongoing appropriation subject to future budget constraints, \$30,209,000 from the Uniform School Fund for fiscal year 2007-08 to the State Board of Education for charter schools;
- ▶ \$8,259,100 from the Uniform School Fund for fiscal year 2007-08 only to the State



26 Board of Education for charter schools; and
27 ▶ \$2,000,000 from the Uniform School Fund for fiscal year 2007-08 only to the
28 Charter School Building Subaccount within the School Building Revolving
29 Account.

30 **Other Special Clauses:**

31 This bill takes effect on July 1, 2007.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **53A-1a-501.3**, as enacted by Chapter 251, Laws of Utah 2004
- 35 **53A-1a-501.6**, as last amended by Chapter 291, Laws of Utah 2005
- 36 **53A-1a-502.5**, as enacted by Chapter 354, Laws of Utah 2006
- 37 **53A-1a-504**, as last amended by Chapter 291, Laws of Utah 2005
- 38 **53A-1a-506**, as last amended by Chapters 291 and 301, Laws of Utah 2005
- 39 **53A-1a-507**, as last amended by Chapter 251, Laws of Utah 2004
- 40 **53A-1a-508**, as last amended by Chapter 291, Laws of Utah 2005
- 41 **53A-1a-510**, as last amended by Chapter 291, Laws of Utah 2005
- 42 **53A-1a-514**, as enacted by Chapter 231, Laws of Utah 1998
- 43 **53A-1a-515**, as last amended by Chapter 354, Laws of Utah 2006
- 44 **53A-17a-104**, as last amended by Chapters 4 and 354, Laws of Utah 2006
- 45 **53A-17a-108**, as last amended by Chapter 221, Laws of Utah 2003
- 46 **53A-21-104**, as last amended by Chapter 105, Laws of Utah 2005

47 ENACTS:

- 48 **53A-1a-506.5**, Utah Code Annotated 1953
- 49 **53A-1a-510.5**, Utah Code Annotated 1953
- 50 **53A-1a-517**, Utah Code Annotated 1953
- 51 **53A-1a-518**, Utah Code Annotated 1953

52 REPEALS:

- 53 **53A-1a-501.8**, as enacted by Chapter 251, Laws of Utah 2004



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

56 Section 1. Section **53A-1a-501.3** is amended to read:

57 **53A-1a-501.3. Definitions.**

58 As used in this part~~[-"chartering"]~~:

59 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and
60 includes:

61 (a) cash;

62 (b) stock or other investments;

63 (c) real property;

64 (d) equipment and supplies;

65 (e) an ownership interest;

66 (f) a license;

67 (g) a cause of action; and

68 (h) any similar property.

69 (2) "Chartering entity" means the entity that authorizes the establishment of a charter
70 school.

71 Section 2. Section **53A-1a-501.6** is amended to read:

72 **53A-1a-501.6. Power and duties of State Charter School Board.**

73 (1) The State Charter School Board shall:

74 (a) authorize and promote the establishment of charter schools, subject to the
75 procedures in ~~[Section-]~~ Sections 53A-1a-505 and 53A-1a-505.5;

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

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

80 (d) provide technical support to charter schools and persons seeking to establish charter
81 schools by:

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

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

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

86 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of
87 supporting and strengthening proposals before an application for charter school authorization is

88 submitted to the State Charter School Board or a local school board; and

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

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

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

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

96 (2) The State Charter School Board may:

97 (a) contract;

98 (b) sue and be sued; and

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

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

103 Section 3. Section **53A-1a-502.5** is amended to read:

104 **53A-1a-502.5. Charter schools -- Maximum authorized students.**

105 (1) The State Charter School Board and local school boards may only authorize~~[-(1)-a~~
106 ~~maximum of five charter schools that will begin operation in the 2007-08 school year; and (2)]~~
107 a combined maximum student capacity of ~~[5,000]~~ 27,921 students for the charter schools
108 ~~[authorized in accordance with Subsection (1)].~~

109 (2) The State Board of Education, in consultation with the State Charter School Board,
110 shall allocate the students under Subsection (1) between the State Charter School Board and
111 local school boards.

112 Section 4. Section **53A-1a-504** is amended to read:

113 **53A-1a-504. Proposal.**

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

117 (b) Except as provided in Section 53A-1a-515, a proposal to establish a charter school
118 shall include provisions that the charter school will be organized and managed under Title 16,

119 Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

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

122 (b) (i) At least 2/3 of the licensed educators employed at the school and at least
123 two-thirds of the parents or guardians of students enrolled at the school must have signed a
124 petition approving the proposal prior to its submission to the chartering entity if the entire
125 school is applying for charter status.

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

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

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

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

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

138 (4) Beginning on July 1, 2007, a charter school application shall include a statement
139 that indicates the charter school's intent relating to the establishment of its charter school
140 facilities, including:

141 (a) whether the charter school intends to lease or purchase its facilities; and

142 (b) intended financing arrangements.

143 Section 5. Section **53A-1a-506** is amended to read:

144 **53A-1a-506. Eligible students.**

145 (1) All resident students of the state qualify for admission to a charter school, subject
146 to the limitations set forth in this section and Section 53A-1a-506.5.

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

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

153 (A) a student of a parent who has actively participated in the development of the
154 school;

155 (B) siblings of students presently enrolled in the school;

156 (C) a student of a parent who is employed by the school;

157 (D) students articulating between charter schools offering similar programs that are
158 governed by the same governing body; and

159 (E) students articulating from one charter school to another pursuant to an articulation
160 agreement between the charter schools that is approved by the State Charter School Board.

161 (ii) The school may give preference to students who reside within:

162 (A) the school district in which the school is located;

163 (B) the municipality in which the school is located; or

164 (C) a two-mile radius from the school.

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

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

170 Section 6. Section **53A-1a-506.5** is enacted to read:

171 **53A-1a-506.5. Charter school students -- Applications -- Deadlines.**

172 (1) (a) The State School Board, in consultation with the State Charter School Board,
173 shall make rules describing procedures for students to follow in applying for entry into a new
174 charter school or a charter school that has increased its capacity.

175 (b) The rules under Subsection (1)(a) shall provide, as a minimum, for:

176 (i) distribution to interested parties of information about charter schools, charter school
177 opening dates, and how to apply for admission;

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

179 (iii) submission of applications until the third Friday in February by those seeking
180 admission for the following year;

- 181 (iv) written notification to the student's parent or legal guardian of an offer of
182 acceptance or the rejection of an application by March 31;
- 183 (v) written acceptance of the offer by the student's parent or legal guardian by April 30;
184 (vi) written notification to a student's current charter school or resident school district
185 upon acceptance of that student for enrollment in a charter school; and
- 186 (vii) allow the admission of students at:
187 (A) any time to protect the health or safety of a student; or
188 (B) times other than those permitted under standard policies if there are other
189 conditions of special need that warrant consideration.
- 190 (c) The rules under Subsection (1)(a) shall prevent the parent of a student who is
191 enrolled in a charter school or who has accepted an offer as described in Subsection (1)(b)(v)
192 from duplicating enrollment for that student in another charter school or a school district
193 without following the withdrawal procedures described in Subsection (2).
- 194 (2) The parent of a student enrolled in a charter school may withdraw the student from
195 that charter school for enrollment in another charter school or a school district by:
- 196 (a) submitting notice of intent to enroll the student in the district of residence for the
197 subsequent year to the student's charter school no later than March 31 of the current school
198 year;
- 199 (b) submitting notice of intent to enroll the student in another charter school for the
200 subsequent school year to the current charter school of attendance, together with a letter of
201 acceptance from the proposed charter school of attendance, no later than March 31 of the
202 current school year; or
- 203 (c) if the parent desires to change the student's enrollment during the school year or
204 after March 31, by obtaining approval from both the charter school of attendance and the
205 school district or charter school in which enrollment is sought.
- 206 (3) When a vacancy occurs because a student has withdrawn from a charter school, that
207 charter school may immediately enroll a new student from its list of applicants.
- 208 (4) Unless provisions have previously been made for enrollment in another school, a
209 charter school releasing a student from enrollment shall immediately notify the district of
210 residence, which shall enroll the student in the resident district and take such additional steps
211 as may be necessary to ensure compliance with laws governing school attendance.

212 (5) A school district or charter school may charge secondary students a one-time \$5
213 processing fee, to be paid at the time of application.

214 Section 7. Section **53A-1a-507** is amended to read:

215 **53A-1a-507. Requirements for charter schools.**

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

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

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

222 (4) (a) A charter school shall make the same annual reports required of other public
223 schools under Title 53A, State System of Public Education, including an annual financial audit
224 report.

225 (b) A charter school shall file its annual financial audit report with the Office of the
226 State Auditor within six months of the end of the fiscal year.

227 (5) A charter school shall be accountable to its chartering entity for performance as
228 provided in the school's charter.

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

230 (7) Except as provided in Section 53A-1-515, a charter school shall be organized and
231 managed under the Utah nonprofit corporation act Title 16, Chapter 6a, Utah Revised
232 Nonprofit Corporation Act, after its authorization.

233 (8) A charter school shall provide adequate liability and other appropriate insurance.

234 (9) Beginning on July 1, 2007, a charter school shall have a lease, lease-purchase
235 agreement, or other contract or agreement relating to the charter school's facilities or financing
236 the charter school facilities approved by a majority vote of its chartering entity prior to the
237 charter school entering into the lease, agreement, or contract.

238 Section 8. Section **53A-1a-508** is amended to read:

239 **53A-1a-508. Content of a charter -- Modification of charter.**

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

242 (2) The governing body of the charter school and the chartering entity shall sign the

243 charter.

244 (3) The charter shall include:

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

246 (b) the projected maximum number of students to be enrolled in the school and the

247 projected enrollment in each of the first three years of operations;

248 (c) the governance structure of the school;

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

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

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

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

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

258 (i) how the school will provide adequate liability and other appropriate insurance for
259 the school, its governing body, and its employees;

260 (j) the proposed school calendar, including the length of the school day and school
261 year;

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

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

267 (m) the qualifications to be required of the teachers, including the requirement of a
268 criminal background check;

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

272 (o) the school's intention to create a library;

273 (p) a description of school administrative and supervisory services;

- 274 (q) fiscal procedures to be used by the school; and
- 275 (r) the school's policies and procedures regarding:
- 276 (i) employee evaluation; and
- 277 (ii) employment of relatives.

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

280 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
281 State Board of Education shall make rules that establish the procedures and deadlines for
282 approved charter schools to apply and qualify for expansion, including the establishment of
283 satellite campuses.

284 Section 9. Section **53A-1a-510** is amended to read:

285 **53A-1a-510. Termination of a charter.**

286 (1) A chartering entity may terminate a school's charter for any of the following
287 reasons:

- 288 (a) failure of the school to meet the requirements stated in the charter;
- 289 (b) failure to meet generally accepted standards of fiscal management;
- 290 (c) subject to Subsection [~~5~~] (6), failure to make adequate yearly progress under the
291 No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
- 292 (d) violation of law requirements under this part or another; or
- 293 (e) other good cause shown.

294 (2) (a) The chartering entity shall notify the governing body of the school of the
295 proposed termination in writing, state the grounds for the termination, and stipulate that the
296 governing body may request an informal hearing before the chartering entity.

297 (b) The chartering entity shall conduct the hearing in accordance with Title 63, Chapter
298 46b, Administrative Procedures Act, within 30 days after receiving a written request under
299 Subsection (2)(a).

300 (c) If the chartering entity, by majority vote, approves a motion to terminate a charter
301 school, the governing body of the charter school may appeal the decision to the State Board of
302 Education.

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

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

306 (3) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
307 the State Board of Education shall make rules that require a charter school to report any threats
308 to the health, safety, or welfare of its students to the State Charter School Board in a timely
309 manner.

310 (b) The rules under Subsection (3)(a) shall also require the charter school report to
311 include what steps the charter school has taken to remedy the threat.

312 [~~3~~] (4) The chartering entity may terminate a charter immediately if good cause has
313 been shown or if the health, safety, or welfare of the students at the school is threatened.

314 [~~4~~] (5) If a charter is terminated during a school year:

315 (a) the school district in which the school is located may assume operation of the
316 school; or

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

318 [~~5~~] (6) (a) If a charter is terminated, a student who attended the school may apply to
319 and shall be enrolled in another public school under the enrollment provisions of Title 53A,
320 Chapter 2, Part 2, District of Residency, subject to space availability.

321 (b) Normal application deadlines shall be disregarded under Subsection [~~5~~] (6)(a).

322 [~~6~~] (7) A chartering entity may terminate a charter pursuant to Subsection (1)(c)
323 under the same circumstances that local educational agencies are required to implement
324 alternative governance arrangements under 20 U.S.C. Sec. 6316.

325 Section 10. Section **53A-1a-510.5** is enacted to read:

326 **53A-1a-510.5. Charter school closure.**

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

329 (2) (a) As soon as possible after the decision is made to close a charter school,
330 notification of the decision, in writing, shall be provided by the charter school to:

331 (i) its chartering entity;

332 (ii) the Charter School Board;

333 (iii) the State Board of Education;

334 (iv) parents of its students;

335 (v) its creditors; and

336 (vi) the school district in which the charter school is located and other charter schools
337 located in that school district.

338 (b) The notification under Subsection (2)(a) shall include:

339 (i) the proposed date of school closure;

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

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

342 (3) A closing charter school shall:

343 (a) present a school closure plan to its chartering entity as soon as possible after the
344 decision to close is made;

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

346 (c) maintain a base of operation throughout the charter school closing, including:

347 (i) an office;

348 (ii) hours of operation; and

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

350 (d) maintain insurance coverage and risk management coverage throughout the

351 transition to closure and for a period following closure of the charter school as specified by the
352 chartering entity;

353 (e) complete a financial audit immediately after the decision to close is made;

354 (f) inventory all assets of the charter school;

355 (g) list all creditors of the charter school and specifically identify secured creditors and
356 assets that are security interests; and

357 (h) protect all school assets against theft, misappropriation, and deterioration.

358 (4) (a) Any assets held subject to written conditions or limitations in accordance with
359 Section 53A-1a-517 shall be disposed of in accordance with those conditions or limitations.

360 (b) All liabilities and obligations of the closing charter school shall be paid and
361 discharged or adequate provisions shall be made to discharge the liabilities and obligations to
362 the extent of the closing school's assets.

363 (c) (i) The remaining assets shall be returned to the closing charter school's chartering
364 entity.

365 (ii) The chartering entity may liquidate assets at fair market value or assign the assets
366 to another public school.

367 (5) To the extent possible, all leases, service agreements, and other contracts not
368 necessary for the transition of the closing charter school should be terminated.

369 (6) The closing charter school shall submit all documentation required by its chartering
370 entity, including documents to verify its compliance with procedural requirements as well as
371 satisfaction of all financial issues.

372 (7) When the closing charter school's financial affairs are closed out and dissolution is
373 complete, the chartering entity shall ensure that a final audit of the charter school is completed.

374 (8) The State Board of Education may make rules that provide additional closure
375 requirements upon charter schools or that specify elements of charter school closure plans.

376 Section 11. Section **53A-1a-514** is amended to read:

377 **53A-1a-514. Tort liability.**

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

380 (2) The governing body of a charter school, the nonprofit corporation under which the
381 charter school is organized and managed, and the school are solely liable for any damages
382 resulting from a legal challenge involving the operation of the school.

383 Section 12. Section **53A-1a-515** is amended to read:

384 **53A-1a-515. Charters authorized by local school boards.**

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

388 (b) The charter schools described in Subsection (1)(a) are in addition to the limited
389 number of charter schools authorized by the State Charter School Board in Section
390 53A-1a-502.5.

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

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

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

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

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

400 (A) through the school district; and

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

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

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

406 (A) through the school district; and

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

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

410 (c) ~~[Any other]~~ Subject to the provisions in Section 53A-1a-502.5, a charter school
411 authorized by a local school board shall receive funding as provided in Section 53A-1a-513.

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

414 (A) through the school district; and

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

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

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

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

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

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

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

428 (6) (a) After approval of a charter school application, the applicant and the local school

429 board shall set forth the terms and conditions for the operation of the charter school in a written
430 contractual agreement.

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

432 (7) A local school board shall:

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

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

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

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

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

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

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

448 (b) exempt from the requirement under Section 53A-1a-507 that a charter school shall
449 be organized and managed under the Utah nonprofit corporation act Title 16, Chapter 6a, Utah
450 Revised Nonprofit Corporation Act.

451 Section 13. Section **53A-1a-517** is enacted to read:

452 **53A-1a-517. Charter school assets.**

453 (1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant,
454 endowment, gift, or donation of any asset made to the school for any of the purposes of this
455 part.

456 (b) Unless a donor or grantor specifically provides otherwise in writing, all assets
457 described in Subsection (1) shall be presumed to be made to the charter school and shall be
458 included in the charter school's assets.

459 (2) It is unlawful for any person affiliated with a charter school to demand or request

460 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
461 with the charter school as a condition for employment or enrollment at the school or continued
462 attendance at the school.

463 (3) All assets purchased with charter school funds shall be included in the charter
464 school's assets.

465 (4) A charter school may not dispose of its assets in violation of the provisions of this
466 part, state board rules, policies of its chartering entity, or its charter, including the provisions
467 governing the closure of a charter school under Section 53A-1a-510.5.

468 Section 14. Section **53A-1a-518** is enacted to read:

469 **53A-1a-518. Prohibited transactions and relationships -- Definitions --**

469a **H→ [Penalties] Rulemaking ←H .**

470 (1) As used in this section:

471 (a) "Charter school officer" means:

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

473 (ii) a member of a board or an officer of a nonprofit corporation under which a charter
474 school is organized and managed; and

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

476 (b) (i) "Charter school proposer" means a person or entity who is involved in
477 developing a proposal to establish a charter school in accordance with the provisions under this
478 part, including:

479 (A) the named charter school applicants, including the proposed members of the
480 charter school's founding committee; and

481 (B) a person or entity who is working, with or without compensation, with the named
482 charter school applicants to develop their proposal and application.

483 (ii) "Charter school proposer" does not include an institution of higher education or a
484 school district.

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

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

488 (d) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
489 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
490 sister-in-law, son-in-law, or daughter-in-law.

491 ~~H→ [(2) A person may not receive compensation that is conditioned in whole or in part on:~~

492 ~~—— (a) the passage, defeat, or amendment of legislative action related to charter schools or~~
 493 ~~charter school authorization; or~~

494 ~~—— (b) the approval, modification, or denial of a charter school application by a chartering~~
 495 ~~entity;~~

496 ~~—— (3) A charter school officer, charter school proposer, a relative of a charter school~~
 497 ~~officer, or a relative of a charter school proposer may not have a pecuniary interest, directly or~~
 498 ~~indirectly, in any contract or other transaction involving that charter school, including a~~
 499 ~~contract or transaction pertaining to:~~

500 ~~—— (a) developing a charter school proposal;~~

501 ~~—— (b) preparing or presenting a charter school application to a charter school authorizing~~
 502 ~~entity;~~

503 ~~—— (c) obtaining financing for a charter school facility;~~

504 ~~—— (d) leasing, constructing, or otherwise obtaining a charter school facility; or~~

505 ~~—— (e) procuring or providing management, maintenance, operational, or support services~~
 506 ~~for a charter school.~~

507 ~~(4) (2) ←H~~ (a) Except as provided in Subsection ~~H→ [(4) (2) ←H~~ (b), a relative of a
 507a ~~charter school officer~~
 508 ~~may not be employed at a charter school.~~

509 ~~(b) (i) If a relative of a charter school officer, other than the chief administrative officer~~
 510 ~~of a charter school, is to be considered for employment in a charter school, the charter school~~
 511 ~~officer shall:~~

512 ~~(A) disclose the relationship, in writing, to the other charter school officers;~~

513 ~~(B) abstain from voting on the issue; and~~

514 ~~(C) be absent from any meeting when the employment is being considered and~~
 515 ~~determined.~~

516 ~~(ii) If a relative of the chief administrative officer of a charter school is to be~~
 517 ~~considered for employment in a charter school, the chief administrative officer shall:~~

518 ~~(A) disclose the relationship, in writing, to the other charter school officers;~~

519 ~~(B) submit the employment decision for the approval, by majority vote, to the charter~~
 520 ~~school's governing board; and~~

521 ~~(C) be absent from the meeting when the employment is being considered and~~

522 determined.

523 ~~H→ [(5) A person who violates a provision of Subsection (2), (3), or (4) is guilty of a class C~~
 524 ~~misdemeanor.]~~

524a (3) The State Board of Education or State Charter School Board may not operate a
 524b charter school.

524c (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 524d State Board of Education, in consultation with the State Charter School Board, shall make
 524e rules that require the disclosure of conflicts of interest and regulate unethical behavior for
 524f charter schools. ←H

525 Section 15. Section **53A-17a-104** is amended to read:

526 **53A-17a-104. Amount of state's contribution toward minimum school program.**

527 (1) The total contribution of the state toward the cost of the minimum school program
 528 may not exceed the sum of \$2,032,219,545 for the fiscal year beginning July 1, 2006, except as
 529 otherwise provided by the Legislature through supplemental appropriations.

530 (2) There is appropriated from state and local funds for fiscal year 2006-07 for
 531 distribution to school districts and charter schools, in accordance with this chapter, monies for
 532 the following purposes and in the following amounts:

533 (a) basic program - kindergarten, \$57,234,560 (23,680 WPU's);

534 (b) basic program - grades 1-12, \$1,118,053,443 (462,579 WPU's);

535 (c) basic program - professional staff, \$106,128,053 (43,909 WPU's);

536 (d) basic program - administrative costs, \$3,937,293 (1,629 WPU's);

537 (e) basic program - necessarily existent small schools and units for consolidated
 538 schools, \$18,487,633 (7,649 WPU's);

539 (f) special education - regular program - add-on WPU's for students with disabilities,
 540 \$136,350,221 (56,413 WPU's);

541 (g) preschool special education program, \$19,717,886 (8,158 WPU's);

542 (h) self-contained regular WPU's, \$32,148,517 (13,301 WPU's);

543 (i) extended year program for severely disabled, \$887,039 (367 WPU's);

544 (j) special education programs in state institutions and district impact aid, \$3,487,731
 545 (1,443 WPU's);

546 (k) applied technology and technical education district programs, \$59,934,349 (24,797
 547 WPU's), including \$1,045,033 for summer applied technology agriculture programs;

548 (l) applied technology district set-aside, \$2,562,020 (1,060 WPU's);

549 (m) class size reduction, \$74,378,341 (30,773 WPU's);

550 (n) Social Security and retirement programs, \$310,891,038;

551 (o) pupil transportation to and from school, \$62,601,763, of which not less than
 552 \$2,173,569 shall be allocated to the Utah Schools for the Deaf and Blind to pay for

- 553 transportation costs of the schools' students;
- 554 (p) guarantee transportation levy, \$500,000;
- 555 (q) Local Discretionary Block Grant Program, \$21,820,748;
- 556 (r) Interventions for Student Success Block Grant Program, \$16,792,888;
- 557 (s) Quality Teaching Block Grant Program, \$62,993,704;
- 558 (t) highly impacted schools, \$5,123,207;
- 559 (u) at-risk programs, \$27,992,056;
- 560 (v) adult education, \$9,148,653;
- 561 (w) accelerated learning programs, \$12,010,853;
- 562 (x) electronic high school, \$1,300,000;
- 563 (y) School LAND Trust Program, \$15,000,000;
- 564 (z) state-supported voted leeway, \$196,085,303;
- 565 (aa) state-supported board leeway, \$54,704,476;
- 566 (bb) charter schools, pursuant to Section 53A-1a-513, [~~\$21,552,450~~] \$28,509,000;
- 567 (cc) charter school administrative costs, \$1,500,000;
- 568 [~~(cc)~~] (dd) K-3 Reading Improvement Program, \$12,500,000 ; and
- 569 [~~(dd)~~] (ee) state-supported board leeway for K-3 Reading Improvement Program,
- 570 \$15,000,000.

571 Section 16. Section **53A-17a-108** is amended to read:

572 **53A-17a-108. Weighted pupil units for school district administrative costs --**

573 **Appropriation for charter school administrative costs.**

574 (1) Administrative costs weighted pupil units are computed and distributed to districts
575 in accordance with the following schedule:

576 Administrative Costs Schedule

577 School District Enrollment as of October 1	Weighted Pupil Units
578 1 - 2,000 students	53
579 2,001 - 10,000 students	48
580 10,001 - 20,000 students	25
581 20,001 and above	16

582 (2) Money appropriated to the State Board of Education in Section 53A-17a-104 for
583 charter school administrative costs shall be distributed to charter schools in the amount of \$62

584 for each charter school student in enrollment.

585 (3) Charter schools are not eligible for funds for administrative costs under Subsection
586 (1).

587 Section 17. Section **53A-21-104** is amended to read:

588 **53A-21-104. School Building Revolving Account -- Access to the account.**

589 (1) There is created a nonlapsing "School Building Revolving Account" administered
590 within the Uniform School Fund by the state superintendent of public instruction in accordance
591 with rules adopted by the State Board of Education.

592 (2) Monies received by a school district from the School Building Revolving Account
593 may not exceed the district's bonding limit minus its outstanding bonds.

594 (3) In order to receive monies from the account, a school district must do the
595 following:

596 (a) levy a tax of at least .0024 for capital outlay and debt service;

597 (b) contract with the state superintendent of public instruction to repay the monies,
598 with interest at a rate established by the state superintendent, within five years of their receipt,
599 using future state building monies or local revenues or both;

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

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

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

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

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

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

612 (i) the recommended amount of the loan;

613 (ii) the payback schedule; and

614 (iii) the interest rate to be charged.

615 (5) (a) There is established within the School Building Revolving Account the Charter
616 School Building Subaccount administered by the State School Board, in consultation with the
617 State Charter School Board, in accordance with rules adopted by the State Board of Education.

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

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

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

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

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

624 (i) constructing or renovating charter school buildings[-]; or

625 (ii) equipment, supplies, or other start-up or expansion expenses.

626 (6) (a) The [~~state superintendent of public instruction~~] State School Board shall
627 establish a committee, which shall include individuals who have expertise or experience in
628 finance, real estate, and charter school administration, one of whom shall be nominated by the
629 governor to:

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

631 (ii) make recommendations regarding approval or disapproval of the loan applications
632 to the [~~state superintendent~~] State Charter School Board and the State Board of Education.

633 (b) If the committee recommends approval of a loan application under Subsection
634 (6)(a)(ii), the committee's recommendation shall include:

635 (i) the recommended amount of the loan;

636 (ii) the payback schedule; and

637 (iii) the interest rate to be charged.

638 (c) The committee members may not:

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

640 (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person
641 or entity that contracts with a loan applicant.

642 (7) The State Board of Education, in consultation with the State Charter School Board,
643 shall approve all loans to charter schools under this section.

644 (8) Loans to charter schools under this section may not exceed a term of five years.

645 Section 18. **Repealer.**

646 This bill repeals:

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

648 Section 19. **Ongoing appropriation for charter school administrative costs.**

649 As an ongoing appropriation subject to future budget constraints, there is appropriated
650 from the Uniform School Fund for fiscal year 2007-08, (\$100,000) from the Uniform School
651 fund to the State Board of Education for charter school administrative costs.

652 Section 20. **Ongoing appropriation for State Charter School Board administrative**
653 **costs.**

654 As an ongoing appropriation subject to future budget constraints, there is appropriated
655 from the Uniform School Fund for fiscal year 2007-08, \$300,000 from the Uniform School
656 Fund to the State Board of Education for administration and oversight of charter schools by the
657 State Charter School Board.

658 Section 21. **One-time appropriation for local replacement.**

659 (1) There is appropriated from the Uniform School Fund to the State Board of
660 Education for fiscal year 2007-08 only, \$8,259,100 for charter schools.

661 (2) It is the intent of the Legislature that the State Board of Education shall distribute
662 the money appropriated in Section (1) based upon average daily membership of the charter
663 schools.

664 Section 22. **One-time appropriation for the School Building Revolving Account.**

665 There is appropriated \$2,000,000 from the Uniform School Fund for fiscal year
666 2007-08 only to the Charter School Building Subaccount within the School Building Revolving
667 Account established in Section 53A-21-104.

668 Section 23. **Effective date.**

669 This bill takes effect on July 1, 2007.

H.B. 164 1st Sub. (Buff) - Charter School Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will appropriate \$29,909,000 in ongoing Uniform School Fund revenue to the Minimum School Program, \$300,000 in ongoing Uniform School Fund revenue to the State Board of Education, and \$10,259,100 in one-time Uniform School Fund revenue to the Minimum School Program for charter schools as provided in the bill.

Because HB 3, Minimum School Program Base Budget Amendments, has passed the Legislature and been signed by the Governor, this bill adjusts appropriations provided in that bill for Public Education. In the final preparation of the Public Education budget, appropriations made in this bill will be integrated with other public education funding bills in order to avoid duplicate appropriations and ensure they occur in the intended fiscal year.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
Uniform School Fund	\$0	\$30,209,000	\$30,209,000	\$0	\$0	\$0
Uniform School Fund, One-time	\$0	\$10,259,100	\$0	\$0	\$0	\$0
Total	\$0	\$40,468,100	\$30,209,000	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments. Charter schools may benefit through increased per-student revenues appropriated through enactment of this bill.