

**Representative Ron Bigelow** proposes the following substitute bill:

**CHARTER SCHOOL AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ron Bigelow**

Senate Sponsor: Lyle W. Hillyard

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**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;
- ▶ regulates certain transactions and relationships relating to charter schools and requires the State Board of Education to make rules relating to conflicts of interest and unethical behavior for charter schools;
- ▶ makes a nonlapsing appropriation; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ as an ongoing appropriation subject to future budget constraints, \$33,459,000 from the Uniform School Fund for fiscal year 2007-08 to the State Board of Education



26 for charter schools;

27       ▶ \$7,011,900 from the Uniform School Fund for fiscal year 2007-08 only to the State  
28 Board of Education for charter schools; and

29       ▶ \$6,000,000 from the Uniform School Fund for fiscal year 2007-08 only to the  
30 Charter School Building Subaccount within the School Building Revolving  
31 Account.

32 **Other Special Clauses:**

33       This bill takes effect on July 1, 2007.

34       This bill coordinates with H.B. 3 by providing that certain amendments in this bill  
35 supersede the amendments in H.B. 3 and that certain amendments in H.B. 3 supersede  
36 the amendments in this bill.

37 **Utah Code Sections Affected:**

38 AMENDS:

39       **53A-1a-501.3**, as enacted by Chapter 251, Laws of Utah 2004

40       **53A-1a-501.6**, as last amended by Chapter 291, Laws of Utah 2005

41       **53A-1a-502.5**, as enacted by Chapter 354, Laws of Utah 2006

42       **53A-1a-504**, as last amended by Chapter 291, Laws of Utah 2005

43       **53A-1a-506**, as last amended by Chapters 291 and 301, Laws of Utah 2005

44       **53A-1a-507**, as last amended by Chapter 251, Laws of Utah 2004

45       **53A-1a-508**, as last amended by Chapter 291, Laws of Utah 2005

46       **53A-1a-510**, as last amended by Chapter 291, Laws of Utah 2005

47       **53A-1a-514**, as enacted by Chapter 231, Laws of Utah 1998

48       **53A-1a-515**, as last amended by Chapter 354, Laws of Utah 2006

49       **53A-17a-104**, as last amended by Chapters 4 and 354, Laws of Utah 2006

50       **53A-17a-108**, as last amended by Chapter 221, Laws of Utah 2003

51       **53A-21-104**, as last amended by Chapter 105, Laws of Utah 2005

52 ENACTS:

53       **53A-1a-506.5**, Utah Code Annotated 1953

54       **53A-1a-510.5**, Utah Code Annotated 1953

55       **53A-1a-517**, Utah Code Annotated 1953

56       **53A-1a-518**, Utah Code Annotated 1953

57 REPEALS:

58 **53A-1a-501.8**, as enacted by Chapter 251, Laws of Utah 2004



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

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

62 **53A-1a-501.3. Definitions.**

63 As used in this part[, "~~chartering~~]:

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

- 66 (a) cash;
- 67 (b) stock or other investments;
- 68 (c) real property;
- 69 (d) equipment and supplies;
- 70 (e) an ownership interest;
- 71 (f) a license;
- 72 (g) a cause of action; and
- 73 (h) any similar property.

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

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

77 **53A-1a-501.6. Power and duties of State Charter School Board.**

78 (1) The State Charter School Board shall:

- 79 (a) authorize and promote the establishment of charter schools, subject to the  
80 ~~[procedures]~~ provisions in ~~[Section 53A-1a-505]~~ this part;
- 81 (b) annually review and evaluate the performance of charter schools authorized by the  
82 State Charter School Board and hold the schools accountable for their performance;
- 83 (c) monitor charter schools authorized by the State Charter School Board for  
84 compliance with federal and state laws, rules, and regulations;
- 85 (d) provide technical support to charter schools and persons seeking to establish charter  
86 schools by:
  - 87 (i) identifying and promoting successful charter school models;

- 88 (ii) facilitating the application and approval process for charter school authorization;
- 89 (iii) directing charter schools and persons seeking to establish charter schools to
- 90 sources of private funding and support;
- 91 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of
- 92 supporting and strengthening proposals before an application for charter school authorization is
- 93 submitted to the State Charter School Board or a local school board; and
- 94 (v) assisting charter schools to understand and carry out their charter obligations;
- 95 (e) provide technical support, as requested, to a local school board relating to charter
- 96 schools;
- 97 (f) make recommendations on legislation and rules pertaining to charter schools to the
- 98 Legislature and State Board of Education, respectively; and
- 99 (g) make recommendations to the State Board of Education on the funding of charter
- 100 schools.

101 (2) The State Charter School Board may:

102 (a) contract;

103 (b) sue and be sued; and

104 (c) (i) at the discretion of the charter school, provide administrative services to, or

105 perform other school functions for, charter schools authorized by the State Charter School

106 Board; and

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

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

109 **53A-1a-502.5. Charter schools -- Maximum authorized students.**

110 (1) The State Charter School Board and local school boards may only authorize ~~:(1) a~~

111 ~~maximum of five charter schools that will begin operation in the 2007-08 school year; and (2)]~~

112 a combined maximum student capacity of ~~[5,000]~~ 27,921 students for the charter schools

113 ~~[authorized in accordance with Subsection (1)].~~

114 (2) The State Board of Education, in consultation with the State Charter School Board,

115 shall allocate the students under Subsection (1) between the State Charter School Board and

116 local school boards.

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

118 **53A-1a-504. Proposal.**

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

122 (b) Except as provided in Section 53A-1a-515, a proposal to establish a charter school  
123 shall include provisions that the charter school will be organized and managed under Title 16,  
124 Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

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

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

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

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

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

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

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

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

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

147 (b) intended financing arrangements.

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

149 **53A-1a-506. Eligible students.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

176 **53A-1a-506.5. Charter school students -- Applications -- Deadlines.**

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

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

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

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

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

186 (iv) written notification to the student's parent or legal guardian of an offer of  
187 acceptance or the rejection of an application by March 31;

188 (v) written acceptance of the offer by the student's parent or legal guardian by April 30;

189 (vi) written notification to a student's current charter school or resident school district  
190 upon acceptance of that student for enrollment in a charter school; and

191 (vii) allow the admission of students at:

192 (A) any time to protect the health or safety of a student; or

193 (B) times other than those permitted under standard policies if there are other  
194 conditions of special need that warrant consideration.

195 (c) The rules under Subsection (1)(a) shall prevent the parent of a student who is  
196 enrolled in a charter school or who has accepted an offer as described in Subsection (1)(b)(v)  
197 from duplicating enrollment for that student in another charter school or a school district  
198 without following the withdrawal procedures described in Subsection (2).

199 (2) The parent of a student enrolled in a charter school may withdraw the student from  
200 that charter school for enrollment in another charter school or a school district by:

201 (a) submitting notice of intent to enroll the student in the district of residence for the  
202 subsequent year to the student's charter school no later than March 31 of the current school  
203 year;

204 (b) submitting notice of intent to enroll the student in another charter school for the  
205 subsequent school year to the current charter school of attendance, together with a letter of  
206 acceptance from the proposed charter school of attendance, no later than March 31 of the  
207 current school year; or

208 (c) if the parent desires to change the student's enrollment during the school year or  
209 after March 31, by obtaining approval from both the charter school of attendance and the  
210 school district or charter school in which enrollment is sought.

211 (3) When a vacancy occurs because a student has withdrawn from a charter school, that

212 charter school may immediately enroll a new student from its list of applicants.

213 (4) Unless provisions have previously been made for enrollment in another school, a  
214 charter school releasing a student from enrollment shall immediately notify the district of  
215 residence, which shall enroll the student in the resident district and take such additional steps  
216 as may be necessary to ensure compliance with laws governing school attendance.

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

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

220 **53A-1a-507. Requirements for charter schools.**

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

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

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

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

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

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

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

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

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

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



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

244 **53A-1a-508. Content of a charter -- Modification of charter.**

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

247 (2) The governing body of the charter school and the chartering entity shall sign the  
248 charter.

249 (3) The charter shall include:

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

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

253 (c) the governance structure of the school;

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

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

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

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

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

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

265 (j) the proposed school calendar, including the length of the school day and school  
266 year;

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

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

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

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

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

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

279 (q) fiscal procedures to be used by the school; and

280 (r) the school's policies and procedures regarding:

281 (i) employee evaluation; and

282 (ii) employment of relatives.

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

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

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

290 **53A-1a-510. Termination of a charter.**

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

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

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

295 (c) subject to Subsection [~~(5)~~] (6), failure to make adequate yearly progress under the  
296 No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;

297 (d) violation of requirements under this part or another law; or

298 (e) other good cause shown.

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

302 (b) The chartering entity shall conduct the hearing in accordance with Title 63, Chapter  
303 46b, Administrative Procedures Act, within 30 days after receiving a written request under  
304 Subsection (2)(a).

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

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

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

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

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

317 [~~3~~] (4) The chartering entity may terminate a charter immediately if good cause has  
318 been shown or if the health, safety, or welfare of the students at the school is threatened.

319 [~~4~~] (5) If a charter is terminated during a school year:

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

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

323 [~~5~~] (6) (a) If a charter is terminated, a student who attended the school may apply to  
324 and shall be enrolled in another public school under the enrollment provisions of Title 53A,  
325 Chapter 2, Part 2, District of Residency, subject to space availability.

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

327 [~~6~~] (7) A chartering entity may terminate a charter pursuant to Subsection (1)(c)  
328 under the same circumstances that local educational agencies are required to implement  
329 alternative governance arrangements under 20 U.S.C. Sec. 6316.

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

331 **53A-1a-510.5. Charter school closure.**

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

335 (2) (a) As soon as possible after the decision is made to close a charter school,

336 notification of the decision, in writing, shall be provided by the charter school to:  
337 (i) its chartering entity;  
338 (ii) the Charter School Board;  
339 (iii) the State Board of Education;  
340 (iv) parents of its students;  
341 (v) its creditors; and  
342 (vi) the school district in which the charter school is located and other charter schools  
343 located in that school district.  
344 (b) The notification under Subsection (2)(a) shall include:  
345 (i) the proposed date of school closure;  
346 (ii) the school's plans to help students identify and transition into a new school; and  
347 (iii) contact information for the charter school during the transition.  
348 (3) A closing charter school shall:  
349 (a) present a school closure plan to its chartering entity as soon as possible after the  
350 decision to close is made;  
351 (b) designate a custodian for the protection of student files and school business records;  
352 (c) maintain a base of operation throughout the charter school closing, including:  
353 (i) an office;  
354 (ii) hours of operation; and  
355 (iii) operational telephone service with voice messaging stating the hours of operation;  
356 (d) maintain insurance coverage and risk management coverage throughout the  
357 transition to closure and for a period following closure of the charter school as specified by the  
358 chartering entity;  
359 (e) complete a financial audit immediately after the decision to close is made;  
360 (f) inventory all assets of the charter school;  
361 (g) list all creditors of the charter school and specifically identify secured creditors and  
362 assets that are security interests; and  
363 (h) protect all school assets against theft, misappropriation, and deterioration.  
364 (4) (a) Any assets held subject to written conditions or limitations in accordance with  
365 Section 53A-1a-517 shall be disposed of in accordance with those conditions or limitations.  
366 (b) All liabilities and obligations of the closing charter school shall be paid and

367 discharged or adequate provisions shall be made to discharge the liabilities and obligations to  
368 the extent of the closing school's assets.

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

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

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

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

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

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

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

383 **53A-1a-514. Tort liability.**

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

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

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

390 **53A-1a-515. Charters authorized by local school boards.**

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

394 (b) The charter schools described in Subsection (1)(a) are in addition to the limited  
395 number of charter schools authorized by the State Charter School Board in Section  
396 53A-1a-502.5.

397 (2) (a) An existing public school that converts to charter status under a charter granted

398 by a local school board may:

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

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

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

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

406 (A) through the school district; and

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

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

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

412 (A) through the school district; and

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

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

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

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

420 (A) through the school district; and

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

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

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

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

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

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

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

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

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

438 (7) A local school board shall:

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

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

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

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

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

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

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

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

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

458 **53A-1a-517. Charter school assets.**

459 (1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant,

460 endowment, gift, or donation of any asset made to the school for any of the purposes of this  
461 part.

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

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

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

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

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

475 **53A-1a-518. Regulated transactions and relationships -- Definitions --**

476 **Rulemaking.**

477 (1) As used in this section:

478 (a) "Charter school officer" means:

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

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

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

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

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

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

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



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

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

494 (ii) submit the employment decision for the approval, by majority vote, to the charter  
495 school's governing board;

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

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

499 (3) (a) A charter school officer or a relative of a charter school officer may not have a  
500 financial interest in a contract or other transaction involving a charter school in which the  
501 charter school officer serves as a charter school officer.

502 (b) The provisions in Subsection (3)(a) do not apply to a reasonable contract of  
503 employment for:

504 (i) the chief administrative officer of a charter school; and

505 (ii) the relative of the chief administrative officer of a charter school whose  
506 employment is approved in accordance with the provisions in Subsection (2).

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

509 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
510 State Board of Education, in consultation with the State Charter School Board, shall make rules  
511 that require the disclosure of conflicts of interest and regulate unethical behavior for charter  
512 schools.

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

514 **53A-17a-104. Amount of state's contribution toward minimum school program.**

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

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

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

- 522 (b) basic program - grades 1-12, \$1,118,053,443 (462,579 WPU);
- 523 (c) basic program - professional staff, \$106,128,053 (43,909 WPU);
- 524 (d) basic program - administrative costs, \$3,937,293 (1,629 WPU);
- 525 (e) basic program - necessarily existent small schools and units for consolidated
- 526 schools, \$18,487,633 (7,649 WPU);
- 527 (f) special education - regular program - add-on WPU for students with disabilities,
- 528 \$136,350,221 (56,413 WPU);
- 529 (g) preschool special education program, \$19,717,886 (8,158 WPU);
- 530 (h) self-contained regular WPU, \$32,148,517 (13,301 WPU);
- 531 (i) extended year program for severely disabled, \$887,039 (367 WPU);
- 532 (j) special education programs in state institutions and district impact aid, \$3,487,731
- 533 (1,443 WPU);
- 534 (k) applied technology and technical education district programs, \$59,934,349 (24,797
- 535 WPU), including \$1,045,033 for summer applied technology agriculture programs;
- 536 (l) applied technology district set-aside, \$2,562,020 (1,060 WPU);
- 537 (m) class size reduction, \$74,378,341 (30,773 WPU);
- 538 (n) Social Security and retirement programs, \$310,891,038;
- 539 (o) pupil transportation to and from school, \$62,601,763, of which not less than
- 540 \$2,173,569 shall be allocated to the Utah Schools for the Deaf and Blind to pay for
- 541 transportation costs of the schools' students;
- 542 (p) guarantee transportation levy, \$500,000;
- 543 (q) Local Discretionary Block Grant Program, \$21,820,748;
- 544 (r) Interventions for Student Success Block Grant Program, \$16,792,888;
- 545 (s) Quality Teaching Block Grant Program, \$62,993,704;
- 546 (t) highly impacted schools, \$5,123,207;
- 547 (u) at-risk programs, \$27,992,056;
- 548 (v) adult education, \$9,148,653;
- 549 (w) accelerated learning programs, \$12,010,853;
- 550 (x) electronic high school, \$1,300,000;
- 551 (y) School LAND Trust Program, \$15,000,000;
- 552 (z) state-supported voted leeway, \$196,085,303;

- 553 (aa) state-supported board leeway, \$54,704,476;
- 554 (bb) charter schools, pursuant to Section 53A-1a-513, [~~\$21,552,450~~] \$28,509,000;
- 555 (cc) charter school administrative costs, \$750,000;
- 556 [~~(cc)~~] (dd) K-3 Reading Improvement Program, \$12,500,000 ; and
- 557 [~~(dd)~~] (ee) state-supported board leeway for K-3 Reading Improvement Program,
- 558 \$15,000,000.

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

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

**Appropriation for charter school administrative costs.**

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

Administrative Costs Schedule

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

(2) Money appropriated to the State Board of Education for charter school administrative costs, including an appropriation in Section 53A-17a-104, shall be distributed to charter schools in the amount of \$62 for each charter school student in enrollment.

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

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

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

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

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

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

- 584 (a) levy a tax of at least .0024 for capital outlay and debt service;
- 585 (b) contract with the state superintendent of public instruction to repay the monies,  
586 with interest at a rate established by the state superintendent, within five years of their receipt,  
587 using future state building monies or local revenues or both;
- 588 (c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan  
589 repayments, unless the state superintendent of public instruction alters the payment schedule to  
590 improve a hardship situation; and
- 591 (d) meet any other condition established by the State Board of Education pertinent to  
592 the loan.
- 593 (4) (a) The state superintendent shall establish a committee, including representatives  
594 from state and local education entities, to:
- 595 (i) review requests by school districts for loans under this section; and  
596 (ii) make recommendations regarding approval or disapproval of the loan applications  
597 to the state superintendent.
- 598 (b) If the committee recommends approval of a loan application under Subsection  
599 (4)(a)(ii), the committee's recommendation shall include:
- 600 (i) the recommended amount of the loan;  
601 (ii) the payback schedule; and  
602 (iii) the interest rate to be charged.
- 603 (5) (a) There is established within the School Building Revolving Account the Charter  
604 School Building Subaccount administered by the State Board of Education, in consultation  
605 with the State Charter School Board, in accordance with rules adopted by the State Board of  
606 Education.
- 607 (b) The Charter School Building Subaccount shall consist of:
- 608 (i) money appropriated to the subaccount by the Legislature;  
609 (ii) money received from the repayment of loans made from the subaccount; and  
610 (iii) interest earned on monies in the subaccount.
- 611 (c) The state superintendent of public instruction shall make loans to charter schools  
612 from the Charter School Building Subaccount to pay for the costs of:
- 613 (i) constructing or renovating charter school buildings[-]; or  
614 (ii) equipment, supplies, or other start-up or expansion expenses.

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

619 (i) review requests by charter schools for loans under this section; and  
620 (ii) make recommendations regarding approval or disapproval of the loan applications  
621 to the [~~state superintendent~~] State Charter School Board and the State Board of Education.

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

624 (i) the recommended amount of the loan;

625 (ii) the payback schedule; and

626 (iii) the interest rate to be charged.

627 (c) The committee members may not:

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

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

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

633 (8) Loans to charter schools under this section may not exceed:

634 (a) a term of five years; and

635 (b) more than \$150 per charter school student for the expenses described in Subsection  
636 (5)(c)(ii).

637 (9) The State Board of Education may not approve loans to charter schools under this  
638 section that exceed a total of \$2,000,000 in any year.

639 **Section 18. Repealer.**

640 This bill repeals:

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

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

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

646 Section 20. **Ongoing appropriation for State Charter School Board administrative**  
647 **costs.**

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

652 Section 21. **Ongoing appropriation for charter schools.**

653 (1) As an ongoing appropriation subject to future budget constraints, there is  
654 appropriated from the Uniform School Fund for fiscal year 2007-08, \$4,000,000 to the State  
655 Board of Education for charter schools.

656 (2) It is the intent of the Legislature that the State Board of Education shall distribute  
657 the money appropriated in Subsection (1) based upon average daily membership of the charter  
658 schools.

659 Section 22. **One-time appropriation for charter school administrative costs.**

660 There is appropriated from the Uniform School Fund to the State Board of Education  
661 for fiscal year 2007-08 only , \$750,000 for charter school administrative costs as provided in  
662 Section 53A-17a-108.

663 Section 23. **One-time appropriation for charter schools.**

664 (1) There is appropriated from the Uniform School Fund to the State Board of  
665 Education for fiscal year 2007-08 only, \$4,261,900 for charter schools.

666 (2) It is the intent of the Legislature that the State Board of Education shall distribute  
667 the money appropriated in Subsection (1) based upon average daily membership of the charter  
668 schools.

669 Section 24. **One-time appropriation for the School Building Revolving Account --**  
670 **Nonlapsing.**

671 (1) There is appropriated \$6,000,000 from the Uniform School Fund for fiscal year  
672 2007-08 only to the Charter School Building Subaccount within the School Building Revolving  
673 Account established in Section 53A-21-104.

674 (2) The appropriation described under Subsection (1) is nonlapsing.

675 Section 25. **Effective date.**

676 This bill takes effect on July 1, 2007.

677 Section 26. **Coordinating H.B. 164 with H.B. 3 -- Substantively superseding**  
678 **amendments.**

679 If this H.B. 149 and H.B. 3, Minimum School Program Base Budget Amendments, both  
680 pass, it is the intent of the Legislature that when the Office of Legislative Research and General  
681 Counsel prepares the Utah Code database for publication:

682 (1) the appropriation for charter schools under Subsection 53A-17a-104(2)(bb) in this  
683 bill supersedes the appropriation for charter schools under Subsection 53A-17a-104(2)(cc) in  
684 H.B. 3; and

685 (2) the appropriation under Subsection 53A-17a-104(1) in H.B. 3 supersedes the  
686 appropriation in Subsection 53A-17a-104(1) in this bill, except that the appropriation under  
687 Subsection 53A-17a-104(1) in H.B. 3 shall be increased by:

688 (a) \$1,487,512; and

689 (b) the amount provided for charter school administrative costs under Subsection  
690 53A-17a-104(2)(cc) in this bill.