

Senator Lyle W. Hillyard proposes the following substitute bill:

CHARTER SCHOOL AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ron Bigelow

Senate Sponsor: Lyle W. Hillyard

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;
- ▶ requires the State Board of Education and the State Charter School Board to develop a joint proposal and submit the proposal to the Executive Appropriations Committee;
- ▶ 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, \$35,971,488 from



26 the Uniform School Fund for fiscal year 2007-08 to the State Board of Education for charter
27 schools;

28 ▶ \$9,500,000 from the Uniform School Fund for fiscal year 2007-08 only to the State
29 Board of Education for charter schools; and

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

33 Other Special Clauses:

34 This bill takes effect on July 1, 2007.

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

38 This bill coordinates with H.B. 160 by providing that certain amendments in this bill
39 supersede the amendments in H.B. 160 and that certain amendments in H.B. 160
40 supersede the amendments in this bill.

41 Utah Code Sections Affected:

42 AMENDS:

43 **53A-1a-501.3**, as enacted by Chapter 251, Laws of Utah 2004

44 **53A-1a-501.6**, as last amended by Chapter 291, Laws of Utah 2005

45 **53A-1a-502.5**, as enacted by Chapter 354, Laws of Utah 2006

46 **53A-1a-504**, as last amended by Chapter 291, Laws of Utah 2005

47 **53A-1a-506**, as last amended by Chapters 291 and 301, Laws of Utah 2005

48 **53A-1a-507**, as last amended by Chapter 251, Laws of Utah 2004

49 **53A-1a-508**, as last amended by Chapter 291, Laws of Utah 2005

50 **53A-1a-510**, as last amended by Chapter 291, Laws of Utah 2005

51 **53A-1a-514**, as enacted by Chapter 231, Laws of Utah 1998

52 **53A-1a-515**, as last amended by Chapter 354, Laws of Utah 2006

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

54 **53A-17a-108**, as last amended by Chapter 221, Laws of Utah 2003

55 **53A-21-104**, as last amended by Chapter 105, Laws of Utah 2005

56 ENACTS:

57 53A-1a-506.5, Utah Code Annotated 1953

58 53A-1a-510.5, Utah Code Annotated 1953

59 53A-1a-517, Utah Code Annotated 1953

60 53A-1a-518, Utah Code Annotated 1953

61 REPEALS:

62 53A-1a-501.8, as enacted by Chapter 251, Laws of Utah 2004

63 **Uncodified Material Affected:**

64 ENACTS UNCODIFIED MATERIAL



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

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

68 **53A-1a-501.3. Definitions.**

69 As used in this part[, "chartering"]:

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

72 (a) cash;

73 (b) stock or other investments;

74 (c) real property;

75 (d) equipment and supplies;

76 (e) an ownership interest;

77 (f) a license;

78 (g) a cause of action; and

79 (h) any similar property.

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

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

83 **53A-1a-501.6. Power and duties of State Charter School Board.**

84 (1) The State Charter School Board shall:

85 (a) authorize and promote the establishment of charter schools, subject to the

86 [procedures] provisions in [Section 53A-1a-505] this part;

87 (b) annually review and evaluate the performance of charter schools authorized by the

88 State Charter School Board and hold the schools accountable for their performance;

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

91 (d) provide technical support to charter schools and persons seeking to establish charter
92 schools by:

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

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

95 (iii) directing charter schools and persons seeking to establish charter schools to

96 sources of private funding and support;

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

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

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

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

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

107 (2) The State Charter School Board may:

108 (a) contract;

109 (b) sue and be sued; and

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

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

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

115 **53A-1a-502.5. Charter schools -- Maximum authorized students.**

116 (1) The State Charter School Board and local school boards may only authorize~~[-(1)-~~a
117 ~~maximum of five charter schools that will begin operation in the 2007-08 school year; and (2)]~~
118 a combined maximum student capacity of [5,000];

119 (a) 27,921 students for the charter schools [~~authorized in accordance with Subsection~~
120 ~~(1)-:] in the 2007-08 school year; and~~

121 (b) 32,921 students for the charter schools in the 2008-09 school year.

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

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

126 **53A-1a-504. Proposal.**

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

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

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

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

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

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

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

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

150 (3) A parochial school or home school is not eligible for charter school status.
151 (4) Beginning on July 1, 2007, a charter school application shall include a statement
152 that indicates the charter school's intent relating to the establishment of its charter school
153 facilities, including:

- 154 (a) whether the charter school intends to lease or purchase its facilities; and
- 155 (b) intended financing arrangements.

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

157 **53A-1a-506. Eligible students.**

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

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

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

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

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

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

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

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

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

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

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

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

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

180 (3) A charter school may not discriminate in its admission policies or practices on the

181 same basis as other public schools may not discriminate in their admission policies and
182 practices.

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

184 **53A-1a-506.5. Charter school students -- Applications -- Deadlines.**

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

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

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

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

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

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

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

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

199 (vii) the admission of students, provided that the admission does not disqualify the
200 charter school from any federal funding, at:

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

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

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

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

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

212 year;

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

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

220 (3) When a vacancy occurs because a student has withdrawn from a charter school, that
221 charter school may immediately enroll a new student from its list of applicants.

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

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

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

229 **53A-1a-507. Requirements for charter schools.**

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

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

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

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

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

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

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

244 (7) Except as provided in Section 53A-1-515, a charter school shall be organized and
245 managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its
246 authorization.

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

248 (9) Beginning on July 1, 2007, a charter school shall submit any lease, lease-purchase
249 agreement, or other contract or agreement relating to the charter school's facilities or financing
250 the charter school facilities to its chartering entity for review and advice prior to the charter
251 school entering into the lease, agreement, or contract.

252 (10) A charter school may not employ an educator whose license has been suspended or
253 revoked by the State Board of Education as provided in Section 53A-6-501.

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

255 **53A-1a-508. Content of a charter -- Modification of charter.**

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

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

260 (3) The charter shall include:

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

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

264 (c) the governance structure of the school;

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

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

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

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

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

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

276 (j) the proposed school calendar, including the length of the school day and school
277 year;

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

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

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

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

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

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

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

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

292 (i) employee evaluation; and

293 (ii) employment of relatives.

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

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

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

301 **53A-1a-510. Termination of a charter.**

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

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

- 305 (b) failure to meet generally accepted standards of fiscal management;
- 306 (c) subject to Subsection [~~5~~] (6), failure to make adequate yearly progress under the
- 307 No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
- 308 (d) violation of requirements under this part or another law; or
- 309 (e) other good cause shown.

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

313 (b) The chartering entity shall conduct the hearing in accordance with Title 63, Chapter
 314 46b, Administrative Procedures Act, within 30 days after receiving a written request under
 315 Subsection (2)(a).

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

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

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

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

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

328 [~~3~~] (4) The chartering entity may terminate a charter immediately if good cause has
 329 been shown or if the health, safety, or welfare of the students at the school is threatened.

330 [~~4~~] (5) If a charter is terminated during a school year:

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

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

334 [~~5~~] (6) (a) If a charter is terminated, a student who attended the school may apply to
 335 and shall be enrolled in another public school under the enrollment provisions of Title 53A,

336 Chapter 2, Part 2, District of Residency, subject to space availability.

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

338 [~~(6)~~] (7) A chartering entity may terminate a charter pursuant to Subsection (1)(c)

339 under the same circumstances that local educational agencies are required to implement

340 alternative governance arrangements under 20 U.S.C. Sec. 6316.

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

342 **53A-1a-510.5. Charter school closure.**

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

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

348 (i) its chartering entity;

349 (ii) the State Charter School Board;

350 (iii) the State Board of Education;

351 (iv) parents of its students;

352 (v) its creditors; and

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

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

356 (i) the proposed date of school closure;

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

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

359 (3) A closing charter school shall:

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

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

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

364 (i) an office;

365 (ii) hours of operation; and

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

367 (d) maintain insurance coverage and risk management coverage throughout the
368 transition to closure and for a period following closure of the charter school as specified by the
369 chartering entity;

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

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

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

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

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

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

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

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

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

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

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

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

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

394 **53A-1a-514. Tort liability.**

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

397 (2) The governing body of a charter school, the nonprofit corporation under which the

398 charter school is organized and managed, and the school are solely liable for any damages
399 resulting from a legal challenge involving the operation of the school.

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

401 **53A-1a-515. Charters authorized by local school boards.**

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

405 (b) The charter schools described in Subsection (1)(a) are in addition to the limited
406 number of charter schools authorized by the State Charter School Board in Section
407 53A-1a-502.5.

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

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

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

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

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

417 (A) through the school district; and

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

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

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

423 (A) through the school district; and

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

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

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

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

431 (A) through the school district; and

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

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

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

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

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

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

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

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

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

449 (7) A local school board shall:

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

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

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

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

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

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

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

465 (b) exempt from the requirement under Section 53A-1a-507 that a charter school shall
466 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation
467 Act.

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

469 **53A-1a-517. Charter school assets.**

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

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

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

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

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

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

486 **53A-1a-518. Regulated transactions and relationships -- Definitions --**
487 **Rulemaking.**

488 (1) As used in this section:

489 (a) "Charter school officer" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

521 **53A-17a-104. Amount of state's contribution toward minimum school program.**

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

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

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

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

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

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

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

534 (f) special education - regular program - add-on WPU for students with disabilities,
535 \$136,350,221 (56,413 WPU);

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

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

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

539 (j) special education programs in state institutions and district impact aid, \$3,487,731
540 (1,443 WPU);

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

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

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

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

546 (o) pupil transportation to and from school, \$62,601,763, of which not less than
547 \$2,173,569 shall be allocated to the Utah Schools for the Deaf and Blind to pay for
548 transportation costs of the schools' students;

549 (p) guarantee transportation levy, \$500,000;

550 (q) Local Discretionary Block Grant Program, \$21,820,748;

551 (r) Interventions for Student Success Block Grant Program, \$16,792,888;

552 (s) Quality Teaching Block Grant Program, \$62,993,704;

- 553 (t) highly impacted schools, \$5,123,207;
- 554 (u) at-risk programs, \$27,992,056;
- 555 (v) adult education, \$9,148,653;
- 556 (w) accelerated learning programs, \$12,010,853;
- 557 (x) electronic high school, \$1,300,000;
- 558 (y) School LAND Trust Program, \$15,000,000;
- 559 (z) state-supported voted leeway, \$196,085,303;
- 560 (aa) state-supported board leeway, \$54,704,476;
- 561 (bb) charter schools, pursuant to Section 53A-1a-513, [~~\$21,552,450~~] \$28,509,000;
- 562 (cc) charter school administrative costs, \$750,000;
- 563 [~~(ee)~~] (dd) K-3 Reading Improvement Program, \$12,500,000; and
- 564 [~~(dd)~~] (ee) state-supported board leeway for K-3 Reading Improvement Program,
- 565 \$15,000,000.

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

567 **53A-17a-108. Weighted pupil units for school district administrative costs --**

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

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

571 Administrative Costs Schedule

572 School District Enrollment as of October 1	Weighted Pupil Units
573 1 - 2,000 students	53
574 2,001 - 10,000 students	48
575 10,001 - 20,000 students	25
576 20,001 and above	16

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

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

581 (1).

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

583 **53A-21-104. School Building Revolving Account -- Access to the account.**

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

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

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

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

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

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

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

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

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

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

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

607 (i) the recommended amount of the loan;

608 (ii) the payback schedule; and

609 (iii) the interest rate to be charged.

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

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

- 615 (i) money appropriated to the subaccount by the Legislature;
616 (ii) money received from the repayment of loans made from the subaccount; and
617 (iii) interest earned on monies in the subaccount.

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

620 (i) planning expenses;

621 (ii) constructing or renovating charter school buildings[-];

622 (iii) equipment and supplies; or

623 (iv) other start-up or expansion expenses.

624 (d) Loans to new charter schools or charter schools with urgent facility needs may be
625 given priority.

626 (6) (a) The [~~state superintendent of public instruction~~] State Board of Education 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 (9) The State Board of Education may not approve loans to charter schools under this

646 section that exceed a total of \$2,000,000 in any year.

647 Section 18. **Repealer.**

648 This bill repeals:

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

650 Section 19. **Charter school study -- Report.**

651 It is the intent of the Legislature that the State Board of Education and the State Charter

652 School Board shall:

653 (1) develop a joint proposal for unifying charter schools and district schools into the
654 same district local funding formulas while maintaining the unique purposes, exceptions, and
655 local parental control that currently exists for charter schools; and

656 (2) submit the proposal to the Executive Appropriations Committee by its September
657 meeting in 2007.

658 Section 20. **Ongoing appropriation for charter school administrative costs.**

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

662 Section 21. **Ongoing appropriation for State Charter School Board administrative**
663 **costs.**

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

668 Section 22. **Ongoing appropriation for charter schools.**

669 (1) As an ongoing appropriation subject to future budget constraints, there is
670 appropriated from the Uniform School Fund for fiscal year 2007-08, \$3,512,488 to the State
671 Board of Education for charter schools.

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

675 Section 23. **One-time appropriation for charter school administrative costs.**

676 There is appropriated from the Uniform School Fund to the State Board of Education

677 for fiscal year 2007-08 only , \$750,000 for charter school administrative costs as provided in
678 Section 53A-17a-108.

679 Section 24. **One-time appropriation for charter schools.**

680 (1) There is appropriated from the Uniform School Fund to the State Board of
681 Education for fiscal year 2007-08 only, \$4,750,000 for charter schools.

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

685 Section 25. **One-time appropriation for the School Building Revolving Account --**
686 **Nonlapsing.**

687 (1) There is appropriated \$6,000,000 from the Uniform School Fund for fiscal year
688 2007-08 only to the Charter School Building Subaccount within the School Building Revolving
689 Account established in Section 53A-21-104.

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

691 Section 26. **Appropriation for local replacement funding -- Ongoing -- One-time --**
692 **Nonlapsing.**

693 (1) As an ongoing appropriation subject to future budget constraints, there is
694 appropriated from the Uniform School Fund for fiscal year 2007-08, \$3,000,000 to the State
695 Board of Education.

696 (2) There is appropriated from the Uniform School Fund to the State Board of
697 Education for fiscal year 2007-08 only, \$4,000,000 to the State Board of Education.

698 (3) It is the intent of the Legislature that the appropriations under Subsections (1) and
699 (2):

700 (a) are nonlapsing; and

701 (b) shall be retained by the State Board of Education until the 2008-09 fiscal year to
702 replace some of the local property tax revenues that are not available to charter schools.

703 Section 27. **Effective date.**

704 This bill takes effect on July 1, 2007.

705 Section 28. **Coordinating H.B. 164 with H.B. 3 -- Substantively superseding**
706 **amendments.**

707 If this H.B. 164 and H.B. 3, Minimum School Program Base Budget Amendments, both

708 pass, it is the intent of the Legislature that when the Office of Legislative Research and General
709 Counsel prepares the Utah Code database for publication:

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

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

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

717 (b) the amount provided for charter school administrative costs under Subsection
718 53A-17a-104(2)(cc) in this bill.

719 **Section 29. Coordinating H.B. 164 with H.B. 160 -- Substantively superseding**
720 **amendments.**

721 If this H.B. 164 and H.B. 160, Minimum School Program Budget Amendments, both
722 pass, it is the intent of the Legislature that when the Office of Legislative Research and General
723 Counsel prepares the Utah Code database for publication, the appropriation under Subsection
724 53A-17a-104(1) in H.B. 160 supersedes the appropriation under Subsection 53A-17a-104(1) in
725 this bill, except that the appropriation under Subsection 53A-17a-104(1) in H.B. 160 shall be
726 increased by \$750,000.

H.B. 164 3rd Sub. (Cherry) - Charter School Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will appropriate \$35,971,488 in ongoing Uniform School Fund Revenue beginning in FY 2008 and \$15,500,000 in one-time Uniform School Fund Revenue in FY 2008 to the State Board of Education to implement the provisions outlined in the bill.

	<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	\$35,971,488	\$35,971,488	\$0	\$0	\$0
Uniform School Fund, One-time	\$0	\$15,500,000	\$0	\$0	\$0	\$0
Total	\$0	\$51,471,488	\$35,971,488	\$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.