

1 **CHARTER SCHOOL FINANCING**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Derek E. Brown

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions regarding the financing of charter schools, establishes the  
10 Charter School Credit Enhancement Program, and establishes the Charter School  
11 Reserve Account.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ prohibits a chartering entity from terminating the charter of a qualifying charter  
15 school with outstanding bonds issued pursuant to the Charter School Credit  
16 Enhancement Program without ~~§~~ → [the consent] mutual agreement ← ~~§~~ of the Utah Charter  
16a School Finance

17 Authority ~~§~~ → and the chartering entity ← ~~§~~ ;

18 ▶ changes the name of the State Charter School Finance Authority to the Utah Charter  
19 School Finance Authority;

20 ▶ establishes the Charter School Credit Enhancement Program;

21 ▶ requires the Utah Charter School Finance Authority to establish criteria for a charter  
22 school to be designated as a qualifying charter school for purposes of issuing bonds  
23 pursuant to the Charter School Credit Enhancement Program;

24 ▶ creates the Charter School Reserve Account;

25 ▶ sets Charter School Reserve Account contribution requirements for qualifying  
26 charter schools;

27 ▶ requires the Utah Charter School Finance Authority to notify the governor of a



121 Charter School Finance Authority.

122 (b) ~~[The]~~ Except as provided in Subsection (2)(e), the chartering entity shall conduct  
 123 the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30  
 124 days after receiving a written request under Subsection (2)(a).

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

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

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

131 (e) (i) If the chartering entity proposes to terminate the charter of a qualifying charter  
 132 school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School  
 133 Credit Enhancement Program, the chartering entity shall conduct a hearing described in  
 134 Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

135 (A) the governing body of the qualifying charter school; and

136 (B) the Utah Charter School Finance Authority.

137 (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School  
 138 Finance Authority shall meet with the chartering entity to determine whether the deficiency  
 139 may be remedied in lieu of termination of the qualifying charter school's charter.

140 (3) A chartering entity may not terminate the charter of a qualifying charter school with  
 141 outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit  
 142 Enhancement Program, without ~~§~~→ **[the consent] mutual agreement** ←~~§~~ of the Utah Charter  
 142a School Finance Authority ~~§~~→ **and the chartering entity** ←~~§~~ .

143 ~~[(3)]~~ (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
 144 Act, the State Board of Education shall make rules that require a charter school to report any  
 145 threats to the health, safety, or welfare of its students to the State Charter School Board in a  
 146 timely manner.

147 (b) The rules under Subsection ~~[(3)]~~ (4)(a) shall also require the charter school report  
 148 to include what steps the charter school has taken to remedy the threat.

149 ~~[(4) The]~~ (5) Subject to the requirements of Subsection (3), the chartering entity may  
 150 terminate a charter immediately if good cause has been shown or if the health, safety, or  
 151 welfare of the students at the school is threatened.

276 **designation of qualifying charter schools -- Debt service reserve fund requirements.**

277 (1) There is created the Charter School Credit Enhancement Program to assist  
 278 qualifying charter schools in obtaining favorable financing by providing a means of  
 279 replenishing a qualifying charter school's debt service reserve fund.

280 (2) The authority shall establish standards for a charter school to be designated as a  
 281 qualifying charter school.

282 (3) In establishing the standards described in Subsection (2) the authority shall  
 283 consider:

284 (a) whether a charter school has received an investment grade rating, independent of  
 285 any rating enhancement resulting from the issuance of bonds pursuant to the credit  
 286 enhancement program;

287 (b) the location of the charter school's project;

288 (c) the operating history of the charter school;

289 (d) the financial strength of the charter school; and

290 (e) any other criteria the authority determines ~~is~~ [is] are ~~relevant~~.

291 (4) The bonds issued by the authority for a qualifying charter school are not an  
 292 indebtedness of the state or of the authority but are special obligations payable solely from:

293 (a) the revenues or other funds pledged by the qualifying charter school; and

294 (b) amounts appropriated by the Legislature pursuant to Subsection (9).

295 (5) The authority shall notify the chartering entity of a charter school that the charter  
 296 school is participating in the credit enhancement program if the authority:

297 (a) designates the charter school as a qualifying charter school; and

298 (b) issues bonds for the qualifying charter school under the credit enhancement  
 299 program.

300 (6) One or more debt service reserve funds shall be established for a qualifying charter  
 301 school with respect to bonds issued pursuant to the credit enhancement program.

302 (7) (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund  
 303 may not be withdrawn from the debt service reserve fund if the amount withdrawn would  
 304 reduce the level of money in the debt service reserve fund to less than the debt service reserve  
 305 fund requirement.

306 (b) So long as the applicable bonds issued under the credit enhancement program

307 remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that  
 308 would reduce the level of money in the debt service reserve fund to less than the debt service  
 309 reserve fund requirement if ~~§~~→ **the money is withdrawn for the purpose of** ←~~§~~ :

310 (i) ~~§~~→ [**the money is withdrawn for the purpose of**] ←~~§~~ paying the principal of, redemption  
 310a price  
 311 of, or interest on a bond when due and if no other money of the qualifying charter school is  
 312 available to make the payment, as determined by the authority; or

313 (ii) ~~§~~→ [**the payment of**] **paying** ←~~§~~ any redemption premium required to be paid  
 313a when the bonds are  
 314 redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds  
 315 in the qualifying charter school's debt service reserve fund.

316 (8) Money in a qualifying charter school's debt service reserve fund that exceeds the  
 317 debt service reserve fund requirement may be withdrawn by the qualifying charter school.

318 (9) (a) The authority shall annually, on or before December 1, certify to the governor  
 319 the amount, if any, required to restore amounts on deposit in the debt service reserve funds of  
 320 qualifying charter schools to the respective debt service reserve fund requirements.

321 (b) The governor shall request from the Legislature an appropriation of the certified  
 322 amount to restore amounts on deposit in the debt service reserve funds of qualifying charter  
 323 schools to the respective debt service reserve fund requirements.

324 (c) The Legislature may appropriate money to the authority to restore amounts on  
 325 deposit in the debt service reserve funds of qualifying charter schools to the respective debt  
 326 service reserve fund requirements.

327 (d) A qualifying charter school that receives money from an appropriation to restore  
 328 amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement,  
 329 shall repay the state at the time and in the manner as the authority shall require.

330 (10) The authority may create and establish other funds for its purposes.

331 Section 10. Section **53A-20b-202** is enacted to read:

332 **53A-20b-202. Charter School Reserve Account contribution requirements for**  
 333 **qualifying charter schools.**

334 (1) When bonds are issued under the credit enhancement program for a qualifying  
 335 charter school, the qualifying charter school shall contribute money to the reserve account in  
 336 the amount determined as provided in Subsection (2).

337 (2) The authority shall determine the up-front and ongoing requirements for