

CHARTER SCHOOL REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies provisions related to charter schools.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for charter school applications;
- ▶ establishes requirements for charter school agreements;
- ▶ requires the State Charter School Board to establish certain requirements, processes, and standards relating to charter school applications submitted to the State Charter School Board;
- ▶ requires a board of trustees of a higher education institution to, before accepting a charter school application, establish certain requirements, processes, and standards relating to an application;
- ▶ requires a local school board to, before accepting a charter school application, establish certain requirements, processes, and standards relating to an application;
- ▶ requires a charter school to obtain attorney review of certain documents relating to the charter school's facilities or financing the charter school's facilities;
- ▶ allows another charter school to apply for assumption of operation of a charter school whose charter agreement is terminated;
- ▶ allows a proposed or authorized charter school to elect to participate in state



28 retirement programs;

29 ▶ allows a charter school to weight its lottery to give a slightly better chance of
30 admission to educationally disadvantaged students; and

31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 ~~H~~→ ~~[None]~~ This bill coordinates with S.B. 171, Student-Centered Learning Pilot

35a Program, by providing technical amendments. ←~~H~~

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **10-9a-103**, as last amended by Laws of Utah 2013, Chapters 309 and 334

39 **11-36a-102**, as last amended by Laws of Utah 2013, Chapter 200

40 **17-27a-103**, as last amended by Laws of Utah 2013, Chapters 309, 334, and 476

41 **49-12-202**, as last amended by Laws of Utah 2009, Chapters 51 and 165

42 **49-13-202**, as last amended by Laws of Utah 2012, Chapter 298

43 **49-22-202**, as last amended by Laws of Utah 2012, Chapter 298

44 **52-4-209**, as last amended by Laws of Utah 2012, Chapter 403

45 **53A-1a-501.3**, as last amended by Laws of Utah 2013, Chapter 10

46 **53A-1a-501.6**, as last amended by Laws of Utah 2010, Chapter 353

47 **53A-1a-503.5**, as last amended by Laws of Utah 2008, Chapter 319

48 **53A-1a-505**, as last amended by Laws of Utah 2005, Chapter 291

49 **53A-1a-506**, as last amended by Laws of Utah 2013, Chapter 278

50 **53A-1a-506.5**, as last amended by Laws of Utah 2010, Chapter 162

51 **53A-1a-507**, as last amended by Laws of Utah 2011, Chapter 349

52 **53A-1a-509**, as last amended by Laws of Utah 2012, Chapter 201

53 **53A-1a-510**, as last amended by Laws of Utah 2012, Chapter 201

54 **53A-1a-510.5**, as enacted by Laws of Utah 2007, Chapter 344

55 **53A-1a-512**, as last amended by Laws of Utah 2012, Chapter 425

56 **53A-1a-514**, as last amended by Laws of Utah 2007, Chapter 344

57 **53A-1a-515**, as last amended by Laws of Utah 2010, Chapters 162 and 303

58 **53A-1a-517**, as enacted by Laws of Utah 2007, Chapter 344

59 **53A-1a-520**, as last amended by Laws of Utah 2010, Chapter 353

60 **53A-1a-521**, as last amended by Laws of Utah 2013, Chapter 239

61 **53A-20b-201**, as enacted by Laws of Utah 2012, Chapter 201

62 REPEALS AND REENACTS:

63 **53A-1a-504**, as last amended by Laws of Utah 2007, Chapter 344

64 **53A-1a-508**, as last amended by Laws of Utah 2011, Chapter 349



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

67 Section 1. Section **10-9a-103** is amended to read:

68 **10-9a-103. Definitions.**

69 As used in this chapter:

70 (1) "Affected entity" means a county, municipality, local district, special service
71 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
72 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
73 public utility, property owner, property owners association, or the Utah Department of
74 Transportation, if:

75 (a) the entity's services or facilities are likely to require expansion or significant
76 modification because of an intended use of land;

77 (b) the entity has filed with the municipality a copy of the entity's general or long-range
78 plan; or

79 (c) the entity has filed with the municipality a request for notice during the same
80 calendar year and before the municipality provides notice to an affected entity in compliance
81 with a requirement imposed under this chapter.

82 (2) "Appeal authority" means the person, board, commission, agency, or other body
83 designated by ordinance to decide an appeal of a decision of a land use application or a
84 variance.

85 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
86 residential property if the sign is designed or intended to direct attention to a business, product,
87 or service that is not sold, offered, or existing on the property where the sign is located.

88 (4) (a) "Charter school" means:

89 (i) an operating charter school;

90 (ii) a charter school applicant that has its application approved by a [~~chartering entity~~]
91 charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter
92 Schools Act; or

93 (iii) an entity that is working on behalf of a charter school or approved charter
94 applicant to develop or construct a charter school building.

95 (b) "Charter school" does not include a therapeutic school.

96 (5) "Conditional use" means a land use that, because of its unique characteristics or
97 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
98 compatible in some areas or may be compatible only if certain conditions are required that
99 mitigate or eliminate the detrimental impacts.

100 (6) "Constitutional taking" means a governmental action that results in a taking of
101 private property so that compensation to the owner of the property is required by the:

102 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

103 (b) Utah Constitution, Article I, Section 22.

104 (7) "Culinary water authority" means the department, agency, or public entity with
105 responsibility to review and approve the feasibility of the culinary water system and sources for
106 the subject property.

107 (8) "Development activity" means:

108 (a) any construction or expansion of a building, structure, or use that creates additional
109 demand and need for public facilities;

110 (b) any change in use of a building or structure that creates additional demand and need
111 for public facilities; or

112 (c) any change in the use of land that creates additional demand and need for public
113 facilities.

114 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
115 or more of a person's major life activities, including a person having a record of such an
116 impairment or being regarded as having such an impairment.

117 (b) "Disability" does not include current illegal use of, or addiction to, any federally
118 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
119 802.

120 (10) "Educational facility":

- 121 (a) means:
- 122 (i) a school district's building at which pupils assemble to receive instruction in a
123 program for any combination of grades from preschool through grade 12, including
124 kindergarten and a program for children with disabilities;
- 125 (ii) a structure or facility:
- 126 (A) located on the same property as a building described in Subsection (10)(a)(i); and
127 (B) used in support of the use of that building; and
- 128 (iii) a building to provide office and related space to a school district's administrative
129 personnel; and
- 130 (b) does not include:
- 131 (i) land or a structure, including land or a structure for inventory storage, equipment
132 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
- 133 (A) not located on the same property as a building described in Subsection (10)(a)(i);
134 and
- 135 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
- 136 (ii) a therapeutic school.
- 137 (11) "Fire authority" means the department, agency, or public entity with responsibility
138 to review and approve the feasibility of fire protection and suppression services for the subject
139 property.
- 140 (12) "Flood plain" means land that:
- 141 (a) is within the 100-year flood plain designated by the Federal Emergency
142 Management Agency; or
- 143 (b) has not been studied or designated by the Federal Emergency Management Agency
144 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
145 the land has characteristics that are similar to those of a 100-year flood plain designated by the
146 Federal Emergency Management Agency.
- 147 (13) "General plan" means a document that a municipality adopts that sets forth general
148 guidelines for proposed future development of the land within the municipality.
- 149 (14) "Geologic hazard" means:
- 150 (a) a surface fault rupture;
- 151 (b) shallow groundwater;

- 152 (c) liquefaction;
- 153 (d) a landslide;
- 154 (e) a debris flow;
- 155 (f) unstable soil;
- 156 (g) a rock fall; or
- 157 (h) any other geologic condition that presents a risk:
- 158 (i) to life;
- 159 (ii) of substantial loss of real property; or
- 160 (iii) of substantial damage to real property.

161 (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
162 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
163 utility system.

164 (16) "Identical plans" means building plans submitted to a municipality that:

- 165 (a) are clearly marked as "identical plans";
- 166 (b) are substantially identical to building plans that were previously submitted to and
167 reviewed and approved by the municipality; and
- 168 (c) describe a building that:
 - 169 (i) is located on land zoned the same as the land on which the building described in the
170 previously approved plans is located;
 - 171 (ii) is subject to the same geological and meteorological conditions and the same law
172 as the building described in the previously approved plans;
 - 173 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
174 and approved by the municipality; and
 - 175 (iv) does not require any additional engineering or analysis.

176 (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
177 Impact Fees Act.

178 (18) "Improvement completion assurance" means a surety bond, letter of credit, cash,
179 or other security required by a municipality to guaranty the proper completion of landscaping
180 or infrastructure that the land use authority has required as a condition precedent to:

- 181 (a) recording a subdivision plat; or
- 182 (b) beginning development activity.

183 (19) "Improvement warranty" means an applicant's unconditional warranty that the
184 accepted landscaping or infrastructure:

185 (a) complies with the municipality's written standards for design, materials, and
186 workmanship; and

187 (b) will not fail in any material respect, as a result of poor workmanship or materials,
188 within the improvement warranty period.

189 (20) "Improvement warranty period" means a period:

190 (a) no later than one year after a municipality's acceptance of required landscaping; or

191 (b) no later than one year after a municipality's acceptance of required infrastructure,
192 unless the municipality:

193 (i) determines for good cause that a one-year period would be inadequate to protect the
194 public health, safety, and welfare; and

195 (ii) has substantial evidence, on record:

196 (A) of prior poor performance by the applicant; or

197 (B) that the area upon which the infrastructure will be constructed contains suspect soil
198 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

199 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted
200 designation that:

201 (a) runs with the land; and

202 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
203 the plat; or

204 (ii) designates a development condition that is enclosed within the perimeter of a lot
205 described on the plat.

206 (22) "Land use application" means an application required by a municipality's land use
207 ordinance.

208 (23) "Land use authority" means a person, board, commission, agency, or other body
209 designated by the local legislative body to act upon a land use application.

210 (24) "Land use ordinance" means a planning, zoning, development, or subdivision
211 ordinance of the municipality, but does not include the general plan.

212 (25) "Land use permit" means a permit issued by a land use authority.

213 (26) "Legislative body" means the municipal council.

214 (27) "Local district" means an entity under Title 17B, Limited Purpose Local
215 Government Entities - Local Districts, and any other governmental or quasi-governmental
216 entity that is not a county, municipality, school district, or the state.

217 (28) "Lot line adjustment" means the relocation of the property boundary line in a
218 subdivision between two adjoining lots with the consent of the owners of record.

219 (29) "Moderate income housing" means housing occupied or reserved for occupancy
220 by households with a gross household income equal to or less than 80% of the median gross
221 income for households of the same size in the county in which the city is located.

222 (30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
223 spent and expenses incurred in:

224 (a) verifying that building plans are identical plans; and

225 (b) reviewing and approving those minor aspects of identical plans that differ from the
226 previously reviewed and approved building plans.

227 (31) "Noncomplying structure" means a structure that:

228 (a) legally existed before its current land use designation; and

229 (b) because of one or more subsequent land use ordinance changes, does not conform
230 to the setback, height restrictions, or other regulations, excluding those regulations, which
231 govern the use of land.

232 (32) "Nonconforming use" means a use of land that:

233 (a) legally existed before its current land use designation;

234 (b) has been maintained continuously since the time the land use ordinance governing
235 the land changed; and

236 (c) because of one or more subsequent land use ordinance changes, does not conform
237 to the regulations that now govern the use of the land.

238 (33) "Official map" means a map drawn by municipal authorities and recorded in a
239 county recorder's office that:

240 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
241 highways and other transportation facilities;

242 (b) provides a basis for restricting development in designated rights-of-way or between
243 designated setbacks to allow the government authorities time to purchase or otherwise reserve
244 the land; and

245 (c) has been adopted as an element of the municipality's general plan.

246 (34) "Parcel boundary adjustment" means a recorded agreement between owners of
247 adjoining properties adjusting their mutual boundary if:

248 (a) no additional parcel is created; and

249 (b) each property identified in the agreement is unsubdivided land, including a
250 remainder of subdivided land.

251 (35) "Person" means an individual, corporation, partnership, organization, association,
252 trust, governmental agency, or any other legal entity.

253 (36) "Plan for moderate income housing" means a written document adopted by a city
254 legislative body that includes:

255 (a) an estimate of the existing supply of moderate income housing located within the
256 city;

257 (b) an estimate of the need for moderate income housing in the city for the next five
258 years as revised biennially;

259 (c) a survey of total residential land use;

260 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
261 income housing; and

262 (e) a description of the city's program to encourage an adequate supply of moderate
263 income housing.

264 (37) "Plat" means a map or other graphical representation of lands being laid out and
265 prepared in accordance with Section [10-9a-603](#), [17-23-17](#), or [57-8-13](#).

266 (38) "Potential geologic hazard area" means an area that:

267 (a) is designated by a Utah Geological Survey map, county geologist map, or other
268 relevant map or report as needing further study to determine the area's potential for geologic
269 hazard; or

270 (b) has not been studied by the Utah Geological Survey or a county geologist but
271 presents the potential of geologic hazard because the area has characteristics similar to those of
272 a designated geologic hazard area.

273 (39) "Public agency" means:

274 (a) the federal government;

275 (b) the state;

276 (c) a county, municipality, school district, local district, special service district, or other
277 political subdivision of the state; or

278 (d) a charter school.

279 (40) "Public hearing" means a hearing at which members of the public are provided a
280 reasonable opportunity to comment on the subject of the hearing.

281 (41) "Public meeting" means a meeting that is required to be open to the public under
282 Title 52, Chapter 4, Open and Public Meetings Act.

283 (42) "Receiving zone" means an area of a municipality that the municipality
284 designates, by ordinance, as an area in which an owner of land may receive a transferable
285 development right.

286 (43) "Record of survey map" means a map of a survey of land prepared in accordance
287 with Section [17-23-17](#).

288 (44) "Residential facility for persons with a disability" means a residence:

289 (a) in which more than one person with a disability resides; and

290 (b) (i) which is licensed or certified by the Department of Human Services under Title
291 62A, Chapter 2, Licensure of Programs and Facilities; or

292 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
293 21, Health Care Facility Licensing and Inspection Act.

294 (45) "Rules of order and procedure" means a set of rules that govern and prescribe in a
295 public meeting:

296 (a) parliamentary order and procedure;

297 (b) ethical behavior; and

298 (c) civil discourse.

299 (46) "Sanitary sewer authority" means the department, agency, or public entity with
300 responsibility to review and approve the feasibility of sanitary sewer services or onsite
301 wastewater systems.

302 (47) "Sending zone" means an area of a municipality that the municipality designates,
303 by ordinance, as an area from which an owner of land may transfer a transferable development
304 right.

305 (48) "Specified public agency" means:

306 (a) the state;

307 (b) a school district; or

308 (c) a charter school.

309 (49) "Specified public utility" means an electrical corporation, gas corporation, or
310 telephone corporation, as those terms are defined in Section 54-2-1.

311 (50) "State" includes any department, division, or agency of the state.

312 (51) "Street" means a public right-of-way, including a highway, avenue, boulevard,
313 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
314 way.

315 (52) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
316 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
317 purpose, whether immediate or future, for offer, sale, lease, or development either on the
318 installment plan or upon any and all other plans, terms, and conditions.

319 (b) "Subdivision" includes:

320 (i) the division or development of land whether by deed, metes and bounds description,
321 devise and testacy, map, plat, or other recorded instrument; and

322 (ii) except as provided in Subsection (52)(c), divisions of land for residential and
323 nonresidential uses, including land used or to be used for commercial, agricultural, and
324 industrial purposes.

325 (c) "Subdivision" does not include:

326 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
327 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
328 neither the resulting combined parcel nor the parcel remaining from the division or partition
329 violates an applicable land use ordinance;

330 (ii) a recorded agreement between owners of adjoining unsubdivided properties
331 adjusting their mutual boundary if:

332 (A) no new lot is created; and

333 (B) the adjustment does not violate applicable land use ordinances;

334 (iii) a recorded document, executed by the owner of record:

335 (A) revising the legal description of more than one contiguous unsubdivided parcel of
336 property into one legal description encompassing all such parcels of property; or

337 (B) joining a subdivided parcel of property to another parcel of property that has not

338 been subdivided, if the joinder does not violate applicable land use ordinances;

339 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
340 their mutual boundary if:

341 (A) no new dwelling lot or housing unit will result from the adjustment; and

342 (B) the adjustment will not violate any applicable land use ordinance;

343 (v) a bona fide division or partition of land by deed or other instrument where the land
344 use authority expressly approves in writing the division in anticipation of further land use
345 approvals on the parcel or parcels; or

346 (vi) a parcel boundary adjustment.

347 (d) The joining of a subdivided parcel of property to another parcel of property that has
348 not been subdivided does not constitute a subdivision under this Subsection (52) as to the
349 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
350 subdivision ordinance.

351 (53) "Suspect soil" means soil that has:

352 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
353 3% swell potential;

354 (b) bedrock units with high shrink or swell susceptibility; or

355 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
356 commonly associated with dissolution and collapse features.

357 (54) "Therapeutic school" means a residential group living facility:

358 (a) for four or more individuals who are not related to:

359 (i) the owner of the facility; or

360 (ii) the primary service provider of the facility;

361 (b) that serves students who have a history of failing to function:

362 (i) at home;

363 (ii) in a public school; or

364 (iii) in a nonresidential private school; and

365 (c) that offers:

366 (i) room and board; and

367 (ii) an academic education integrated with:

368 (A) specialized structure and supervision; or

369 (B) services or treatment related to a disability, an emotional development, a
370 behavioral development, a familial development, or a social development.

371 (55) "Transferable development right" means a right to develop and use land that
372 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
373 land use rights from a designated sending zone to a designated receiving zone.

374 (56) "Unincorporated" means the area outside of the incorporated area of a city or
375 town.

376 (57) "Water interest" means any right to the beneficial use of water, including:

377 (a) each of the rights listed in Section 73-1-11; and

378 (b) an ownership interest in the right to the beneficial use of water represented by:

379 (i) a contract; or

380 (ii) a share in a water company, as defined in Section 73-3-3.5.

381 (58) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
382 land use zones, overlays, or districts.

383 Section 2. Section **11-36a-102** is amended to read:

384 **11-36a-102. Definitions.**

385 As used in this chapter:

386 (1) (a) "Affected entity" means each county, municipality, local district under Title
387 17B, Limited Purpose Local Government Entities - Local Districts, special service district
388 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
389 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

390 (i) whose services or facilities are likely to require expansion or significant
391 modification because of the facilities proposed in the proposed impact fee facilities plan; or

392 (ii) that has filed with the local political subdivision or private entity a copy of the
393 general or long-range plan of the county, municipality, local district, special service district,
394 school district, interlocal cooperation entity, or specified public utility.

395 (b) "Affected entity" does not include the local political subdivision or private entity
396 that is required under Section 11-36a-501 to provide notice.

397 (2) "Charter school" includes:

398 (a) an operating charter school;

399 (b) an applicant for a charter school whose application has been approved by a

400 [~~chartering entity~~] charter school authorizer as provided in Title 53A, Chapter 1a, Part 5, The
401 Utah Charter Schools Act; and

402 (c) an entity that is working on behalf of a charter school or approved charter applicant
403 to develop or construct a charter school building.

404 (3) "Development activity" means any construction or expansion of a building,
405 structure, or use, any change in use of a building or structure, or any changes in the use of land
406 that creates additional demand and need for public facilities.

407 (4) "Development approval" means:

408 (a) except as provided in Subsection (4)(b), any written authorization from a local
409 political subdivision that authorizes the commencement of development activity;

410 (b) development activity, for a public entity that may develop without written
411 authorization from a local political subdivision;

412 (c) a written authorization from a public water supplier, as defined in Section 73-1-4,
413 or a private water company:

414 (i) to reserve or provide:

415 (A) a water right;

416 (B) a system capacity; or

417 (C) a distribution facility; or

418 (ii) to deliver for a development activity:

419 (A) culinary water; or

420 (B) irrigation water; or

421 (d) a written authorization from a sanitary sewer authority, as defined in Section

422 10-9a-103:

423 (i) to reserve or provide:

424 (A) sewer collection capacity; or

425 (B) treatment capacity; or

426 (ii) to provide sewer service for a development activity.

427 (5) "Enactment" means:

428 (a) a municipal ordinance, for a municipality;

429 (b) a county ordinance, for a county; and

430 (c) a governing board resolution, for a local district, special service district, or private

431 entity.

432 (6) "Encumber" means:

433 (a) a pledge to retire a debt; or

434 (b) an allocation to a current purchase order or contract.

435 (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
436 meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility
437 system of a municipality, county, local district, special service district, or private entity.

438 (8) (a) "Impact fee" means a payment of money imposed upon new development
439 activity as a condition of development approval to mitigate the impact of the new development
440 on public infrastructure.

441 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
442 hookup fee, a fee for project improvements, or other reasonable permit or application fee.

443 (9) "Impact fee analysis" means the written analysis of each impact fee required by
444 Section [11-36a-303](#).

445 (10) "Impact fee facilities plan" means the plan required by Section [11-36a-301](#).

446 (11) "Level of service" means the defined performance standard or unit of demand for
447 each capital component of a public facility within a service area.

448 (12) (a) "Local political subdivision" means a county, a municipality, a local district
449 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special
450 service district under Title 17D, Chapter 1, Special Service District Act.

451 (b) "Local political subdivision" does not mean a school district, whose impact fee
452 activity is governed by Section [53A-20-100.5](#).

453 (13) "Private entity" means an entity in private ownership with at least 100 individual
454 shareholders, customers, or connections, that is located in a first, second, third, or fourth class
455 county and provides water to an applicant for development approval who is required to obtain
456 water from the private entity either as a:

457 (a) specific condition of development approval by a local political subdivision acting
458 pursuant to a prior agreement, whether written or unwritten, with the private entity; or

459 (b) functional condition of development approval because the private entity:

460 (i) has no reasonably equivalent competition in the immediate market; and

461 (ii) is the only realistic source of water for the applicant's development.

462 (14) (a) "Project improvements" means site improvements and facilities that are:

463 (i) planned and designed to provide service for development resulting from a
464 development activity;

465 (ii) necessary for the use and convenience of the occupants or users of development
466 resulting from a development activity; and

467 (iii) not identified or reimbursed as a system improvement.

468 (b) "Project improvements" does not mean system improvements.

469 (15) "Proportionate share" means the cost of public facility improvements that are
470 roughly proportionate and reasonably related to the service demands and needs of any
471 development activity.

472 (16) "Public facilities" means only the following impact fee facilities that have a life
473 expectancy of 10 or more years and are owned or operated by or on behalf of a local political
474 subdivision or private entity:

475 (a) water rights and water supply, treatment, storage, and distribution facilities;

476 (b) wastewater collection and treatment facilities;

477 (c) storm water, drainage, and flood control facilities;

478 (d) municipal power facilities;

479 (e) roadway facilities;

480 (f) parks, recreation facilities, open space, and trails;

481 (g) public safety facilities; or

482 (h) environmental mitigation as provided in Section [11-36a-205](#).

483 (17) (a) "Public safety facility" means:

484 (i) a building constructed or leased to house police, fire, or other public safety entities;

485 or

486 (ii) a fire suppression vehicle costing in excess of \$500,000.

487 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary
488 incarceration.

489 (18) (a) "Roadway facilities" means a street or road that has been designated on an
490 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,
491 together with all necessary appurtenances.

492 (b) "Roadway facilities" includes associated improvements to a federal or state

493 roadway only when the associated improvements:

494 (i) are necessitated by the new development; and

495 (ii) are not funded by the state or federal government.

496 (c) "Roadway facilities" does not mean federal or state roadways.

497 (19) (a) "Service area" means a geographic area designated by an entity that imposes an
498 impact fee on the basis of sound planning or engineering principles in which a public facility,
499 or a defined set of public facilities, provides service within the area.

500 (b) "Service area" may include the entire local political subdivision or an entire area
501 served by a private entity.

502 (20) "Specified public agency" means:

503 (a) the state;

504 (b) a school district; or

505 (c) a charter school.

506 (21) (a) "System improvements" means:

507 (i) existing public facilities that are:

508 (A) identified in the impact fee analysis under Section 11-36a-304; and

509 (B) designed to provide services to service areas within the community at large; and

510 (ii) future public facilities identified in the impact fee analysis under Section
511 11-36a-304 that are intended to provide services to service areas within the community at large.

512 (b) "System improvements" does not mean project improvements.

513 Section 3. Section 17-27a-103 is amended to read:

514 **17-27a-103. Definitions.**

515 As used in this chapter:

516 (1) "Affected entity" means a county, municipality, local district, special service
517 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
518 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
519 property owner, property owners association, public utility, or the Utah Department of
520 Transportation, if:

521 (a) the entity's services or facilities are likely to require expansion or significant
522 modification because of an intended use of land;

523 (b) the entity has filed with the county a copy of the entity's general or long-range plan;

524 or

525 (c) the entity has filed with the county a request for notice during the same calendar
526 year and before the county provides notice to an affected entity in compliance with a
527 requirement imposed under this chapter.

528 (2) "Appeal authority" means the person, board, commission, agency, or other body
529 designated by ordinance to decide an appeal of a decision of a land use application or a
530 variance.

531 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
532 residential property if the sign is designed or intended to direct attention to a business, product,
533 or service that is not sold, offered, or existing on the property where the sign is located.

534 (4) (a) "Charter school" means:

535 (i) an operating charter school;

536 (ii) a charter school applicant that has its application approved by a [~~chartering entity~~]
537 charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter
538 Schools Act; or

539 (iii) an entity that is working on behalf of a charter school or approved charter
540 applicant to develop or construct a charter school building.

541 (b) "Charter school" does not include a therapeutic school.

542 (5) "Chief executive officer" means the person or body that exercises the executive
543 powers of the county.

544 (6) "Conditional use" means a land use that, because of its unique characteristics or
545 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
546 compatible in some areas or may be compatible only if certain conditions are required that
547 mitigate or eliminate the detrimental impacts.

548 (7) "Constitutional taking" means a governmental action that results in a taking of
549 private property so that compensation to the owner of the property is required by the:

550 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

551 (b) Utah Constitution, Article I, Section 22.

552 (8) "Culinary water authority" means the department, agency, or public entity with
553 responsibility to review and approve the feasibility of the culinary water system and sources for
554 the subject property.

555 (9) "Development activity" means:

556 (a) any construction or expansion of a building, structure, or use that creates additional
557 demand and need for public facilities;

558 (b) any change in use of a building or structure that creates additional demand and need
559 for public facilities; or

560 (c) any change in the use of land that creates additional demand and need for public
561 facilities.

562 (10) (a) "Disability" means a physical or mental impairment that substantially limits
563 one or more of a person's major life activities, including a person having a record of such an
564 impairment or being regarded as having such an impairment.

565 (b) "Disability" does not include current illegal use of, or addiction to, any federally
566 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
567 802.

568 (11) "Educational facility":

569 (a) means:

570 (i) a school district's building at which pupils assemble to receive instruction in a
571 program for any combination of grades from preschool through grade 12, including
572 kindergarten and a program for children with disabilities;

573 (ii) a structure or facility:

574 (A) located on the same property as a building described in Subsection (11)(a)(i); and

575 (B) used in support of the use of that building; and

576 (iii) a building to provide office and related space to a school district's administrative
577 personnel; and

578 (b) does not include:

579 (i) land or a structure, including land or a structure for inventory storage, equipment
580 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

581 (A) not located on the same property as a building described in Subsection (11)(a)(i);
582 and

583 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

584 (ii) a therapeutic school.

585 (12) "Fire authority" means the department, agency, or public entity with responsibility

586 to review and approve the feasibility of fire protection and suppression services for the subject
587 property.

588 (13) "Flood plain" means land that:

589 (a) is within the 100-year flood plain designated by the Federal Emergency

590 Management Agency; or

591 (b) has not been studied or designated by the Federal Emergency Management Agency

592 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because

593 the land has characteristics that are similar to those of a 100-year flood plain designated by the

594 Federal Emergency Management Agency.

595 (14) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

596 (15) "General plan" means a document that a county adopts that sets forth general

597 guidelines for proposed future development of the unincorporated land within the county.

598 (16) "Geologic hazard" means:

599 (a) a surface fault rupture;

600 (b) shallow groundwater;

601 (c) liquefaction;

602 (d) a landslide;

603 (e) a debris flow;

604 (f) unstable soil;

605 (g) a rock fall; or

606 (h) any other geologic condition that presents a risk:

607 (i) to life;

608 (ii) of substantial loss of real property; or

609 (iii) of substantial damage to real property.

610 (17) "Internal lot restriction" means a platted note, platted demarcation, or platted

611 designation that:

612 (a) runs with the land; and

613 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on

614 the plat; or

615 (ii) designates a development condition that is enclosed within the perimeter of a lot

616 described on the plat.

617 (18) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
618 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
619 system.

620 (19) "Identical plans" means building plans submitted to a county that:

621 (a) are clearly marked as "identical plans";

622 (b) are substantially identical building plans that were previously submitted to and
623 reviewed and approved by the county; and

624 (c) describe a building that:

625 (i) is located on land zoned the same as the land on which the building described in the
626 previously approved plans is located;

627 (ii) is subject to the same geological and meteorological conditions and the same law
628 as the building described in the previously approved plans;

629 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
630 and approved by the county; and

631 (iv) does not require any additional engineering or analysis.

632 (20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
633 Impact Fees Act.

634 (21) "Improvement completion assurance" means a surety bond, letter of credit, cash,
635 or other security required by a county to guaranty the proper completion of landscaping or
636 infrastructure that the land use authority has required as a condition precedent to:

637 (a) recording a subdivision plat; or

638 (b) beginning development activity.

639 (22) "Improvement warranty" means an applicant's unconditional warranty that the
640 accepted landscaping or infrastructure:

641 (a) complies with the county's written standards for design, materials, and
642 workmanship; and

643 (b) will not fail in any material respect, as a result of poor workmanship or materials,
644 within the improvement warranty period.

645 (23) "Improvement warranty period" means a period:

646 (a) no later than one year after a county's acceptance of required landscaping; or

647 (b) no later than one year after a county's acceptance of required infrastructure, unless

648 the county:

649 (i) determines for good cause that a one-year period would be inadequate to protect the
650 public health, safety, and welfare; and

651 (ii) has substantial evidence, on record:

652 (A) of prior poor performance by the applicant; or

653 (B) that the area upon which the infrastructure will be constructed contains suspect soil
654 and the county has not otherwise required the applicant to mitigate the suspect soil.

655 (24) "Interstate pipeline company" means a person or entity engaged in natural gas
656 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
657 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

658 (25) "Intrastate pipeline company" means a person or entity engaged in natural gas
659 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
660 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

661 (26) "Land use application" means an application required by a county's land use
662 ordinance.

663 (27) "Land use authority" means a person, board, commission, agency, or other body
664 designated by the local legislative body to act upon a land use application.

665 (28) "Land use ordinance" means a planning, zoning, development, or subdivision
666 ordinance of the county, but does not include the general plan.

667 (29) "Land use permit" means a permit issued by a land use authority.

668 (30) "Legislative body" means the county legislative body, or for a county that has
669 adopted an alternative form of government, the body exercising legislative powers.

670 (31) "Local district" means any entity under Title 17B, Limited Purpose Local
671 Government Entities - Local Districts, and any other governmental or quasi-governmental
672 entity that is not a county, municipality, school district, or the state.

673 (32) "Lot line adjustment" means the relocation of the property boundary line in a
674 subdivision between two adjoining lots with the consent of the owners of record.

675 (33) "Moderate income housing" means housing occupied or reserved for occupancy
676 by households with a gross household income equal to or less than 80% of the median gross
677 income for households of the same size in the county in which the housing is located.

678 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent

679 and expenses incurred in:

680 (a) verifying that building plans are identical plans; and

681 (b) reviewing and approving those minor aspects of identical plans that differ from the
682 previously reviewed and approved building plans.

683 (35) "Noncomplying structure" means a structure that:

684 (a) legally existed before its current land use designation; and

685 (b) because of one or more subsequent land use ordinance changes, does not conform
686 to the setback, height restrictions, or other regulations, excluding those regulations that govern
687 the use of land.

688 (36) "Nonconforming use" means a use of land that:

689 (a) legally existed before its current land use designation;

690 (b) has been maintained continuously since the time the land use ordinance regulation
691 governing the land changed; and

692 (c) because of one or more subsequent land use ordinance changes, does not conform
693 to the regulations that now govern the use of the land.

694 (37) "Official map" means a map drawn by county authorities and recorded in the
695 county recorder's office that:

696 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
697 highways and other transportation facilities;

698 (b) provides a basis for restricting development in designated rights-of-way or between
699 designated setbacks to allow the government authorities time to purchase or otherwise reserve
700 the land; and

701 (c) has been adopted as an element of the county's general plan.

702 (38) "Parcel boundary adjustment" means a recorded agreement between owners of
703 adjoining properties adjusting their mutual boundary if:

704 (a) no additional parcel is created; and

705 (b) each property identified in the agreement is unsubdivided land, including a
706 remainder of subdivided land.

707 (39) "Person" means an individual, corporation, partnership, organization, association,
708 trust, governmental agency, or any other legal entity.

709 (40) "Plan for moderate income housing" means a written document adopted by a

710 county legislative body that includes:

711 (a) an estimate of the existing supply of moderate income housing located within the
712 county;

713 (b) an estimate of the need for moderate income housing in the county for the next five
714 years as revised biennially;

715 (c) a survey of total residential land use;

716 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
717 income housing; and

718 (e) a description of the county's program to encourage an adequate supply of moderate
719 income housing.

720 (41) "Plat" means a map or other graphical representation of lands being laid out and
721 prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

722 (42) "Potential geologic hazard area" means an area that:

723 (a) is designated by a Utah Geological Survey map, county geologist map, or other
724 relevant map or report as needing further study to determine the area's potential for geologic
725 hazard; or

726 (b) has not been studied by the Utah Geological Survey or a county geologist but
727 presents the potential of geologic hazard because the area has characteristics similar to those of
728 a designated geologic hazard area.

729 (43) "Public agency" means:

730 (a) the federal government;

731 (b) the state;

732 (c) a county, municipality, school district, local district, special service district, or other
733 political subdivision of the state; or

734 (d) a charter school.

735 (44) "Public hearing" means a hearing at which members of the public are provided a
736 reasonable opportunity to comment on the subject of the hearing.

737 (45) "Public meeting" means a meeting that is required to be open to the public under
738 Title 52, Chapter 4, Open and Public Meetings Act.

739 (46) "Receiving zone" means an unincorporated area of a county that the county
740 designates, by ordinance, as an area in which an owner of land may receive a transferable

741 development right.

742 (47) "Record of survey map" means a map of a survey of land prepared in accordance
743 with Section [17-23-17](#).

744 (48) "Residential facility for persons with a disability" means a residence:

745 (a) in which more than one person with a disability resides; and

746 (b) (i) which is licensed or certified by the Department of Human Services under Title
747 62A, Chapter 2, Licensure of Programs and Facilities; or

748 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
749 21, Health Care Facility Licensing and Inspection Act.

750 (49) "Rules of order and procedure" means a set of rules that govern and prescribe in a
751 public meeting:

752 (a) parliamentary order and procedure;

753 (b) ethical behavior; and

754 (c) civil discourse.

755 (50) "Sanitary sewer authority" means the department, agency, or public entity with
756 responsibility to review and approve the feasibility of sanitary sewer services or onsite
757 wastewater systems.

758 (51) "Sending zone" means an unincorporated area of a county that the county
759 designates, by ordinance, as an area from which an owner of land may transfer a transferable
760 development right.

761 (52) "Site plan" means a document or map that may be required by a county during a
762 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
763 or developer's proposed development activity meets a land use requirement.

764 (53) "Specified public agency" means:

765 (a) the state;

766 (b) a school district; or

767 (c) a charter school.

768 (54) "Specified public utility" means an electrical corporation, gas corporation, or
769 telephone corporation, as those terms are defined in Section [54-2-1](#).

770 (55) "State" includes any department, division, or agency of the state.

771 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,

772 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
773 way.

774 (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
775 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
776 purpose, whether immediate or future, for offer, sale, lease, or development either on the
777 installment plan or upon any and all other plans, terms, and conditions.

778 (b) "Subdivision" includes:

779 (i) the division or development of land whether by deed, metes and bounds description,
780 devise and testacy, map, plat, or other recorded instrument; and

781 (ii) except as provided in Subsection (57)(c), divisions of land for residential and
782 nonresidential uses, including land used or to be used for commercial, agricultural, and
783 industrial purposes.

784 (c) "Subdivision" does not include:

785 (i) a bona fide division or partition of agricultural land for agricultural purposes;

786 (ii) a recorded agreement between owners of adjoining properties adjusting their
787 mutual boundary if:

788 (A) no new lot is created; and

789 (B) the adjustment does not violate applicable land use ordinances;

790 (iii) a recorded document, executed by the owner of record:

791 (A) revising the legal description of more than one contiguous unsubdivided parcel of
792 property into one legal description encompassing all such parcels of property; or

793 (B) joining a subdivided parcel of property to another parcel of property that has not
794 been subdivided, if the joinder does not violate applicable land use ordinances;

795 (iv) a bona fide division or partition of land in a county other than a first class county
796 for the purpose of siting, on one or more of the resulting separate parcels:

797 (A) an electrical transmission line or a substation;

798 (B) a natural gas pipeline or a regulation station; or

799 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
800 utility service regeneration, transformation, retransmission, or amplification facility;

801 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
802 their mutual boundary if:

- 803 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 804 (B) the adjustment will not violate any applicable land use ordinance;
- 805 (vi) a bona fide division or partition of land by deed or other instrument where the land
- 806 use authority expressly approves in writing the division in anticipation of further land use
- 807 approvals on the parcel or parcels; or
- 808 (vii) a parcel boundary adjustment.
- 809 (d) The joining of a subdivided parcel of property to another parcel of property that has
- 810 not been subdivided does not constitute a subdivision under this Subsection (57) as to the
- 811 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
- 812 ordinance.
- 813 (58) "Suspect soil" means soil that has:
- 814 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 815 3% swell potential;
- 816 (b) bedrock units with high shrink or swell susceptibility; or
- 817 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 818 commonly associated with dissolution and collapse features.
- 819 (59) "Therapeutic school" means a residential group living facility:
- 820 (a) for four or more individuals who are not related to:
- 821 (i) the owner of the facility; or
- 822 (ii) the primary service provider of the facility;
- 823 (b) that serves students who have a history of failing to function:
- 824 (i) at home;
- 825 (ii) in a public school; or
- 826 (iii) in a nonresidential private school; and
- 827 (c) that offers:
- 828 (i) room and board; and
- 829 (ii) an academic education integrated with:
- 830 (A) specialized structure and supervision; or
- 831 (B) services or treatment related to a disability, an emotional development, a
- 832 behavioral development, a familial development, or a social development.
- 833 (60) "Township" means a contiguous, geographically defined portion of the

834 unincorporated area of a county, established under this part or reconstituted or reinstated under
835 Section 17-27a-306, with planning and zoning functions as exercised through the township
836 planning commission, as provided in this chapter, but with no legal or political identity
837 separate from the county and no taxing authority, except that "township" means a former
838 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

839 (61) "Transferable development right" means a right to develop and use land that
840 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
841 land use rights from a designated sending zone to a designated receiving zone.

842 (62) "Unincorporated" means the area outside of the incorporated area of a
843 municipality.

844 (63) "Water interest" means any right to the beneficial use of water, including:

845 (a) each of the rights listed in Section 73-1-11; and

846 (b) an ownership interest in the right to the beneficial use of water represented by:

847 (i) a contract; or

848 (ii) a share in a water company, as defined in Section 73-3-3.5.

849 (64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
850 land use zones, overlays, or districts.

851 Section 4. Section 49-12-202 is amended to read:

852 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
853 **requirements -- Exceptions -- Nondiscrimination requirements.**

854 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
855 and may not withdraw from participation in this system.

856 (b) In addition to their participation in this system, participating employers may
857 provide or participate in public or private retirement, supplemental or defined contribution
858 plan, either directly or indirectly, for their employees.

859 (2) The following employers may be excluded from participation in this system:

860 (a) an employer not initially admitted or included as a participating employer in this
861 system prior to January 1, 1982 if:

862 (i) the employer elects not to provide or participate in any type of private or public
863 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
864 employees, except for Social Security; or

865 (ii) the employer offers another collectively bargained retirement benefit and has
866 continued to do so on an uninterrupted basis since that date;

867 ~~[(b) an employer that is a charter school sponsored by the State Board of Education or~~
868 ~~a school district that makes an election of nonparticipation in accordance with Section~~
869 ~~53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election~~
870 ~~of nonparticipation in accordance with Subsection 53A-1a-512(9); or]~~

871 (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5,
872 The Utah Charter Schools Act, and does not elect to participate in accordance with Section
873 53A-1a-512; or

874 (c) an employer that is a hospital created as a special service district under Title 17D,
875 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
876 accordance with Subsection (4).

877 (3) An employer who did not become a participating employer in this system prior to
878 July 1, 1986, may not participate in this system.

879 (4) (a) Until June 30, 2009, a employer that is a hospital created as a special service
880 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
881 nonparticipation as an employer for retirement programs under this chapter.

882 (b) An election provided under Subsection (4)(a):

883 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

884 (ii) shall be documented by a resolution adopted by the governing body of the special
885 service district;

886 (iii) is irrevocable; and

887 (iv) applies to the special service district as the employer and to all employees of the
888 special service district.

889 (c) The governing body of the special service district may offer employee benefit plans
890 for its employees:

891 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

892 or

893 (ii) under any other program.

894 (5) If a participating employer purchases service credit on behalf of regular full-time
895 employees for service rendered prior to the participating employer's admission to this system,

896 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and
897 former regular full-time employees who were eligible for service credit at the time service was
898 rendered.

899 Section 5. Section **49-13-202** is amended to read:

900 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
901 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

902 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
903 and may not withdraw from participation in this system.

904 (b) In addition to their participation in this system, participating employers may
905 provide or participate in any additional public or private retirement, supplemental or defined
906 contribution plan, either directly or indirectly, for their employees.

907 (2) The following employers may be excluded from participation in this system:

908 (a) an employer not initially admitted or included as a participating employer in this
909 system before January 1, 1982, if:

910 (i) the employer elects not to provide or participate in any type of private or public
911 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
912 employees, except for Social Security; or

913 (ii) the employer offers another collectively bargained retirement benefit and has
914 continued to do so on an uninterrupted basis since that date;

915 ~~[(b) an employer that is a charter school sponsored by the State Board of Education or~~
916 ~~a school district that makes an election of nonparticipation in accordance with Section~~
917 ~~53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election~~
918 ~~of nonparticipation in accordance with Subsection 53A-1a-512(9);]~~

919 (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5,
920 The Utah Charter Schools Act, and does not elect to participate in accordance with Section
921 53A-1a-512;

922 (c) an employer that is a hospital created as a special service district under Title 17D,
923 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
924 accordance with Subsection (5); or

925 (d) an employer that is a risk management association initially created by interlocal
926 agreement before 1986 for the purpose of implementing a self-insurance joint protection

927 program for the benefit of member municipalities of the association.

928 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
929 provide or participate in any type of public or private retirement, supplemental or defined
930 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
931 a participating employer in this system regardless of whether the employer has applied for
932 admission under Subsection (4).

933 (4) (a) An employer may, by resolution of its governing body, apply for admission to
934 this system.

935 (b) Upon approval of the resolution by the board, the employer is a participating
936 employer in this system and is subject to this title.

937 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
938 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
939 nonparticipation as an employer for retirement programs under this chapter.

940 (ii) On or before July 1, 2010, an employer described in Subsection (2)(d) may make
941 an election of nonparticipation as an employer for retirement programs under this chapter.

942 (b) An election provided under Subsection (5)(a):

943 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

944 (ii) shall be documented by a resolution adopted by the governing body of the
945 employer;

946 (iii) is irrevocable; and

947 (iv) applies to the employer described in Subsection (5)(a) and to all employees of that
948 employer.

949 (c) The employer making an election under Subsection (5)(a) may offer employee
950 benefit plans for its employees:

951 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

952 or

953 (ii) under any other program.

954 (6) If a participating employer purchases service credit on behalf of regular full-time
955 employees for service rendered prior to the participating employer's admission to this system,
956 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and
957 former regular full-time employees who were eligible for service credit at the time service was

958 rendered.

959 Section 6. Section **49-22-202** is amended to read:

960 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**
961 **requirements.**

962 (1) Unless excluded under Subsection (2), an employer is a participating employer and
963 may not withdraw from participation in this system.

964 (2) The following employers may be excluded from participation in this system:

965 (a) an employer not initially admitted or included as a participating employer in this
966 system before January 1, 1982, if:

967 (i) the employer elects not to provide or participate in any type of private or public
968 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
969 employees, except for Social Security; or

970 (ii) the employer offers another collectively bargained retirement benefit and has
971 continued to do so on an uninterrupted basis since that date;

972 ~~[(b) an employer that is a charter school sponsored by the State Board of Education or~~
973 ~~a school district that makes an election of nonparticipation in accordance with Section~~
974 ~~53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election~~
975 ~~of nonparticipation in accordance with Subsection 53A-1a-512(9); or]~~

976 (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5,
977 The Utah Charter Schools Act, and does not elect to participate in accordance with Section
978 53A-1a-512; or

979 (c) an employer that is a risk management association initially created by interlocal
980 agreement before 1986 for the purpose of implementing a self-insurance joint protection
981 program for the benefit of member municipalities of the association.

982 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
983 provide or participate in any type of public or private retirement, supplemental or defined
984 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
985 a participating employer in this system regardless of whether the employer has applied for
986 admission under Subsection (4).

987 (4) (a) An employer may, by resolution of its governing body, apply for admission to
988 this system.

989 (b) Upon approval of the resolution by the board, the employer is a participating
990 employer in this system and is subject to this title.

991 (5) If a participating employer purchases service credit on behalf of a regular full-time
992 employee for service rendered prior to the participating employer's admission to this system,
993 the participating employer:

994 (a) shall purchase credit in a nondiscriminatory manner on behalf of all current and
995 former regular full-time employees who were eligible for service credit at the time service was
996 rendered; and

997 (b) shall comply with the provisions of Section 49-11-403.

998 Section 7. Section 52-4-209 is amended to read:

999 **52-4-209. Electronic meetings for charter school board.**

1000 (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as
1001 used in this section:

1002 (a) "Anchor location" means a physical location where:

1003 (i) the charter school board would normally meet if the charter school board were not
1004 holding an electronic meeting; and

1005 (ii) space, a facility, and technology are provided to the public to monitor and, if public
1006 comment is allowed, to participate in an electronic meeting during regular business hours.

1007 (b) "Charter school board" means the governing [~~body~~] board of a school created under
1008 Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.

1009 (c) "Meeting" means the convening of a charter school board:

1010 (i) with a quorum who:

1011 (A) monitors a website at least once during the electronic meeting; and

1012 (B) casts a vote on a website, if a vote is taken; and

1013 (ii) for the purpose of discussing, receiving comments from the public about, or acting
1014 upon a matter over which the charter school board has jurisdiction or advisory power.

1015 (d) "Monitor" means to:

1016 (i) read all the content added to a website by the public or a charter school board
1017 member; and

1018 (ii) view a vote cast by a charter school board member on a website.

1019 (e) "Participate" means to add content to a website.

- 1020 (2) (a) A charter school board may convene and conduct an electronic meeting in
1021 accordance with Section 52-4-207.
- 1022 (b) A charter school board may convene and conduct an electronic meeting in
1023 accordance with this section that is in writing on a website if:
- 1024 (i) the chair verifies that a quorum monitors the website;
 - 1025 (ii) the content of the website is available to the public;
 - 1026 (iii) the chair controls the times in which a charter school board member or the public
1027 participates; and
 - 1028 (iv) the chair requires a person to identify himself or herself if the person:
1029 (A) participates; or
1030 (B) casts a vote as a charter school board member.
- 1031 (3) A charter school that conducts an electronic meeting under this section shall:
- 1032 (a) give public notice of the electronic meeting:
1033 (i) in accordance with Section 52-4-202; and
1034 (ii) by posting written notice at the anchor location as required under Section 52-4-207;
 - 1035 (b) in addition to giving public notice required by Subsection (3)(a), provide:
1036 (i) notice of the electronic meeting to the members of the charter school board at least
1037 24 hours before the meeting so that they may participate in and be counted as present for all
1038 purposes, including the determination that a quorum is present;
1039 (ii) a description of how the members and the public may be connected to the
1040 electronic meeting;
 - 1041 (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
1042 (iv) a start and end time for when a vote will be taken in an electronic meeting, which
1043 shall be no longer than four hours; and
 - 1044 (c) provide an anchor location.
- 1045 (4) The chair shall:
- 1046 (a) not allow anyone to participate from the time the notice described in Subsection
1047 (3)(b)(iv) is given until the end time for when a vote will be taken; and
1048 (b) allow a charter school board member to change a vote until the end time for when a
1049 vote will be taken.
 - 1050 (5) During the time in which a vote may be taken, a charter school board member may

1051 not communicate in any way with any person regarding an issue over which the charter school
1052 board has jurisdiction.

1053 (6) A charter school conducting an electronic meeting under this section may not close
1054 a meeting as otherwise allowed under this part.

1055 (7) (a) Written minutes shall be kept of an electronic meeting conducted as required in
1056 Section 52-4-203.

1057 (b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic
1058 meeting described in Subsection (2)(b).

1059 (ii) All of the content of the website shall be kept for an electronic meeting conducted
1060 under this section.

1061 (c) Written minutes are the official record of action taken at an electronic meeting as
1062 required in Section 52-4-203.

1063 (8) (a) A charter school board shall ensure that the website used to conduct an
1064 electronic meeting:

1065 (i) is secure; and

1066 (ii) provides with reasonably certainty the identity of a charter school board member
1067 who logs on, adds content, or casts a vote on the website.

1068 (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself
1069 or herself as required by Subsection (2)(b)(iv).

1070 (9) Compliance with the provisions of this section by a charter school constitutes full
1071 and complete compliance by the public body with the corresponding provisions of Sections
1072 52-4-201 and 52-4-202.

1073 Section 8. Section 53A-1a-501.3 is amended to read:

1074 **53A-1a-501.3. Definitions.**

1075 As used in this part:

1076 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and
1077 includes:

1078 (a) cash;

1079 (b) stock or other investments;

1080 (c) real property;

1081 (d) equipment and supplies;

1082 (e) an ownership interest;

1083 (f) a license;

1084 (g) a cause of action; and

1085 (h) any similar property.

1086 (2) "Board of trustees of a higher education institution" or "board of trustees" means:

1087 (a) the board of trustees of:

1088 (i) the University of Utah;

1089 (ii) Utah State University;

1090 (iii) Weber State University;

1091 (iv) Southern Utah University;

1092 (v) Snow College;

1093 (vi) Dixie State University;

1094 (vii) Utah Valley University; or

1095 (viii) Salt Lake Community College; or

1096 (b) the campus board of directors of a college campus within the Utah College of
1097 Applied Technology.

1098 (3) "Charter agreement" or "charter" means an agreement made in accordance with
1099 Section 53A-1a-508, that authorizes the operation of a charter school.

1100 [~~3~~] (4) [~~"Chartering entity"~~] "Charter school authorizer" or "authorizer" means the
1101 [entity] State Charter School Board, local school board, or board of trustees of a higher
1102 education institution that authorizes the establishment of a charter school.

1103 (5) "Governing board" means the board that operates a charter school.

1104 Section 9. Section **53A-1a-501.6** is amended to read:

1105 **53A-1a-501.6. Power and duties of State Charter School Board.**

1106 (1) The State Charter School Board shall:

1107 (a) authorize and promote the establishment of charter schools, subject to the
1108 provisions in this part;

1109 (b) annually review and evaluate the performance of charter schools authorized by the
1110 State Charter School Board and hold the schools accountable for their performance;

1111 (c) monitor charter schools authorized by the State Charter School Board for
1112 compliance with federal and state laws, rules, and regulations;

1113 (d) provide technical support to charter schools and persons seeking to establish charter
1114 schools by:

1115 (i) identifying and promoting successful charter school models;

1116 (ii) facilitating the application and approval process for charter school authorization;

1117 (iii) directing charter schools and persons seeking to establish charter schools to
1118 sources of private funding and support;

1119 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of
1120 supporting and strengthening proposals before an application for charter school authorization is
1121 submitted to a [~~chartering entity~~] charter school authorizer; and

1122 (v) assisting charter schools to understand and carry out their charter obligations;

1123 (e) provide technical support, as requested, to a [~~chartering entity~~] charter school
1124 authorizer relating to charter schools;

1125 (f) make recommendations on legislation and rules pertaining to charter schools to the
1126 Legislature and State Board of Education, respectively; and

1127 (g) make recommendations to the State Board of Education on the funding of charter
1128 schools.

1129 (2) The State Charter School Board may:

1130 (a) contract;

1131 (b) sue and be sued; and

1132 (c) (i) at the discretion of the charter school, provide administrative services to, or
1133 perform other school functions for, charter schools authorized by the State Charter School
1134 Board; and

1135 (ii) charge fees for the provision of services or functions.

1136 Section 10. Section **53A-1a-503.5** is amended to read:

1137 **53A-1a-503.5. Status of charter schools.**

1138 (1) Charter schools are:

1139 (a) considered to be public schools within the state's public education system;

1140 (b) subject to Subsection [53A-1-401\(3\)](#); and

1141 (c) governed by independent boards and held accountable to a legally binding written
1142 contractual agreement.

1143 (2) A charter school may be established by:

- 1144 (a) creating a new school; or
- 1145 (b) converting an existing public school to charter status.
- 1146 (3) A parochial school or home school is not eligible for charter school status.
- 1147 Section 11. Section **53A-1a-504** is repealed and reenacted to read:
- 1148 **53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.**
- 1149 (1) (a) An application to establish a charter school may be submitted by:
- 1150 (i) an individual;
- 1151 (ii) a group of individuals; or
- 1152 (iii) a nonprofit legal entity organized under Utah law.
- 1153 (b) An authorized charter school may apply under this chapter for a charter from
- 1154 another charter school authorizer.
- 1155 (2) A charter school application shall include:
- 1156 (a) the purpose and mission of the school;
- 1157 (b) except for a charter school authorized by a local school board, a statement that,
- 1158 after entering into a charter agreement, the charter school will be organized and managed under
- 1159 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
- 1160 (c) a description of the governance structure of the school, including:
- 1161 (i) a list of the governing board members that describes the qualifications of each
- 1162 member; and
- 1163 (ii) an assurance that the applicant shall, within 30 days of authorization, provide the
- 1164 authorizer with the results of a background check for each member;
- 1165 (d) a description of the target population of the school that includes:
- 1166 (i) the projected maximum number of students the school proposes to enroll;
- 1167 (ii) the projected school enrollment for each of the first three years of school operation;
- 1168 and
- 1169 (iii) the ages or grade levels the school proposes to serve;
- 1170 (e) academic goals;
- 1171 (f) qualifications and policies for school employees, including policies that:
- 1172 (i) require completion of a criminal background check for teachers;
- 1173 (ii) require employee evaluations; and
- 1174 (iii) address employment of relatives within the charter school;

1175 (g) a description of how the charter school will provide, as required by state and federal
1176 law, special education and related services;

1177 (h) for a public school converting to charter status, arrangements for:

1178 (i) students who choose not to continue attending the charter school; and
1179 (ii) teachers who choose not to continue teaching at the charter school;

1180 (i) a statement that describes the charter school's plan for establishing the charter
1181 school's facilities, including:

1182 (i) whether the charter school intends to lease or purchase the charter school's facilities;
1183 and

1184 (ii) financing arrangements;

1185 (j) a market analysis of the community the school plans to serve;
1186 (k) a capital facility plan;
1187 (l) a business plan;
1188 (m) other major issues involving the establishment and operation of the charter school;

1189 and

1190 (n) the signatures of the governing board members of the charter school.

1191 (3) A charter school authorizer may require a charter school application to include:

1192 (a) the charter school's proposed:

1193 (i) curriculum;
1194 (ii) instructional program; or
1195 (iii) delivery methods;

1196 (b) a method for assessing whether students are reaching academic goals, including, at
1197 a minimum, participation in the Utah Performance Assessment System for Students under
1198 Chapter 1, Part 6, Achievement Tests;

1199 (c) a proposed calendar;
1200 (d) sample policies;
1201 (e) a description of opportunities for parental involvement;
1202 (f) a description of the school's administrative, supervisory, or other proposed services
1203 that may be obtained through service providers; or

1204 (g) other information that demonstrates an applicant's ability to establish and operate a
1205 charter school.

1206 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1207 State Board of Education shall make rules regarding the expansion of a charter school,
1208 including establishing a satellite campus, that provide:

1209 (a) requirements for a charter school to apply and qualify for expansion; and

1210 (b) procedures and deadlines for the application process.

1211 Section 12. Section **53A-1a-505** is amended to read:

1212 **53A-1a-505. Charter schools authorized by the State Charter School Board --**
1213 **Application process -- Prohibited bases of application denial.**

1214 (1) (a) An applicant seeking authorization of a charter school from the State Charter
1215 School Board shall provide a copy of the application to the local school board of the school
1216 district in which the proposed charter school shall be located either before or at the same time it
1217 files its application with the State Charter School Board.

1218 (b) The local board may review the application and may offer suggestions or
1219 recommendations to the applicant or the State Charter School Board prior to its acting on the
1220 application.

1221 (c) The State Charter School Board shall give due consideration to suggestions or
1222 recommendations made by the local school board under Subsection (1)(b).

1223 (d) The State Charter School Board shall review and, by majority vote, either approve
1224 or deny the application.

1225 (e) The State Board of Education shall, by majority vote, within 60 days after action by
1226 the State Charter School Board under Subsection (1)(d):

1227 (i) approve or deny an application approved by the State Charter School Board; or

1228 (ii) hear an appeal, if any, of an application denied by the State Charter School Board.

1229 (f) The State Board of Education's action under Subsection (1)(d) is final action subject
1230 to judicial review.

1231 (g) A charter school application may not be denied on the basis that the establishment
1232 of the charter school will have any or all of the following impacts on a public school, including
1233 another charter school:

1234 (i) an enrollment decline;

1235 (ii) a decrease in funding; or

1236 (iii) a modification of programs or services.

1237 (2) The State Board of Education shall make a rule providing a timeline for the
1238 opening of a charter school following the approval of a charter school application by the State
1239 Charter School Board.

1240 (3) ~~[(a)]~~ After approval of a charter school application~~;~~ and in accordance with
1241 Section 53A-1a-508, the applicant and the State Charter School Board shall set forth the terms
1242 and conditions for the operation of the charter school in a written ~~[contractual]~~ charter
1243 agreement.

1244 ~~[(b) The agreement is the school's charter.]~~

1245 ~~[(4)(a) A school holding a charter granted by a local school board may request a~~
1246 ~~charter from the State Charter School Board.]~~

1247 ~~[(b) This section shall govern the application and approval of a charter requested under~~
1248 ~~Subsection (4)(a).]~~

1249 (4) The State Charter School Board shall, in accordance with State Board of Education
1250 rules, establish and make public the State Charter School Board's:

1251 (a) application requirements, in accordance with Section 53A-1a-504;

1252 (b) application process, including timelines, in accordance with this section; and

1253 (c) minimum academic, financial, and enrollment standards.

1254 Section 13. Section 53A-1a-506 is amended to read:

1255 **53A-1a-506. Eligible students.**

1256 (1) As used in this section:

1257 (a) "District school" means a public school under the control of a local school board
1258 elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School
1259 Boards.

1260 (b) "Refugee" means a person who is eligible to receive benefits and services from the
1261 federal Office of Refugee Resettlement.

1262 (2) All resident students of the state qualify for admission to a charter school, subject
1263 to the limitations set forth in this section and Section 53A-1a-506.5.

1264 (3) (a) A charter school shall enroll an eligible student who submits a timely
1265 application, unless the number of applications exceeds the capacity of a program, class, grade
1266 level, or the charter school.

1267 (b) If the number of applications exceeds the capacity of a program, class, grade level,

1268 or the charter school, students shall be selected on a random basis, except as provided in
1269 Subsections (4) through (6).

1270 (4) A charter school may give an enrollment preference to:

1271 (a) a student of a parent who has actively participated in the development of the charter
1272 school;

1273 (b) siblings of students presently enrolled in the charter school;

1274 (c) a student of a parent who is employed by the charter school;

1275 (d) students articulating between charter schools offering similar programs that are
1276 governed by the same governing [body] board;

1277 (e) students articulating from one charter school to another pursuant to an articulation
1278 agreement between the charter schools that is approved by the State Charter School Board; or

1279 (f) students who reside within:

1280 (i) the school district in which the charter school is located;

1281 (ii) the municipality in which the charter school is located; or

1282 (iii) a two-mile radius from the charter school.

1283 (5) If a district school converts to charter status, the charter school shall give an
1284 enrollment preference to students who would have otherwise attended it as a district school.

1285 (6) (a) A charter school whose mission is to enhance learning opportunities for
1286 refugees or children of refugee families may give an enrollment preference to refugees or
1287 children of refugee families.

1288 (b) A charter school whose mission is to enhance learning opportunities for English
1289 language learners may give an enrollment preference to English language learners.

1290 (7) A charter school may weight its lottery to give a slightly better chance of admission
1291 to educationally disadvantaged students, including:

1292 (a) low-income students;

1293 (b) students with disabilities;

1294 (c) English language learners;

1295 (d) neglected or delinquent students; and

1296 (e) homeless students.

1297 ~~(7)~~ (8) A charter school may not discriminate in its admission policies or practices on
1298 the same basis as other public schools may not discriminate in their admission policies and

1299 practices.

1300 Section 14. Section **53A-1a-506.5** is amended to read:

1301 **53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.**

1302 (1) As used in this section:

1303 (a) "District school" means a public school under the control of a local school board
1304 elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School
1305 Boards.

1306 (b) "Nonresident school district" means a school district other than a student's school
1307 district of residence.

1308 (c) "School district of residence" means a student's school district of residence as
1309 determined under Section [53A-2-201](#).

1310 (d) "School of residence" means the school to which a student is assigned to attend
1311 based on the student's place of residence.

1312 (2) (a) The State School Board, in consultation with the State Charter School Board,
1313 shall make rules describing procedures for students to follow in applying for entry into, or
1314 exiting, a charter school.

1315 (b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

1316 (i) posting on a charter school's Internet website, beginning no later than 60 days before
1317 the school's initial period of applications:

1318 (A) procedures for applying for admission to the charter school;

1319 (B) ~~[(F)]~~ the school's opening date, if the school has not yet opened~~;~~₂ or ~~[(H)]~~ the
1320 school calendar; and

1321 (C) information on how a student may transfer from a charter school to another charter
1322 school or a district school;

1323 ~~[(ii) use of standard application forms prescribed by the State Board of Education;]~~

1324 ~~[(iii)]~~ (ii) written notification to a student's parent or legal guardian of an offer of
1325 admission;

1326 ~~[(iv)]~~ (iii) written acceptance of an offer of admission by a student's parent or legal
1327 guardian;

1328 ~~[(v)]~~ (iv) written notification to a student's current charter school or school district of
1329 residence upon acceptance of the student for enrollment in a charter school; and

1330 [~~(vi)~~] (v) the admission of students[~~, provided that the admission does not disqualify~~
1331 ~~the charter school from federal funding,~~] at:

1332 (A) any time to protect the health or safety of a student; or

1333 (B) times other than those permitted under standard policies if there are other
1334 conditions of special need that warrant consideration.

1335 (c) The rules under Subsection (2)(a) shall prevent the parent of a student who is
1336 enrolled in a charter school or who has accepted an offer of admission to a charter school from
1337 duplicating enrollment for the student in another charter school or a school district without
1338 following the withdrawal procedures described in Subsection (3).

1339 (3) The parent of a student enrolled in a charter school may withdraw the student from
1340 the charter school for enrollment in another charter school or a school district by submitting to
1341 the charter school:

1342 (a) on or before June 30, a notice of intent to enroll the student in the student's school
1343 of residence for the following school year;

1344 (b) after June 30, a letter of acceptance for enrollment in the student's school district of
1345 residence for the following year;

1346 (c) a letter of acceptance for enrollment in the student's school district of residence in
1347 the current school year;

1348 (d) a letter of acceptance for enrollment in a nonresident school district; or

1349 (e) a letter of acceptance for enrollment in a charter school.

1350 (4) (a) A charter school shall report to a school district, by the last business day of each
1351 month the aggregate number of new students, sorted by their school of residence and grade
1352 level, who have accepted enrollment in the charter school for the following school year.

1353 (b) A school district shall report to a charter school, by the last business day of each
1354 month, the aggregate number of students enrolled in the charter school who have accepted
1355 enrollment in the school district in the following school year, sorted by grade level.

1356 (5) When a vacancy occurs because a student has withdrawn from a charter school, the
1357 charter school may immediately enroll a new student from its list of applicants.

1358 (6) Unless provisions have previously been made for enrollment in another school, a
1359 charter school releasing a student from enrollment during a school year shall immediately
1360 notify the school district of residence, which shall enroll the student in the school district of

1361 residence and take additional steps as may be necessary to ensure compliance with laws
1362 governing school attendance.

1363 (7) (a) The parent of a student enrolled in a charter school may withdraw the student
1364 from the charter school for enrollment in the student's school of residence in the following
1365 school year if an application of admission is submitted to the school district of residence by
1366 June 30.

1367 (b) If the parent of a student enrolled in a charter school submits an application of
1368 admission to the student's school district of residence after June 30 for the student's enrollment
1369 in the school district of residence in the following school year, or an application of admission is
1370 submitted for enrollment during the current school year, the student may enroll in a school of
1371 the school district of residence that has adequate capacity in:

1372 (i) the student's grade level, if the student is an elementary school student; or
1373 (ii) the core classes that the student needs to take, if the student is a secondary school
1374 student.

1375 (c) State Board of Education rules made under Subsection (2)(a) shall specify how
1376 adequate capacity in a grade level or core classes is determined for the purposes of Subsection
1377 (7)(b).

1378 (8) Notwithstanding Subsection (7), a school district may enroll a student at any time
1379 to protect the health and safety of the student.

1380 (9) A school district or charter school may charge secondary students a one-time \$5
1381 processing fee, to be paid at the time of application.

1382 Section 15. Section **53A-1a-507** is amended to read:

1383 **53A-1a-507. Requirements for charter schools.**

1384 (1) A charter school shall be nonsectarian in its programs, admission policies,
1385 employment practices, and operations.

1386 (2) A charter school may not charge tuition or fees, except those fees normally charged
1387 by other public schools.

1388 (3) A charter school shall meet all applicable federal, state, and local health, safety, and
1389 civil rights requirements.

1390 (4) (a) A charter school shall make the same annual reports required of other public
1391 schools under this title, including an annual financial audit report.

1392 (b) A charter school shall file its annual financial audit report with the Office of the
1393 State Auditor within six months of the end of the fiscal year.

1394 (5) (a) A charter school shall be accountable to ~~[its chartering entity]~~ the charter
1395 school's authorizer for performance as provided in the school's charter.

1396 (b) To measure the performance of a charter school, ~~[a chartering entity]~~ an authorizer
1397 may use data contained in:

1398 (i) the charter school's annual financial audit report;

1399 (ii) a report submitted by the charter school as required by statute; or

1400 (iii) a report submitted by the charter school as required by its charter.

1401 (c) A ~~[chartering entity]~~ charter school authorizer may not impose performance
1402 standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's
1403 ability to successfully accomplish the purposes of charter schools as provided in Section
1404 [53A-1a-503](#) or as otherwise provided in law.

1405 (6) A charter school may not advocate unlawful behavior.

1406 (7) Except as provided in Section [53A-1a-515](#), a charter school shall be organized and
1407 managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its
1408 authorization.

1409 (8) A charter school shall provide adequate liability and other appropriate insurance.

1410 (9) Beginning on July 1, ~~[2007]~~ 2014, a charter school shall submit any lease,
1411 lease-purchase agreement, or other contract or agreement relating to the charter school's
1412 facilities or financing of the charter ~~[school]~~ school's facilities to ~~[its chartering entity]~~ the
1413 school's authorizer and an attorney for review and advice prior to the charter school entering
1414 into the lease, agreement, or contract.

1415 (10) A charter school may not employ an educator whose license has been suspended
1416 or revoked by the State Board of Education ~~[as provided in]~~ under Section [53A-6-501](#).

1417 Section 16. Section [53A-1a-508](#) is repealed and reenacted to read:

1418 **53A-1a-508. Charter agreement -- Content -- Modification.**

1419 (1) A charter agreement:

1420 (a) is a contract between the charter school applicant and the charter school authorizer;

1421 (b) shall describe the rights and responsibilities of each party; and

1422 (c) shall allow for the operation of the applicant's proposed charter school.

- 1423 (2) A charter agreement shall include:
- 1424 (a) the name of:
- 1425 (i) the charter school; and
- 1426 (ii) the charter school applicant;
- 1427 (b) the mission statement and purpose of the charter school;
- 1428 (c) the charter school's opening date;
- 1429 (d) the grade levels and number of students the charter school will serve;
- 1430 (e) a description of the structure of the charter school's governing board, including:
- 1431 (i) the number of board members;
- 1432 (ii) how members of the board are appointed; and
- 1433 (iii) board members' terms of office;
- 1434 (f) assurances that:
- 1435 (i) the governing board shall comply with:
- 1436 (A) the charter school's bylaws;
- 1437 (B) the charter school's articles of incorporation; and
- 1438 (C) applicable federal law, state law, and State Board of Education rules;
- 1439 (ii) the governing board will meet all reporting requirements described in Section
- 1440 [53A-1b-115](#); and
- 1441 (iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit
- 1442 Enhancement Program, neither the authorizer nor the state, including an agency of the state, is
- 1443 liable for the debts or financial obligations of the charter school or a person who operates the
- 1444 charter school;
- 1445 (g) which administrative rules the State Board of Education will waive for the charter
- 1446 school;
- 1447 (h) minimum financial standards for operating the charter school;
- 1448 (i) minimum standards for student achievement; and
- 1449 (j) signatures of the charter school authorizer and the charter school's governing board
- 1450 members.
- 1451 (3) A charter agreement may not be modified except by mutual agreement between the
- 1452 charter school authorizer and the governing board of the charter school.
- 1453 Section 17. Section **53A-1a-509** is amended to read:

1454 **53A-1a-509. Noncompliance -- Rulemaking.**

1455 (1) If a charter school is found to be out of compliance with the requirements of
1456 Section [53A-1a-507](#) or the school's charter, the [~~chartering entity~~] charter school authorizer
1457 shall notify the following in writing that the charter school has a reasonable time to remedy the
1458 deficiency, except as otherwise provided in Subsection 53A-1a-510(4):

1459 (a) the governing [~~body~~] board of the charter school; and

1460 (b) if the charter school is a qualifying charter school with outstanding bonds issued in
1461 accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah
1462 Charter School Finance Authority.

1463 (2) If the charter school does not remedy the deficiency within the established timeline,
1464 the [~~chartering entity~~] authorizer may:

1465 (a) subject to the requirements of Subsection (4), take one or more of the following
1466 actions:

1467 (i) remove a charter school director or finance officer;

1468 (ii) remove a governing board member; or

1469 (iii) appoint an interim director or mentor to work with the charter school; or

1470 (b) subject to the requirements of Section [53A-1a-510](#), terminate the school's charter.

1471 (3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a)
1472 shall be paid from the funds of the charter school for which the interim director or mentor is
1473 working.

1474 (4) The [~~chartering entity~~] authorizer shall notify the Utah Charter School Finance
1475 Authority before the [~~chartering entity~~] authorizer takes an action described in Subsections
1476 (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds
1477 issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

1478 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1479 State Board of Education shall make rules:

1480 (a) specifying the timeline for remedying deficiencies under Subsection (1); and

1481 (b) ensuring the compliance of a charter school with its approved charter.

1482 Section 18. Section **53A-1a-510** is amended to read:

1483 **53A-1a-510. Termination of a charter.**

1484 (1) Subject to the requirements of Subsection (3), a [~~chartering entity~~] charter school

1485 authorizer may terminate a school's charter for any of the following reasons:

- 1486 (a) failure of the charter school to meet the requirements stated in the charter;
- 1487 (b) failure to meet generally accepted standards of fiscal management;
- 1488 (c) subject to Subsection (8), failure to make adequate yearly progress under the No
- 1489 Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
- 1490 (d) violation of requirements under this part or another law; or
- 1491 (e) other good cause shown.

1492 (2) (a) The [~~chartering entity~~] authorizer shall notify the following of the proposed

1493 termination in writing, state the grounds for the termination, and stipulate that the governing

1494 [~~body~~] board may request an informal hearing before the [~~chartering entity~~] authorizer:

- 1495 (i) the governing [~~body~~] board of the charter school; and
- 1496 (ii) if the charter school is a qualifying charter school with outstanding bonds issued in
- 1497 accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah
- 1498 Charter School Finance Authority.

1499 (b) Except as provided in Subsection (2)(e), the [~~chartering entity~~] authorizer shall

1500 conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act,

1501 within 30 days after receiving a written request under Subsection (2)(a).

1502 (c) If the [~~chartering entity~~] authorizer, by majority vote, approves a motion to

1503 terminate a charter school, the governing [~~body~~] board of the charter school may appeal the

1504 decision to the State Board of Education.

1505 (d) (i) The State Board of Education shall hear an appeal of a termination made

1506 pursuant to Subsection (2)(c).

1507 (ii) The State Board of Education's action is final action subject to judicial review.

1508 (e) (i) If the [~~chartering entity~~] authorizer proposes to terminate the charter of a

1509 qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part

1510 2, Charter School Credit Enhancement Program, the [~~chartering entity~~] authorizer shall conduct

1511 a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the

1512 proposed termination:

- 1513 (A) the governing [~~body~~] board of the qualifying charter school; and
- 1514 (B) the Utah Charter School Finance Authority.

1515 (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School

1516 Finance Authority shall meet with the [~~chartering entity~~] authorizer to determine whether the
1517 deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

1518 (3) [~~A chartering entity~~] An authorizer may not terminate the charter of a qualifying
1519 charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter
1520 School Credit Enhancement Program, without mutual agreement of the Utah Charter School
1521 Finance Authority and the [~~chartering entity~~] authorizer.

1522 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1523 the State Board of Education shall make rules that require a charter school to report any threats
1524 to the health, safety, or welfare of its students to the State Charter School Board in a timely
1525 manner.

1526 (b) The rules under Subsection (4)(a) shall also require the charter school report to
1527 include what steps the charter school has taken to remedy the threat.

1528 (5) Subject to the requirements of Subsection (3), the [~~chartering entity~~] authorizer may
1529 terminate a charter immediately if good cause has been shown or if the health, safety, or
1530 welfare of the students at the school is threatened.

1531 (6) If a charter is terminated during a school year, the following entities may apply to
1532 the charter school's authorizer to assume operation of the school:

1533 (a) the school district [~~in which~~] where the charter school is located [~~may assume~~
1534 ~~operation of the school; or~~];

1535 (b) the governing board of another charter school; or

1536 [~~(b)~~] (c) a private management company [may be hired to operate the charter school].

1537 (7) (a) If a charter is terminated, a student who attended the school may apply to and
1538 shall be enrolled in another public school under the enrollment provisions of [~~Title 53A,~~]
1539 Chapter 2, Part 2, District of Residency, subject to space availability.

1540 (b) Normal application deadlines shall be disregarded under Subsection (7)(a).

1541 (8) Subject to the requirements of Subsection (3), [~~a chartering entity~~] an authorizer
1542 may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local
1543 educational agencies are required to implement alternative governance arrangements under 20
1544 U.S.C. Sec. 6316.

1545 Section 19. Section **53A-1a-510.5** is amended to read:

1546 **53A-1a-510.5. Charter school closure.**

1547 (1) If a charter school is closed for any reason, including the termination of a charter in
1548 accordance with Section 53A-1a-510 or the conversion of a charter school to a private school,
1549 the provisions of this section apply.

1550 (2) (a) As soon as possible after the decision is made to close a charter school,
1551 notification of the decision, in writing, shall be provided by the charter school to:

1552 (i) its [~~chartering entity~~] charter school authorizer;

1553 (ii) the State Charter School Board;

1554 (iii) the State Board of Education;

1555 (iv) parents of its students;

1556 (v) its creditors; and

1557 (vi) the school district in which the charter school is located and other charter schools
1558 located in that school district.

1559 (b) The notification under Subsection (2)(a) shall include:

1560 (i) the proposed date of school closure;

1561 (ii) the school's plans to help students identify and transition into a new school; and

1562 (iii) contact information for the charter school during the transition.

1563 (3) A closing charter school shall:

1564 (a) present a school closure plan to its [~~chartering entity~~] authorizer as soon as possible
1565 after the decision to close is made;

1566 (b) designate a custodian for the protection of student files and school business records;

1567 (c) maintain a base of operation throughout the charter school closing, including:

1568 (i) an office;

1569 (ii) hours of operation; and

1570 (iii) operational telephone service with voice messaging stating the hours of operation;

1571 (d) maintain insurance coverage and risk management coverage throughout the
1572 transition to closure and for a period following closure of the charter school as specified by the
1573 [~~chartering entity~~] authorizer;

1574 (e) complete a financial audit immediately after the decision to close is made;

1575 (f) inventory all assets of the charter school;

1576 (g) list all creditors of the charter school and specifically identify secured creditors and
1577 assets that are security interests; and

- 1578 (h) protect all school assets against theft, misappropriation, and deterioration.
- 1579 (4) (a) Any assets held subject to written conditions or limitations in accordance with
- 1580 Section **53A-1a-517** shall be disposed of in accordance with those conditions or limitations.
- 1581 (b) All liabilities and obligations of the closing charter school shall be paid and
- 1582 discharged or adequate provisions shall be made to discharge the liabilities and obligations to
- 1583 the extent of the closing school's assets.
- 1584 (c) (i) The remaining assets shall be returned to the closing charter school's [~~chartering~~
- 1585 ~~entity~~] authorizer.
- 1586 (ii) The [~~chartering entity~~] authorizer may liquidate assets at fair market value or assign
- 1587 the assets to another public school.
- 1588 (5) To the extent possible, all leases, service agreements, and other contracts not
- 1589 necessary for the transition of the closing charter school should be terminated.
- 1590 (6) The closing charter school shall submit all documentation required by its
- 1591 [~~chartering entity~~] authorizer, including documents to verify its compliance with procedural
- 1592 requirements as well as satisfaction of all financial issues.
- 1593 (7) When the closing charter school's financial affairs are closed out and dissolution is
- 1594 complete, the [~~chartering entity~~] authorizer shall ensure that a final audit of the charter school
- 1595 is completed.
- 1596 (8) The State Board of Education may make rules that provide additional closure
- 1597 requirements upon charter schools or that specify elements of charter school closure plans.
- 1598 Section 20. Section **53A-1a-512** is amended to read:
- 1599 **53A-1a-512. Employees of charter schools.**
- 1600 (1) A charter school shall select its own employees.
- 1601 (2) The school's governing [~~body~~] board shall determine the level of compensation and
- 1602 all terms and conditions of employment, except as otherwise provided in Subsections (7) and
- 1603 (8) and under this part.
- 1604 (3) The following statutes governing public employees and officers do not apply to a
- 1605 charter school:
- 1606 (a) Chapter 8a, Public Education Human Resource Management Act; and
- 1607 (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.
- 1608 (4) (a) To accommodate differentiated staffing and better meet student needs, a charter

1609 school, under rules adopted by the State Board of Education, shall employ teachers who:

1610 (i) are licensed; or

1611 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
1612 certification or authorization programs.

1613 (b) The school's governing ~~[body]~~ board shall disclose the qualifications of its teachers
1614 to the parents of its students.

1615 (5) State Board of Education rules governing the licensing or certification of
1616 administrative and supervisory personnel do not apply to charter schools.

1617 (6) (a) An employee of a school district may request a leave of absence in order to
1618 work in a charter school upon approval of the local school board.

1619 (b) While on leave, the employee may retain seniority accrued in the school district and
1620 may continue to be covered by the benefit program of the district if the charter school and the
1621 locally elected school board mutually agree.

1622 ~~[(7) Except as provided under Subsection (8), an employee of a charter school shall be~~
1623 ~~a member of a retirement system or plan under Title 49, Utah State Retirement and Insurance~~
1624 ~~Benefit Act.]~~

1625 ~~[(8)] (7) (a) [At the time of application for a charter school, whether the chartering~~
1626 ~~entity is the State Charter School Board, a local school board, or a board of trustees of a higher~~
1627 ~~education institution, a proposed charter] A proposed or authorized charter school may [make~~
1628 ~~an election of nonparticipation] elect to participate as an employer for retirement programs~~
1629 under:

1630 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

1631 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

1632 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

1633 ~~[(b) A charter school that was approved prior to July 1, 2004, may make an election of~~
1634 ~~nonparticipation prior to December 31, 2004.]~~

1635 ~~[(c)] (b)~~ An election ~~[provided]~~ under this Subsection ~~[(8)] (7)~~:

1636 ~~[(i) shall be made at the time specified under Subsection (8)(a) or (b);]~~

1637 ~~[(ii)] (i)~~ shall be documented by a resolution adopted by the governing ~~[body]~~ board of
1638 the charter school; and

1639 ~~[(iii) is in effect unless the charter school makes an irrevocable retraction of the~~

1640 ~~election of nonparticipation in accordance with Subsection (9); and]~~

1641 ~~[(iv)] (ii)~~ applies to the charter school as the employer and to all employees of the
1642 charter school.

1643 ~~[(d)] (c)~~ The governing [~~body~~] board of a charter school may offer employee benefit
1644 plans for its employees:

1645 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

1646 or

1647 (ii) under any other program.

1648 ~~[(9)(a) A charter school that made an election of nonparticipation as an employer for
1649 the following retirement programs may subsequently make an irrevocable retraction of the
1650 election of nonparticipation:]~~

1651 ~~[(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;]~~

1652 ~~[(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or]~~

1653 ~~[(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement
1654 Act.]~~

1655 ~~[(b) A retraction provided under this Subsection (9):]~~

1656 ~~[(i) shall be documented by a resolution adopted by the governing body of the charter
1657 school;]~~

1658 ~~[(ii) is a one-time election;]~~

1659 ~~[(iii) is irrevocable; and]~~

1660 ~~[(iv) applies to the charter school as the employer and to all employees of the charter
1661 school.]~~

1662 (8) A charter school may not revoke an election to participate made under Subsection
1663 (7).

1664 ~~[(10)] (9)~~ The governing [~~body~~] board of a charter school shall ensure that, prior to the
1665 beginning of each school year, each of its employees signs a document acknowledging that the
1666 employee:

1667 (a) has received:

1668 (i) the disclosure required under Section [63A-4-204.5](#) if the charter school participates
1669 in the Risk Management Fund; or

1670 (ii) written disclosure similar to the disclosure required under Section [63A-4-204.5](#) if

1671 the charter school does not participate in the Risk Management Fund; and

1672 (b) understands the legal liability protection provided to the employee and what is not
1673 covered, as explained in the disclosure.

1674 Section 21. Section **53A-1a-514** is amended to read:

1675 **53A-1a-514. Tort liability.**

1676 (1) An employee of a charter school is a public employee and the governing [~~body~~]
1677 board is a public employer in the same manner as a local school board for purposes of tort
1678 liability.

1679 (2) The governing [~~body~~] board of a charter school, the nonprofit corporation under
1680 which the charter school is organized and managed, and the school are solely liable for any
1681 damages resulting from a legal challenge involving the operation of the school.

1682 Section 22. Section **53A-1a-515** is amended to read:

1683 **53A-1a-515. Charters authorized by local school boards -- Application process --**
1684 **Local school board responsibilities.**

1685 (1) (a) [~~Individuals and entities~~] An applicant identified in Section **53A-1a-504** may
1686 [~~enter into an agreement with~~] submit an application to a local school board to establish and
1687 operate a charter school within the geographical boundaries of the school district administered
1688 by the local school board.

1689 (b) (i) The principal, teachers, or parents of students at an existing public school may
1690 submit an application to the local school board to convert the school or a portion of the school
1691 to charter status.

1692 (A) If the entire school is applying for charter status, at least two-thirds of the licensed
1693 educators employed at the school and at least two-thirds of the parents or guardians of students
1694 enrolled at the school must have signed a petition approving the application prior to its
1695 submission to the charter school authorizer.

1696 (B) If only a portion of the school is applying for charter status, the percentage is
1697 reduced to a simple majority.

1698 (ii) The local school board may not approve an application submitted under Subsection
1699 (1)(b)(i) unless the local school board determines that:

1700 (A) students opting not to attend the proposed converted school would have access to a
1701 comparable public education alternative; and

1702 (B) current teachers who choose not to teach at the converted charter school or who are
 1703 not retained by the school at the time of its conversion would receive a first preference for
 1704 transfer to open teaching positions for which they qualify within the school district, and, if no
 1705 positions are open, contract provisions or board policy regarding reduction in staff would
 1706 apply.

1707 (2) (a) An existing public school that converts to charter status under a charter granted
 1708 by a local school board may:

1709 (i) continue to receive the same services from the school district that it received prior to
 1710 its conversion; or

1711 (ii) contract out for some or all of those services with other public or private providers.

1712 (b) Any other charter school authorized by a local school board may contract with the
 1713 board to receive some or all of the services referred to in Subsection (3)(a).

1713a **H→ (c) Except as specified in a charter agreement, local school board assets do not transfer**
 1713b **to an existing public school that converts to charter status under a charter granted by a local**
 1713c **school board under this section. ←H**

1714 (3) (a) (i) A public school that converts to a charter school under a charter granted by a
 1715 local school board shall receive funding:

1716 (A) through the school district; and

1717 (B) on the same basis as it did prior to its conversion to a charter school.

1718 (ii) The school may also receive federal money designated for charter schools under
 1719 any federal program.

1720 (b) (i) A local school board-authorized charter school operating in a facility owned by
 1721 the school district and not paying reasonable rent to the school district shall receive funding:

1722 (A) through the school district; and

1723 (B) on the same basis that other district schools receive funding.

1724 (ii) The school may also receive federal money designated for charter schools under
 1725 any federal program.

1726 (c) Subject to the provisions in Section [53A-1a-502.5](#), a charter school authorized by a
 1727 local school board shall receive funding as provided in Section [53A-1a-513](#).

1728 (d) (i) A charter school authorized by a local school board, but not described in
 1729 Subsection (3)(a), (b), or (c) shall receive funding:

1730 (A) through the school district; and

1731 (B) on the same basis that other district schools receive funding.

1732 (ii) The school may also receive federal money designated for charter schools under

1733 any federal program.

1734 (4) (a) A local school board that receives an application for a charter school under this
1735 section shall, within 45 days, either accept or reject the application.

1736 (b) If the board rejects the application, it shall notify the applicant in writing of the
1737 reason for the rejection.

1738 (c) The applicant may submit a revised application for reconsideration by the board.

1739 (d) If the local school board refuses to authorize the applicant, the applicant may seek a
1740 charter from the State Charter School Board under Section [53A-1a-505](#).

1741 (5) The State Board of Education shall make a rule providing for a timeline for the
1742 opening of a charter school following the approval of a charter school application by a local
1743 school board.

1744 (6) ~~[(a)]~~ After approval of a charter school application~~;~~ and in accordance with
1745 Section [53A-1a-508](#), the applicant and the local school board shall set forth the terms and
1746 conditions for the operation of the charter school in a written ~~[contractual]~~ charter agreement.

1747 ~~[(b) The agreement is the school's charter.]~~

1748 (7) A local school board shall:

1749 (a) annually review and evaluate the performance of charter schools authorized by the
1750 local school board and hold the schools accountable for their performance;

1751 (b) monitor charter schools authorized by the local school board for compliance with
1752 federal and state laws, rules, and regulations; and

1753 (c) provide technical support to charter schools authorized by the local school board to
1754 assist them in understanding and performing their charter obligations.

1755 (8) A local school board may terminate a charter school it authorizes as provided in
1756 Sections [53A-1a-509](#) and [53A-1a-510](#).

1757 (9) In addition to the exemptions described in Sections [53A-1a-511](#) and [53A-1a-512](#), a
1758 charter school authorized by a local school board is:

1759 (a) not required to separately submit a report or information required under this title to
1760 the State Board of Education if the information is included in a report or information that is
1761 submitted by the local school board or school district; and

1762 (b) exempt from the requirement under Section [53A-1a-507](#) that a charter school shall
1763 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation

1764 Act.

1765 (10) Before a local school board accepts a charter school application, the local school
1766 board shall, in accordance with State Board of Education rules, establish and make public the
1767 local school board's:

1768 (a) application requirements, in accordance with Section [53A-1a-504](#);

1769 (b) application process, including timelines, in accordance with this section; and

1770 (c) minimum academic, financial, and enrollment standards.

1771 Section 23. Section **53A-1a-517** is amended to read:

1772 **53A-1a-517. Charter school assets.**

1773 (1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant,
1774 endowment, gift, or donation of any asset made to the school for any of the purposes of this
1775 part.

1776 (b) Unless a donor or grantor specifically provides otherwise in writing, all assets
1777 described in Subsection (1) shall be presumed to be made to the charter school and shall be
1778 included in the charter school's assets.

1779 (2) It is unlawful for any person affiliated with a charter school to demand or request
1780 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
1781 with the charter school as a condition for employment or enrollment at the school or continued
1782 attendance at the school.

1783 (3) All assets purchased with charter school funds shall be included in the charter
1784 school's assets.

1785 (4) A charter school may not dispose of its assets in violation of the provisions of this
1786 part, state board rules, policies of its [~~chartering entity~~] charter school authorizer, or its charter,
1787 including the provisions governing the closure of a charter school under Section [53A-1a-510.5](#).

1788 Section 24. Section **53A-1a-520** is amended to read:

1789 **53A-1a-520. Accountability -- Rules.**

1790 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
1791 after consultation with chartering entities, the State Board of Education shall make rules that:

1792 (1) require a charter school to develop an accountability plan, approved by its
1793 [~~chartering entity~~] charter school authorizer, during its first year of operation;

1794 (2) require [~~a chartering entity~~] an authorizer to:

1795 (a) visit a charter school at least once during:
 1796 (i) its first year of operation; and
 1797 (ii) the review period described under Subsection (3); and
 1798 (b) provide written reports to its charter schools after the visits; and
 1799 (3) establish a review process that is required of a charter school once every five years
 1800 by its [~~chartering entity~~] authorizer.

1801 Section 25. Section **53A-1a-521** is amended to read:

1802 **53A-1a-521. Charter schools authorized by a board of trustees of a higher**
 1803 **education institution -- Application process -- Board of trustees responsibilities.**

1804 (1) Subject to the approval of the State Board of Education and except as provided in
 1805 Subsection (8), an [~~individual or entity~~] applicant identified in Section **53A-1a-504** may enter
 1806 into an agreement with a board of trustees of a higher education institution authorizing the
 1807 [~~individual or entity~~] applicant to establish and operate a charter school.

1808 (2) (a) An [~~individual or entity identified in Section 53A-1a-504~~] applicant applying
 1809 for authorization from a board of trustees [~~of a higher education institution~~] to establish and
 1810 operate a charter school shall provide a copy of the application to the State Charter School
 1811 Board and the local school board of the school district in which the proposed charter school
 1812 shall be located either before or at the same time [~~it files its~~] the applicant files the application
 1813 with the board of trustees.

1814 (b) The State Charter School Board and the local school board may review the
 1815 application and [~~may~~] offer suggestions or recommendations to the applicant or the board of
 1816 trustees [~~of a higher education institution prior to its~~] before acting on the application.

1817 (c) The board of trustees [~~of a higher education institution~~] shall give due consideration
 1818 to suggestions or recommendations made by the State Charter School Board or the local school
 1819 board under Subsection (2)(b).

1820 (3) (a) If a board of trustees [~~of a higher education institution~~] approves an application
 1821 to establish and operate a charter school, the board of trustees shall submit the application to
 1822 the State Board of Education.

1823 (b) The State Board of Education shall, by majority vote, within 60 days of receipt of
 1824 the application, approve or deny an application approved by a board of trustees [~~of a higher~~
 1825 ~~education institution~~].

1826 (c) The State Board of Education's action under Subsection (3)(b) is final action subject
1827 to judicial review.

1828 (4) The State Board of Education shall make a rule providing a timeline for the
1829 opening of a charter school following the approval of a charter school application by a board of
1830 trustees [~~of a higher education institution~~].

1831 (5) [~~(a)~~] After approval of a charter school application, the applicant and the board of
1832 trustees [~~of a higher education institution~~] shall set forth the terms and conditions for the
1833 operation of the charter school in a written [~~contractual~~] charter agreement.

1834 [~~(b) The agreement is the school's charter.~~]

1835 (6) (a) The school's charter may include a provision that the charter school pay an
1836 annual fee for the board of trustees' costs in providing oversight of, and technical support to,
1837 the charter school in accordance with Subsection (7).

1838 (b) In the first two years that a charter school is in operation, an annual fee described in
1839 Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives
1840 from the state in the current fiscal year.

1841 (c) Beginning with the third year that a charter school is in operation, an annual fee
1842 described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter
1843 school receives from the state in the current fiscal year.

1844 (d) An annual fee described in Subsection (6)(a) shall be:

1845 (i) paid to the board of trustees' higher education institution; and

1846 (ii) expended as directed by the board of trustees.

1847 (7) A board of trustees [~~of a higher education institution~~] shall:

1848 (a) annually review and evaluate the performance of charter schools authorized by the
1849 board of trustees and hold the schools accountable for their performance;

1850 (b) monitor charter schools authorized by the board of trustees for compliance with
1851 federal and state laws, rules, and regulations; and

1852 (c) provide technical support to charter schools authorized by the board of trustees to
1853 assist them in understanding and performing their charter obligations.

1854 (8) (a) In addition to complying with the requirements of this section, a campus board
1855 of directors of a college campus within the Utah College of Applied Technology shall obtain
1856 the approval of the Utah College of Applied Technology Board of Trustees before entering into

1857 an agreement to establish and operate a charter school.

1858 (b) If a campus board of directors of a college campus with the Utah College of
1859 Applied Technology approves an application to establish and operate a charter school, the
1860 campus board of directors of the college campus shall submit the application to the Utah
1861 College of Applied Technology Board of Trustees.

1862 (c) The Utah College of Applied Technology Board of Trustees shall, by majority vote,
1863 within 60 days ~~[or]~~ of receipt of the application, approve or deny the application approved by
1864 the campus board of directors.

1865 (d) The Utah College of Applied Technology Board of Trustees may deny an
1866 application approved by a campus board of directors if the proposed charter school does not
1867 accomplish a purpose of charter schools as provided in Section [53A-1a-503](#).

1868 (e) A charter school application may not be denied on the basis that the establishment
1869 of the charter school will have any or all of the following impacts on a public school, including
1870 another charter school:

- 1871 (i) an enrollment decline;
1872 (ii) a decrease in funding; or
1873 (iii) a modification of programs or services.

1874 (9) (a) Subject to the requirements of this part, a campus board of directors of a college
1875 campus within the Utah College of Applied Technology may establish:

1876 (i) procedures for submitting applications to establish and operate a charter school to a
1877 campus board of directors of a college campus within the Utah College of Applied Technology;
1878 and

1879 (ii) criteria for a campus board of directors' approval of an application to establish and
1880 operate a charter school.

1881 (b) The Utah College of Applied Technology Board of Trustees may not establish
1882 policy governing the procedures or criteria described in Subsection (9)(a).

1883 (10) Before a board of trustees accepts a charter school application, the board of
1884 trustees shall, in accordance with State Board of Education rules, establish and make public the
1885 board of trustees':

1886 (a) application requirements, in accordance with Section [53A-1a-504](#);

1887 (b) application process, including timelines, in accordance with this section; and

1888 (c) minimum academic, financial, and enrollment standards.

1889 Section 26. Section **53A-20b-201** is amended to read:

1890 **53A-20b-201. Charter School Credit Enhancement Program -- Standards for the**
1891 **designation of qualifying charter schools -- Debt service reserve fund requirements.**

1892 (1) There is created the Charter School Credit Enhancement Program to assist
1893 qualifying charter schools in obtaining favorable financing by providing a means of
1894 replenishing a qualifying charter school's debt service reserve fund.

1895 (2) The authority shall establish standards for a charter school to be designated as a
1896 qualifying charter school.

1897 (3) In establishing the standards described in Subsection (2) the authority shall
1898 consider:

1899 (a) whether a charter school has received an investment grade rating, independent of
1900 any rating enhancement resulting from the issuance of bonds pursuant to the credit
1901 enhancement program;

1902 (b) the location of the charter school's project;

1903 (c) the operating history of the charter school;

1904 (d) the financial strength of the charter school; and

1905 (e) any other criteria the authority determines are relevant.

1906 (4) The bonds issued by the authority for a qualifying charter school are not an
1907 indebtedness of the state or of the authority but are special obligations payable solely from:

1908 (a) the revenues or other funds pledged by the qualifying charter school; and

1909 (b) amounts appropriated by the Legislature pursuant to Subsection (9).

1910 (5) The authority shall notify the [~~chartering entity~~] authorizer of a charter school that
1911 the charter school is participating in the credit enhancement program if the authority:

1912 (a) designates the charter school as a qualifying charter school; and

1913 (b) issues bonds for the qualifying charter school under the credit enhancement
1914 program.

1915 (6) One or more debt service reserve funds shall be established for a qualifying charter
1916 school with respect to bonds issued pursuant to the credit enhancement program.

1917 (7) (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund
1918 may not be withdrawn from the debt service reserve fund if the amount withdrawn would

1919 reduce the level of money in the debt service reserve fund to less than the debt service reserve
1920 fund requirement.

1921 (b) So long as the applicable bonds issued under the credit enhancement program
1922 remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that
1923 would reduce the level of money in the debt service reserve fund to less than the debt service
1924 reserve fund requirement if the money is withdrawn for the purpose of:

1925 (i) paying the principal of, redemption price of, or interest on a bond when due and if
1926 no other money of the qualifying charter school is available to make the payment, as
1927 determined by the authority; or

1928 (ii) paying any redemption premium required to be paid when the bonds are redeemed
1929 prior to maturity if no bonds will remain outstanding upon payment from the funds in the
1930 qualifying charter school's debt service reserve fund.

1931 (8) Money in a qualifying charter school's debt service reserve fund that exceeds the
1932 debt service reserve fund requirement may be withdrawn by the qualifying charter school.

1933 (9) (a) The authority shall annually, on or before December 1, certify to the governor
1934 the amount, if any, required to restore amounts on deposit in the debt service reserve funds of
1935 qualifying charter schools to the respective debt service reserve fund requirements.

1936 (b) The governor shall request from the Legislature an appropriation of the certified
1937 amount to restore amounts on deposit in the debt service reserve funds of qualifying charter
1938 schools to the respective debt service reserve fund requirements.

1939 (c) The Legislature may appropriate money to the authority to restore amounts on
1940 deposit in the debt service reserve funds of qualifying charter schools to the respective debt
1941 service reserve fund requirements.

1942 (d) A qualifying charter school that receives money from an appropriation to restore
1943 amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement,
1944 shall repay the state at the time and in the manner as the authority shall require.

1945 (10) The authority may create and establish other funds for its purposes.

1945a **H→ Section 27. Coordinating H.B. 419 with S.B. 171--Technical amendments.**
1945b **If this H.B. 419 and S.B. 171, Student-Centered Learning Pilot Program, both pass and**
1945c **become law, it is the intent of the Legislature that the Office of Legislative Research and**
1945d **General Counsel in preparing the Utah Code database for publication, modify**
1945e **Subsection 53A-1a-508(3) to read:**

1945f **"(3) (a) Except as provided in Subsection (3)(b), a charter agreement may not be**
1945g **modified except by mutual agreement between the charter school authorizer and the**

1945h governing board of the charter school.

1945i (b) (i) Subject to Subsection (3)(c), at the request of the governing board of a charter
1945j school that is selected to participate in the Student-Centered Learning Pilot Program created
1945k in Section 53A-15-1403, the charter school's authorizer shall attach an addendum to the
1945l school's charter indicating the charter is modified to be consistent with the requirements of the
1945m Student-Centered Learning Pilot Program and describing those modifications.

1945n (ii) A charter school authorizer shall make the modifications described in Subsection
1945o (3)(b)(i) without requiring the charter school to participate in a charter amendment process.

1945p (c) (i) If an increase in a charter school's enrollment capacity is required to participate
1945q in the Student-Centered Learning Pilot Program, the charter school shall submit a request for
1945r an increase in enrollment capacity to the State Board of Education.

1945s (ii) The State Board of Education may approve an increase in enrollment capacity for
1945t the charter school subject to the availability of sufficient funds appropriated under Section
1945u 53A-1a-513." ←Ĥ

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Office of Legislative Research and General Counsel