

**Representative Daniel McCay** proposes the following substitute bill:

**CHARTER SCHOOL AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: Daniel McCay

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**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



- 26 school whose charter agreement is terminated;
- 27       ▶ 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;
- 31       ▶ requires the State Board of Education, in approving an increase in charter school
- 32 enrollment capacity, to give, subject to a certain exception:
- 33           • high priority to approving a charter school located in a high growth area; and
- 34           • low priority to approving a charter school located in an area where student
- 35 enrollment is stable or declining;
- 36       ▶ requires a charter school that is approved with high priority status after May 13,
- 37 2014, and is located in a high growth area to give an enrollment preference to
- 38 students who reside within a two-mile radius of the charter school; and
- 39       ▶ makes technical changes.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46 [10-9a-103](#), as last amended by Laws of Utah 2013, Chapters 309 and 334
- 47 [11-36a-102](#), as last amended by Laws of Utah 2013, Chapter 200
- 48 [17-27a-103](#), as last amended by Laws of Utah 2013, Chapters 309, 334, and 476
- 49 [49-12-202](#), as last amended by Laws of Utah 2009, Chapters 51 and 165
- 50 [49-13-202](#), as last amended by Laws of Utah 2012, Chapter 298
- 51 [49-22-202](#), as last amended by Laws of Utah 2012, Chapter 298
- 52 [52-4-209](#), as last amended by Laws of Utah 2012, Chapter 403
- 53 [53A-1a-501.3](#), as last amended by Laws of Utah 2013, Chapter 10
- 54 [53A-1a-501.6](#), as last amended by Laws of Utah 2010, Chapter 353
- 55 [53A-1a-502.5](#), as last amended by Laws of Utah 2013, Chapter 376
- 56 [53A-1a-503.5](#), as last amended by Laws of Utah 2008, Chapter 319

- 57 **53A-1a-505**, as last amended by Laws of Utah 2005, Chapter 291
- 58 **53A-1a-506**, as last amended by Laws of Utah 2013, Chapter 278
- 59 **53A-1a-506.5**, as last amended by Laws of Utah 2010, Chapter 162
- 60 **53A-1a-507**, as last amended by Laws of Utah 2011, Chapter 349
- 61 **53A-1a-509**, as last amended by Laws of Utah 2012, Chapter 201
- 62 **53A-1a-510**, as last amended by Laws of Utah 2012, Chapter 201
- 63 **53A-1a-510.5**, as enacted by Laws of Utah 2007, Chapter 344
- 64 **53A-1a-512**, as last amended by Laws of Utah 2012, Chapter 425
- 65 **53A-1a-514**, as last amended by Laws of Utah 2007, Chapter 344
- 66 **53A-1a-515**, as last amended by Laws of Utah 2010, Chapters 162 and 303
- 67 **53A-1a-517**, as enacted by Laws of Utah 2007, Chapter 344
- 68 **53A-1a-520**, as last amended by Laws of Utah 2010, Chapter 353
- 69 **53A-1a-521**, as last amended by Laws of Utah 2013, Chapter 239
- 70 **53A-20b-201**, as enacted by Laws of Utah 2012, Chapter 201

71 REPEALS AND REENACTS:

- 72 **53A-1a-504**, as last amended by Laws of Utah 2007, Chapter 344
- 73 **53A-1a-508**, as last amended by Laws of Utah 2011, Chapter 349

74 **Utah Code Sections Affected by Coordination Clause:**

- 75 **53A-1a-508**, as last amended by Laws of Utah 2011, Chapter 349
- 76 **53A-1a-513**, as last amended by Laws of Utah 2013, Chapter 470
- 77 **53A-15-1403**, Utah Code Annotated 1953



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

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

81 **10-9a-103. Definitions.**

82 As used in this chapter:

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

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

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

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

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

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

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

102 (i) an operating charter school;

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

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

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

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

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

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

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

117 (7) "Culinary water authority" means the department, agency, or public entity with  
118 responsibility to review and approve the feasibility of the culinary water system and sources for

119 the subject property.

120 (8) "Development activity" means:

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

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

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

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

130 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
131 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
132 802.

133 (10) "Educational facility":

134 (a) means:

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

138 (ii) a structure or facility:

139 (A) located on the same property as a building described in Subsection (10)(a)(i); and

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

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

143 (b) does not include:

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

146 (A) not located on the same property as a building described in Subsection (10)(a)(i);

147 and

148 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

149 (ii) a therapeutic school.

150 (11) "Fire authority" means the department, agency, or public entity with responsibility  
151 to review and approve the feasibility of fire protection and suppression services for the subject  
152 property.

153 (12) "Flood plain" means land that:

154 (a) is within the 100-year flood plain designated by the Federal Emergency  
155 Management Agency; or

156 (b) has not been studied or designated by the Federal Emergency Management Agency  
157 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
158 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
159 Federal Emergency Management Agency.

160 (13) "General plan" means a document that a municipality adopts that sets forth general  
161 guidelines for proposed future development of the land within the municipality.

162 (14) "Geologic hazard" means:

163 (a) a surface fault rupture;

164 (b) shallow groundwater;

165 (c) liquefaction;

166 (d) a landslide;

167 (e) a debris flow;

168 (f) unstable soil;

169 (g) a rock fall; or

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

171 (i) to life;

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

173 (iii) of substantial damage to real property.

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

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

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

179 (b) are substantially identical to building plans that were previously submitted to and  
180 reviewed and approved by the municipality; and

- 181 (c) describe a building that:
- 182 (i) is located on land zoned the same as the land on which the building described in the
- 183 previously approved plans is located;
- 184 (ii) is subject to the same geological and meteorological conditions and the same law
- 185 as the building described in the previously approved plans;
- 186 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 187 and approved by the municipality; and
- 188 (iv) does not require any additional engineering or analysis.
- 189 (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 190 Impact Fees Act.
- 191 (18) "Improvement completion assurance" means a surety bond, letter of credit, cash,
- 192 or other security required by a municipality to guaranty the proper completion of landscaping
- 193 or infrastructure that the land use authority has required as a condition precedent to:
- 194 (a) recording a subdivision plat; or
- 195 (b) beginning development activity.
- 196 (19) "Improvement warranty" means an applicant's unconditional warranty that the
- 197 accepted landscaping or infrastructure:
- 198 (a) complies with the municipality's written standards for design, materials, and
- 199 workmanship; and
- 200 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 201 within the improvement warranty period.
- 202 (20) "Improvement warranty period" means a period:
- 203 (a) no later than one year after a municipality's acceptance of required landscaping; or
- 204 (b) no later than one year after a municipality's acceptance of required infrastructure,
- 205 unless the municipality:
- 206 (i) determines for good cause that a one-year period would be inadequate to protect the
- 207 public health, safety, and welfare; and
- 208 (ii) has substantial evidence, on record:
- 209 (A) of prior poor performance by the applicant; or
- 210 (B) that the area upon which the infrastructure will be constructed contains suspect soil
- 211 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

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

214 (a) runs with the land; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 (b) because of one or more subsequent land use ordinance changes, does not conform



243 to the setback, height restrictions, or other regulations, excluding those regulations, which  
244 govern the use of land.

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

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

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

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

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

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

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

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

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

261 (a) no additional parcel is created; and

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

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

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

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

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

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

273 (d) an evaluation of how existing land uses and zones affect opportunities for moderate

274 income housing; and

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

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

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

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

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

286 (39) "Public agency" means:

287 (a) the federal government;

288 (b) the state;

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

291 (d) a charter school.

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

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

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

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

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

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

303 (b) (i) which is licensed or certified by the Department of Human Services under Title  
304 62A, Chapter 2, Licensure of Programs and Facilities; or

305 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
306 21, Health Care Facility Licensing and Inspection Act.

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

309 (a) parliamentary order and procedure;

310 (b) ethical behavior; and

311 (c) civil discourse.

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

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

318 (48) "Specified public agency" means:

319 (a) the state;

320 (b) a school district; or

321 (c) a charter school.

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

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

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

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

332 (b) "Subdivision" includes:

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

335 (ii) except as provided in Subsection (52)(c), divisions of land for residential and

336 nonresidential uses, including land used or to be used for commercial, agricultural, and  
337 industrial purposes.

338 (c) "Subdivision" does not include:

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

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

345 (A) no new lot is created; and

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

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

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

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

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

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

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

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

359 (vi) a parcel boundary adjustment.

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

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

365 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
366 3% swell potential;

367 (b) bedrock units with high shrink or swell susceptibility; or  
368 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
369 commonly associated with dissolution and collapse features.

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

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

372 (i) the owner of the facility; or

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

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

375 (i) at home;

376 (ii) in a public school; or

377 (iii) in a nonresidential private school; and

378 (c) that offers:

379 (i) room and board; and

380 (ii) an academic education integrated with:

381 (A) specialized structure and supervision; or

382 (B) services or treatment related to a disability, an emotional development, a

383 behavioral development, a familial development, or a social development.

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

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

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

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

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

392 (i) a contract; or

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

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

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

397 **11-36a-102. Definitions.**

398 As used in this chapter:

399 (1) (a) "Affected entity" means each county, municipality, local district under Title  
400 17B, Limited Purpose Local Government Entities - Local Districts, special service district  
401 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation  
402 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

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

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

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

410 (2) "Charter school" includes:

411 (a) an operating charter school;

412 (b) an applicant for a charter school whose application has been approved by a  
413 [~~chartering entity~~] charter school authorizer as provided in Title 53A, Chapter 1a, Part 5, The  
414 Utah Charter Schools Act; and

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

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

420 (4) "Development approval" means:

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

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

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

427 (i) to reserve or provide:

428 (A) a water right;

- 429 (B) a system capacity; or
- 430 (C) a distribution facility; or
- 431 (ii) to deliver for a development activity:
- 432 (A) culinary water; or
- 433 (B) irrigation water; or
- 434 (d) a written authorization from a sanitary sewer authority, as defined in Section
- 435 [10-9a-103](#):
- 436 (i) to reserve or provide:
- 437 (A) sewer collection capacity; or
- 438 (B) treatment capacity; or
- 439 (ii) to provide sewer service for a development activity.
- 440 (5) "Enactment" means:
- 441 (a) a municipal ordinance, for a municipality;
- 442 (b) a county ordinance, for a county; and
- 443 (c) a governing board resolution, for a local district, special service district, or private
- 444 entity.
- 445 (6) "Encumber" means:
- 446 (a) a pledge to retire a debt; or
- 447 (b) an allocation to a current purchase order or contract.
- 448 (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 449 meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility
- 450 system of a municipality, county, local district, special service district, or private entity.
- 451 (8) (a) "Impact fee" means a payment of money imposed upon new development
- 452 activity as a condition of development approval to mitigate the impact of the new development
- 453 on public infrastructure.
- 454 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
- 455 hookup fee, a fee for project improvements, or other reasonable permit or application fee.
- 456 (9) "Impact fee analysis" means the written analysis of each impact fee required by
- 457 Section [11-36a-303](#).
- 458 (10) "Impact fee facilities plan" means the plan required by Section [11-36a-301](#).
- 459 (11) "Level of service" means the defined performance standard or unit of demand for

460 each capital component of a public facility within a service area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

489 (b) wastewater collection and treatment facilities;

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



- 491 (d) municipal power facilities;
- 492 (e) roadway facilities;
- 493 (f) parks, recreation facilities, open space, and trails;
- 494 (g) public safety facilities; or
- 495 (h) environmental mitigation as provided in Section [11-36a-205](#).

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

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

498 or

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

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

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

505 (b) "Roadway facilities" includes associated improvements to a federal or state  
506 roadway only when the associated improvements:

- 507 (i) are necessitated by the new development; and
- 508 (ii) are not funded by the state or federal government.

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

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

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

515 (20) "Specified public agency" means:

- 516 (a) the state;
- 517 (b) a school district; or
- 518 (c) a charter school.

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

- 520 (i) existing public facilities that are:

521 (A) identified in the impact fee analysis under Section [11-36a-304](#); and

522 (B) designed to provide services to service areas within the community at large; and  
523 (ii) future public facilities identified in the impact fee analysis under Section  
524 11-36a-304 that are intended to provide services to service areas within the community at large.

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

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

527 **17-27a-103. Definitions.**

528 As used in this chapter:

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

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

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

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

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

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

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

548 (i) an operating charter school;

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

552 (iii) an entity that is working on behalf of a charter school or approved charter

553 applicant to develop or construct a charter school building.

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

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

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

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

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

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

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

568 (9) "Development activity" means:

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

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

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

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

578 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
579 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
580 802.

581 (11) "Educational facility":

582 (a) means:

583 (i) a school district's building at which pupils assemble to receive instruction in a

584 program for any combination of grades from preschool through grade 12, including  
585 kindergarten and a program for children with disabilities;

586 (ii) a structure or facility:

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

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

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

591 (b) does not include:

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

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

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

597 (ii) a therapeutic school.

598 (12) "Fire authority" means the department, agency, or public entity with responsibility  
599 to review and approve the feasibility of fire protection and suppression services for the subject  
600 property.

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

602 (a) is within the 100-year flood plain designated by the Federal Emergency  
603 Management Agency; or

604 (b) has not been studied or designated by the Federal Emergency Management Agency  
605 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
606 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
607 Federal Emergency Management Agency.

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

609 (15) "General plan" means a document that a county adopts that sets forth general  
610 guidelines for proposed future development of the unincorporated land within the county.

611 (16) "Geologic hazard" means:

612 (a) a surface fault rupture;

613 (b) shallow groundwater;

614 (c) liquefaction;

- 615 (d) a landslide;
- 616 (e) a debris flow;
- 617 (f) unstable soil;
- 618 (g) a rock fall; or
- 619 (h) any other geologic condition that presents a risk:
- 620 (i) to life;
- 621 (ii) of substantial loss of real property; or
- 622 (iii) of substantial damage to real property.
- 623 (17) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 624 designation that:
  - 625 (a) runs with the land; and
  - 626 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
  - 627 the plat; or
  - 628 (ii) designates a development condition that is enclosed within the perimeter of a lot
  - 629 described on the plat.
- 630 (18) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 631 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 632 system.
- 633 (19) "Identical plans" means building plans submitted to a county that:
  - 634 (a) are clearly marked as "identical plans";
  - 635 (b) are substantially identical building plans that were previously submitted to and
  - 636 reviewed and approved by the county; and
  - 637 (c) describe a building that:
    - 638 (i) is located on land zoned the same as the land on which the building described in the
    - 639 previously approved plans is located;
    - 640 (ii) is subject to the same geological and meteorological conditions and the same law
    - 641 as the building described in the previously approved plans;
    - 642 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
    - 643 and approved by the county; and
    - 644 (iv) does not require any additional engineering or analysis.
- 645 (20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,

646 Impact Fees Act.

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

650 (a) recording a subdivision plat; or

651 (b) beginning development activity.

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

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

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

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

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

660 (b) no later than one year after a county's acceptance of required infrastructure, unless  
661 the county:

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

664 (ii) has substantial evidence, on record:

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

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

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

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

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

676 (27) "Land use authority" means a person, board, commission, agency, or other body

677 designated by the local legislative body to act upon a land use application.

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

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

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

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

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

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

691 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent  
692 and expenses incurred in:

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

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

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

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

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

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

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

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

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

707 (37) "Official map" means a map drawn by county authorities and recorded in the

708 county recorder's office that:

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

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

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

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

717 (a) no additional parcel is created; and

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

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

722 (40) "Plan for moderate income housing" means a written document adopted by a  
723 county legislative body that includes:

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

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

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

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

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

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

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

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



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

742 (43) "Public agency" means:

743 (a) the federal government;

744 (b) the state;

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

747 (d) a charter school.

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

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

752 (46) "Receiving zone" means an unincorporated area of a county that the county  
753 designates, by ordinance, as an area in which an owner of land may receive a transferable  
754 development right.

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

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

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

759 (b) (i) which is licensed or certified by the Department of Human Services under Title  
760 62A, Chapter 2, Licensure of Programs and Facilities; or

761 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
762 21, Health Care Facility Licensing and Inspection Act.

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

765 (a) parliamentary order and procedure;

766 (b) ethical behavior; and

767 (c) civil discourse.

768 (50) "Sanitary sewer authority" means the department, agency, or public entity with  
769 responsibility to review and approve the feasibility of sanitary sewer services or onsite

770 wastewater systems.

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

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

777 (53) "Specified public agency" means:

778 (a) the state;

779 (b) a school district; or

780 (c) a charter school.

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

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

784 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
785 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
786 way.

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

791 (b) "Subdivision" includes:

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

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

797 (c) "Subdivision" does not include:

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

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

- 801 (A) no new lot is created; and
- 802 (B) the adjustment does not violate applicable land use ordinances;
- 803 (iii) a recorded document, executed by the owner of record:
- 804 (A) revising the legal description of more than one contiguous unsubdivided parcel of
- 805 property into one legal description encompassing all such parcels of property; or
- 806 (B) joining a subdivided parcel of property to another parcel of property that has not
- 807 been subdivided, if the joinder does not violate applicable land use ordinances;
- 808 (iv) a bona fide division or partition of land in a county other than a first class county
- 809 for the purpose of siting, on one or more of the resulting separate parcels:
- 810 (A) an electrical transmission line or a substation;
- 811 (B) a natural gas pipeline or a regulation station; or
- 812 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 813 utility service regeneration, transformation, retransmission, or amplification facility;
- 814 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
- 815 their mutual boundary if:
- 816 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 817 (B) the adjustment will not violate any applicable land use ordinance;
- 818 (vi) a bona fide division or partition of land by deed or other instrument where the land
- 819 use authority expressly approves in writing the division in anticipation of further land use
- 820 approvals on the parcel or parcels; or
- 821 (vii) a parcel boundary adjustment.
- 822 (d) The joining of a subdivided parcel of property to another parcel of property that has
- 823 not been subdivided does not constitute a subdivision under this Subsection (57) as to the
- 824 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
- 825 ordinance.
- 826 (58) "Suspect soil" means soil that has:
- 827 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 828 3% swell potential;
- 829 (b) bedrock units with high shrink or swell susceptibility; or
- 830 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 831 commonly associated with dissolution and collapse features.

832 (59) "Therapeutic school" means a residential group living facility:

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

834 (i) the owner of the facility; or

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

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

837 (i) at home;

838 (ii) in a public school; or

839 (iii) in a nonresidential private school; and

840 (c) that offers:

841 (i) room and board; and

842 (ii) an academic education integrated with:

843 (A) specialized structure and supervision; or

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

846 (60) "Township" means a contiguous, geographically defined portion of the  
847 unincorporated area of a county, established under this part or reconstituted or reinstated under  
848 Section 17-27a-306, with planning and zoning functions as exercised through the township  
849 planning commission, as provided in this chapter, but with no legal or political identity  
850 separate from the county and no taxing authority, except that "township" means a former  
851 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

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

855 (62) "Unincorporated" means the area outside of the incorporated area of a  
856 municipality.

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

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

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

860 (i) a contract; or

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

862 (64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

863 land use zones, overlays, or districts.

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

865 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
866 **requirements -- Exceptions -- Nondiscrimination requirements.**

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

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

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

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

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

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

880 ~~[(b) an employer that is a charter school sponsored by the State Board of Education or~~  
881 ~~a school district that makes an election of nonparticipation in accordance with Section~~  
882 ~~53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election~~  
883 ~~of nonparticipation in accordance with Subsection 53A-1a-512(9); or]~~

884 (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5,  
885 The Utah Charter Schools Act, and does not elect to participate in accordance with Section  
886 53A-1a-512; or

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

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

892 (4) (a) Until June 30, 2009, a employer that is a hospital created as a special service  
893 district under Title 17D, Chapter 1, Special Service District Act, may make an election of

894 nonparticipation as an employer for retirement programs under this chapter.

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

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

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

899 (iii) is irrevocable; and

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

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

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

905 or

906 (ii) under any other program.

907 (5) If a participating employer purchases service credit on behalf of regular full-time  
908 employees for service rendered prior to the participating employer's admission to this system,  
909 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and  
910 former regular full-time employees who were eligible for service credit at the time service was  
911 rendered.

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

913 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
914 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

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

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

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

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

923 (i) the employer elects not to provide or participate in any type of private or public  
924 retirement, supplemental or defined contribution plan, either directly or indirectly, for its

925 employees, except for Social Security; or

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

928 ~~[(b) an employer that is a charter school sponsored by the State Board of Education or~~  
929 ~~a school district that makes an election of nonparticipation in accordance with Section~~  
930 ~~53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election~~  
931 ~~of nonparticipation in accordance with Subsection 53A-1a-512(9);]~~

932 (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5,  
933 The Utah Charter Schools Act, and does not elect to participate in accordance with Section  
934 53A-1a-512;

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

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

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

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

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

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

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

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

956 (i) is a one-time election made no later than the time specified under Subsection (5)(a);  
957 (ii) shall be documented by a resolution adopted by the governing body of the  
958 employer;  
959 (iii) is irrevocable; and  
960 (iv) applies to the employer described in Subsection (5)(a) and to all employees of that  
961 employer.

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

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

966 (ii) under any other program.

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

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

973 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
974 **requirements.**

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

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

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

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

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

985 ~~[(b) an employer that is a charter school sponsored by the State Board of Education or~~  
986 ~~a school district that makes an election of nonparticipation in accordance with Section~~



987 ~~53A-1a-512~~ unless the charter school makes a one-time, irrevocable retraction of the election  
988 of nonparticipation in accordance with Subsection ~~53A-1a-512(9)~~; or]

989 (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5,  
990 The Utah Charter Schools Act, and does not elect to participate in accordance with Section  
991 53A-1a-512; or

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

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

1000 (4) (a) An employer may, by resolution of its governing body, apply for admission to  
1001 this system.

1002 (b) Upon approval of the resolution by the board, the employer is a participating  
1003 employer in this system and is subject to this title.

1004 (5) If a participating employer purchases service credit on behalf of a regular full-time  
1005 employee for service rendered prior to the participating employer's admission to this system,  
1006 the participating employer:

1007 (a) shall purchase credit in a nondiscriminatory manner on behalf of all current and  
1008 former regular full-time employees who were eligible for service credit at the time service was  
1009 rendered; and

1010 (b) shall comply with the provisions of Section ~~49-11-403~~.

1011 Section 7. Section **52-4-209** is amended to read:

1012 **52-4-209. Electronic meetings for charter school board.**

1013 (1) Notwithstanding the definitions provided in Section ~~52-4-103~~ for this chapter, as  
1014 used in this section:

1015 (a) "Anchor location" means a physical location where:

1016 (i) the charter school board would normally meet if the charter school board were not  
1017 holding an electronic meeting; and

1018 (ii) space, a facility, and technology are provided to the public to monitor and, if public  
1019 comment is allowed, to participate in an electronic meeting during regular business hours.

1020 (b) "Charter school board" means the governing [~~body~~] board of a school created under  
1021 Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.

1022 (c) "Meeting" means the convening of a charter school board:

1023 (i) with a quorum who:

1024 (A) monitors a website at least once during the electronic meeting; and

1025 (B) casts a vote on a website, if a vote is taken; and

1026 (ii) for the purpose of discussing, receiving comments from the public about, or acting  
1027 upon a matter over which the charter school board has jurisdiction or advisory power.

1028 (d) "Monitor" means to:

1029 (i) read all the content added to a website by the public or a charter school board  
1030 member; and

1031 (ii) view a vote cast by a charter school board member on a website.

1032 (e) "Participate" means to add content to a website.

1033 (2) (a) A charter school board may convene and conduct an electronic meeting in  
1034 accordance with Section [52-4-207](#).

1035 (b) A charter school board may convene and conduct an electronic meeting in  
1036 accordance with this section that is in writing on a website if:

1037 (i) the chair verifies that a quorum monitors the website;

1038 (ii) the content of the website is available to the public;

1039 (iii) the chair controls the times in which a charter school board member or the public  
1040 participates; and

1041 (iv) the chair requires a person to identify himself or herself if the person:

1042 (A) participates; or

1043 (B) casts a vote as a charter school board member.

1044 (3) A charter school that conducts an electronic meeting under this section shall:

1045 (a) give public notice of the electronic meeting:

1046 (i) in accordance with Section [52-4-202](#); and

1047 (ii) by posting written notice at the anchor location as required under Section [52-4-207](#);

1048 (b) in addition to giving public notice required by Subsection (3)(a), provide:

1049 (i) notice of the electronic meeting to the members of the charter school board at least  
1050 24 hours before the meeting so that they may participate in and be counted as present for all  
1051 purposes, including the determination that a quorum is present;

1052 (ii) a description of how the members and the public may be connected to the  
1053 electronic meeting;

1054 (iii) a start and end time for the meeting, which shall be no longer than 5 days; and

1055 (iv) a start and end time for when a vote will be taken in an electronic meeting, which  
1056 shall be no longer than four hours; and

1057 (c) provide an anchor location.

1058 (4) The chair shall:

1059 (a) not allow anyone to participate from the time the notice described in Subsection  
1060 (3)(b)(iv) is given until the end time for when a vote will be taken; and

1061 (b) allow a charter school board member to change a vote until the end time for when a  
1062 vote will be taken.

1063 (5) During the time in which a vote may be taken, a charter school board member may  
1064 not communicate in any way with any person regarding an issue over which the charter school  
1065 board has jurisdiction.

1066 (6) A charter school conducting an electronic meeting under this section may not close  
1067 a meeting as otherwise allowed under this part.

1068 (7) (a) Written minutes shall be kept of an electronic meeting conducted as required in  
1069 Section [52-4-203](#).

1070 (b) (i) Notwithstanding Section [52-4-203](#), a recording is not required of an electronic  
1071 meeting described in Subsection (2)(b).

1072 (ii) All of the content of the website shall be kept for an electronic meeting conducted  
1073 under this section.

1074 (c) Written minutes are the official record of action taken at an electronic meeting as  
1075 required in Section [52-4-203](#).

1076 (8) (a) A charter school board shall ensure that the website used to conduct an  
1077 electronic meeting:

1078 (i) is secure; and

1079 (ii) provides with reasonably certainty the identity of a charter school board member

1080 who logs on, adds content, or casts a vote on the website.

1081 (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself  
1082 or herself as required by Subsection (2)(b)(iv).

1083 (9) Compliance with the provisions of this section by a charter school constitutes full  
1084 and complete compliance by the public body with the corresponding provisions of Sections  
1085 [52-4-201](#) and [52-4-202](#).

1086 Section 8. Section **53A-1a-501.3** is amended to read:

1087 **53A-1a-501.3. Definitions.**

1088 As used in this part:

1089 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and  
1090 includes:

1091 (a) cash;

1092 (b) stock or other investments;

1093 (c) real property;

1094 (d) equipment and supplies;

1095 (e) an ownership interest;

1096 (f) a license;

1097 (g) a cause of action; and

1098 (h) any similar property.

1099 (2) "Board of trustees of a higher education institution" or "board of trustees" means:

1100 (a) the board of trustees of:

1101 (i) the University of Utah;

1102 (ii) Utah State University;

1103 (iii) Weber State University;

1104 (iv) Southern Utah University;

1105 (v) Snow College;

1106 (vi) Dixie State University;

1107 (vii) Utah Valley University; or

1108 (viii) Salt Lake Community College; or

1109 (b) the campus board of directors of a college campus within the Utah College of

1110 Applied Technology.

1111 (3) "Charter agreement" or "charter" means an agreement made in accordance with  
1112 Section 53A-1a-508, that authorizes the operation of a charter school.

1113 [~~(3)~~] (4) [~~"Chartering entity"~~] "Charter school authorizer" or "authorizer" means the  
1114 [~~entity~~] State Charter School Board, local school board, or board of trustees of a higher  
1115 education institution that authorizes the establishment of a charter school.

1116 (5) "Governing board" means the board that operates a charter school.

1117 Section 9. Section **53A-1a-501.6** is amended to read:

1118 **53A-1a-501.6. Power and duties of State Charter School Board.**

1119 (1) The State Charter School Board shall:

1120 (a) authorize and promote the establishment of charter schools, subject to the  
1121 provisions in this part;

1122 (b) annually review and evaluate the performance of charter schools authorized by the  
1123 State Charter School Board and hold the schools accountable for their performance;

1124 (c) monitor charter schools authorized by the State Charter School Board for  
1125 compliance with federal and state laws, rules, and regulations;

1126 (d) provide technical support to charter schools and persons seeking to establish charter  
1127 schools by:

1128 (i) identifying and promoting successful charter school models;

1129 (ii) facilitating the application and approval process for charter school authorization;

1130 (iii) directing charter schools and persons seeking to establish charter schools to

1131 sources of private funding and support;

1132 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of  
1133 supporting and strengthening proposals before an application for charter school authorization is  
1134 submitted to a [~~chartering entity~~] charter school authorizer; and

1135 (v) assisting charter schools to understand and carry out their charter obligations;

1136 (e) provide technical support, as requested, to a [~~chartering entity~~] charter school  
1137 authorizer relating to charter schools;

1138 (f) make recommendations on legislation and rules pertaining to charter schools to the  
1139 Legislature and State Board of Education, respectively; and

1140 (g) make recommendations to the State Board of Education on the funding of charter  
1141 schools.

1142 (2) The State Charter School Board may:  
1143 (a) contract;  
1144 (b) sue and be sued; and  
1145 (c) (i) at the discretion of the charter school, provide administrative services to, or  
1146 perform other school functions for, charter schools authorized by the State Charter School  
1147 Board; and  
1148 (ii) charge fees for the provision of services or functions.

1149 Section 10. Section **53A-1a-502.5** is amended to read:

1150 **53A-1a-502.5. Approval of increase in charter school enrollment capacity.**

1151 (1) For the purposes of this section[, "~~next~~]:

1152 (a) "High growth area" means an area of the state where school enrollment is  
1153 significantly increasing or projected to significantly increase.

1154 (b) "Next school year" means the school year that begins on or after the July 1  
1155 immediately following the end of a general session of the Legislature.

1156 (2) The State Board of Education may approve an increase in charter school enrollment  
1157 capacity in the 2012-13 school year or thereafter subject to the Legislature:

1158 (a) appropriating funds for an increase in charter school enrollment capacity in the next  
1159 school year; or

1160 (b) authorizing an increase in charter school enrollment capacity in the school year  
1161 immediately following the next school year.

1162 (3) In appropriating funds for, or authorizing, an increase in charter school enrollment  
1163 capacity, the Legislature shall provide a separate appropriation or authorization of enrollment  
1164 capacity for a charter school proposed and approved in response to a request for applications  
1165 issued under Section [53A-1a-501.9](#).

1166 (4) (a) A charter school may annually submit a request to the State Board of Education  
1167 for an increase in enrollment capacity in the amount of .25 times the number of students in  
1168 grades 9 through 12 enrolled in an online course in the previous school year through the  
1169 Statewide Online Education Program.

1170 (b) A charter school shall submit a request for an increase in enrollment capacity  
1171 pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase  
1172 in enrollment capacity is requested.

1173 (c) The State Board of Education shall approve a request for an increase in enrollment  
1174 capacity made under Subsection (4)(a) subject to the availability of sufficient funds  
1175 appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation  
1176 for each charter school student in the state to supplement school district property tax revenues.

1177 (d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a  
1178 permanent increase in the charter school's enrollment capacity.

1179 (5) (a) If the Legislature does not appropriate funds for an increase in charter school  
1180 enrollment capacity that is tentatively approved by the State Board of Education, the State  
1181 Board of Education shall prioritize the tentatively approved schools and expansions based on  
1182 approved funds.

1183 (b) A charter school or expansion that is tentatively approved, but not funded, shall be  
1184 considered to be tentatively approved for the next application year and receive priority status  
1185 for available funding.

1186 (6) (a) Except as provided in Subsection (5)(b) or (6)(b), in approving an increase in  
1187 charter school enrollment capacity for new charter schools and expanding charter schools, the  
1188 State Board of Education shall give:

1189 (i) high priority to approving a new charter school or a charter school expansion in a  
1190 high growth area; and

1191 (ii) low priority to approving a new charter school or a charter school expansion in an  
1192 area where student enrollment is stable or declining.

1193 (b) An applicant seeking to establish a charter school in a high growth area may elect  
1194 to not receive high priority status as provided in Subsection (6)(a)(i).

1195 Section 11. Section 53A-1a-503.5 is amended to read:

1196 **53A-1a-503.5. Status of charter schools.**

1197 (1) Charter schools are:

1198 (a) considered to be public schools within the state's public education system;

1199 (b) subject to Subsection 53A-1-401(3); and

1200 (c) governed by independent boards and held accountable to a legally binding written  
1201 contractual agreement.

1202 (2) A charter school may be established by:

1203 (a) creating a new school; or

1204 (b) converting an existing public school to charter status.  
1205 (3) A parochial school or home school is not eligible for charter school status.  
1206 Section 12. Section **53A-1a-504** is repealed and reenacted to read:  
1207 **53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.**  
1208 (1) (a) An application to establish a charter school may be submitted by:  
1209 (i) an individual;  
1210 (ii) a group of individuals; or  
1211 (iii) a nonprofit legal entity organized under Utah law.  
1212 (b) An authorized charter school may apply under this chapter for a charter from  
1213 another charter school authorizer.  
1214 (2) A charter school application shall include:  
1215 (a) the purpose and mission of the school;  
1216 (b) except for a charter school authorized by a local school board, a statement that,  
1217 after entering into a charter agreement, the charter school will be organized and managed under  
1218 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;  
1219 (c) a description of the governance structure of the school, including:  
1220 (i) a list of the governing board members that describes the qualifications of each  
1221 member; and  
1222 (ii) an assurance that the applicant shall, within 30 days of authorization, provide the  
1223 authorizer with the results of a background check for each member;  
1224 (d) a description of the target population of the school that includes:  
1225 (i) the projected maximum number of students the school proposes to enroll;  
1226 (ii) the projected school enrollment for each of the first three years of school operation;  
1227 and  
1228 (iii) the ages or grade levels the school proposes to serve;  
1229 (e) academic goals;  
1230 (f) qualifications and policies for school employees, including policies that:  
1231 (i) require completion of a criminal background check for teachers;  
1232 (ii) require employee evaluations; and  
1233 (iii) address employment of relatives within the charter school;  
1234 (g) a description of how the charter school will provide, as required by state and federal



1235 law, special education and related services;  
1236 (h) for a public school converting to charter status, arrangements for:  
1237 (i) students who choose not to continue attending the charter school; and  
1238 (ii) teachers who choose not to continue teaching at the charter school;  
1239 (i) a statement that describes the charter school's plan for establishing the charter  
1240 school's facilities, including:  
1241 (i) whether the charter school intends to lease or purchase the charter school's facilities;  
1242 and  
1243 (ii) financing arrangements;  
1244 (j) a market analysis of the community the school plans to serve;  
1245 (k) a capital facility plan;  
1246 (l) a business plan;  
1247 (m) other major issues involving the establishment and operation of the charter school;  
1248 and  
1249 (n) the signatures of the governing board members of the charter school.  
1250 (3) A charter school authorizer may require a charter school application to include:  
1251 (a) the charter school's proposed:  
1252 (i) curriculum;  
1253 (ii) instructional program; or  
1254 (iii) delivery methods;  
1255 (b) a method for assessing whether students are reaching academic goals, including, at  
1256 a minimum, participation in the Utah Performance Assessment System for Students under  
1257 Chapter 1, Part 6, Achievement Tests;  
1258 (c) a proposed calendar;  
1259 (d) sample policies;  
1260 (e) a description of opportunities for parental involvement;  
1261 (f) a description of the school's administrative, supervisory, or other proposed services  
1262 that may be obtained through service providers; or  
1263 (g) other information that demonstrates an applicant's ability to establish and operate a  
1264 charter school.  
1265 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1266 State Board of Education shall make rules regarding the expansion of a charter school,  
1267 including establishing a satellite campus, that provide:

- 1268 (a) requirements for a charter school to apply and qualify for expansion; and
- 1269 (b) procedures and deadlines for the application process.

1270 Section 13. Section **53A-1a-505** is amended to read:

1271 **53A-1a-505. Charter schools authorized by the State Charter School Board --**  
1272 **Application process -- Prohibited bases of application denial.**

1273 (1) (a) An applicant seeking authorization of a charter school from the State Charter  
1274 School Board shall provide a copy of the application to the local school board of the school  
1275 district in which the proposed charter school shall be located either before or at the same time it  
1276 files its application with the State Charter School Board.

1277 (b) The local board may review the application and may offer suggestions or  
1278 recommendations to the applicant or the State Charter School Board prior to its acting on the  
1279 application.

1280 (c) The State Charter School Board shall give due consideration to suggestions or  
1281 recommendations made by the local school board under Subsection (1)(b).

1282 (d) The State Charter School Board shall review and, by majority vote, either approve  
1283 or deny the application.

1284 (e) The State Board of Education shall, by majority vote, within 60 days after action by  
1285 the State Charter School Board under Subsection (1)(d):

1286 (i) approve or deny an application approved by the State Charter School Board; or

1287 (ii) hear an appeal, if any, of an application denied by the State Charter School Board.

1288 (f) The State Board of Education's action under Subsection (1)(d) is final action subject  
1289 to judicial review.

1290 (g) A charter school application may not be denied on the basis that the establishment  
1291 of the charter school will have any or all of the following impacts on a public school, including  
1292 another charter school:

1293 (i) an enrollment decline;

1294 (ii) a decrease in funding; or

1295 (iii) a modification of programs or services.

1296 (2) The State Board of Education shall make a rule providing a timeline for the

1297 opening of a charter school following the approval of a charter school application by the State  
1298 Charter School Board.

1299 (3) ~~[(a)]~~ After approval of a charter school application~~;~~ and in accordance with  
1300 Section 53A-1a-508, the applicant and the State Charter School Board shall set forth the terms  
1301 and conditions for the operation of the charter school in a written ~~[contractual]~~ charter  
1302 agreement.

1303 ~~[(b) The agreement is the school's charter.]~~

1304 ~~[(4) (a) A school holding a charter granted by a local school board may request a~~  
1305 ~~charter from the State Charter School Board.]~~

1306 ~~[(b) This section shall govern the application and approval of a charter requested under~~  
1307 ~~Subsection (4)(a).]~~

1308 (4) The State Charter School Board shall, in accordance with State Board of Education  
1309 rules, establish and make public the State Charter School Board's:

1310 (a) application requirements, in accordance with Section 53A-1a-504;

1311 (b) application process, including timelines, in accordance with this section; and

1312 (c) minimum academic, financial, and enrollment standards.

1313 Section 14. Section **53A-1a-506** is amended to read:

1314 **53A-1a-506. Eligible students.**

1315 (1) As used in this section:

1316 (a) "District school" means a public school under the control of a local school board  
1317 elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School  
1318 Boards.

1319 (b) "Refugee" means a person who is eligible to receive benefits and services from the  
1320 federal Office of Refugee Resettlement.

1321 (2) All resident students of the state qualify for admission to a charter school, subject  
1322 to the limitations set forth in this section and Section **53A-1a-506.5**.

1323 (3) (a) A charter school shall enroll an eligible student who submits a timely  
1324 application, unless the number of applications exceeds the capacity of a program, class, grade  
1325 level, or the charter school.

1326 (b) If the number of applications exceeds the capacity of a program, class, grade level,  
1327 or the charter school, students shall be selected on a random basis, except as provided in

1328 Subsections (4) through ~~[(6)]~~ (8).

1329 (4) A charter school may give an enrollment preference to:

1330 (a) a student of a parent who has actively participated in the development of the charter  
1331 school;

1332 (b) siblings of students presently enrolled in the charter school;

1333 (c) a student of a parent who is employed by the charter school;

1334 (d) students articulating between charter schools offering similar programs that are  
1335 governed by the same governing ~~[body]~~ board;

1336 (e) students articulating from one charter school to another pursuant to an articulation  
1337 agreement between the charter schools that is approved by the State Charter School Board; or

1338 (f) students who reside within:

1339 (i) the school district in which the charter school is located;

1340 (ii) the municipality in which the charter school is located; or

1341 (iii) a two-mile radius ~~[from]~~ of the charter school.

1342 (5) (a) Except as provided in Subsection (5)(b), a charter school that is approved by the  
1343 State Board of Education after May 13, 2014, and is located in a high growth area shall give an  
1344 enrollment preference to students who reside within a two-mile radius of the charter school.

1345 (b) The requirement to give an enrollment preference under Subsection (5)(a) does not  
1346 apply to a charter school that was approved without a high priority status pursuant to  
1347 Subsection [53A-1a-502.5\(6\)\(b\)](#).

1348 ~~[(5)]~~ (6) If a district school converts to charter status, the charter school shall give an  
1349 enrollment preference to students who would have otherwise attended it as a district school.

1350 ~~[(6)]~~ (7) (a) A charter school whose mission is to enhance learning opportunities for  
1351 refugees or children of refugee families may give an enrollment preference to refugees or  
1352 children of refugee families.

1353 (b) A charter school whose mission is to enhance learning opportunities for English  
1354 language learners may give an enrollment preference to English language learners.

1355 (8) A charter school may weight its lottery to give a slightly better chance of admission  
1356 to educationally disadvantaged students, including:

1357 (a) low-income students;

1358 (b) students with disabilities;

- 1359 (c) English language learners;
- 1360 (d) neglected or delinquent students; and
- 1361 (e) homeless students.

1362 ~~[(7)]~~ (9) A charter school may not discriminate in its admission policies or practices on  
1363 the same basis as other public schools may not discriminate in their admission policies and  
1364 practices.

1365 Section 15. Section **53A-1a-506.5** is amended to read:

1366 **53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.**

1367 (1) As used in this section:

1368 (a) "District school" means a public school under the control of a local school board  
1369 elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School  
1370 Boards.

1371 (b) "Nonresident school district" means a school district other than a student's school  
1372 district of residence.

1373 (c) "School district of residence" means a student's school district of residence as  
1374 determined under Section [53A-2-201](#).

1375 (d) "School of residence" means the school to which a student is assigned to attend  
1376 based on the student's place of residence.

1377 (2) (a) The State School Board, in consultation with the State Charter School Board,  
1378 shall make rules describing procedures for students to follow in applying for entry into, or  
1379 exiting, a charter school.

1380 (b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

1381 (i) posting on a charter school's Internet website, beginning no later than 60 days before  
1382 the school's initial period of applications:

1383 (A) procedures for applying for admission to the charter school;

1384 (B) ~~[(H)]~~ the school's opening date, if the school has not yet opened~~[:]~~<sub>2</sub> or ~~[(H)]~~ the  
1385 school calendar; and

1386 (C) information on how a student may transfer from a charter school to another charter  
1387 school or a district school;

1388 ~~[(ii) use of standard application forms prescribed by the State Board of Education;]~~

1389 ~~[(iii)]~~ (ii) written notification to a student's parent or legal guardian of an offer of

1390 admission;

1391 ~~[(iv)]~~ (iii) written acceptance of an offer of admission by a student's parent or legal  
1392 guardian;

1393 ~~[(v)]~~ (iv) written notification to a student's current charter school or school district of  
1394 residence upon acceptance of the student for enrollment in a charter school; and

1395 ~~[(vi)]~~ (v) the admission of students~~[, provided that the admission does not disqualify~~  
1396 ~~the charter school from federal funding,] at:~~

1397 (A) any time to protect the health or safety of a student; or

1398 (B) times other than those permitted under standard policies if there are other  
1399 conditions of special need that warrant consideration.

1400 (c) The rules under Subsection (2)(a) shall prevent the parent of a student who is  
1401 enrolled in a charter school or who has accepted an offer of admission to a charter school from  
1402 duplicating enrollment for the student in another charter school or a school district without  
1403 following the withdrawal procedures described in Subsection (3).

1404 (3) The parent of a student enrolled in a charter school may withdraw the student from  
1405 the charter school for enrollment in another charter school or a school district by submitting to  
1406 the charter school:

1407 (a) on or before June 30, a notice of intent to enroll the student in the student's school  
1408 of residence for the following school year;

1409 (b) after June 30, a letter of acceptance for enrollment in the student's school district of  
1410 residence for the following year;

1411 (c) a letter of acceptance for enrollment in the student's school district of residence in  
1412 the current school year;

1413 (d) a letter of acceptance for enrollment in a nonresident school district; or

1414 (e) a letter of acceptance for enrollment in a charter school.

1415 (4) (a) A charter school shall report to a school district, by the last business day of each  
1416 month the aggregate number of new students, sorted by their school of residence and grade  
1417 level, who have accepted enrollment in the charter school for the following school year.

1418 (b) A school district shall report to a charter school, by the last business day of each  
1419 month, the aggregate number of students enrolled in the charter school who have accepted  
1420 enrollment in the school district in the following school year, sorted by grade level.

1421 (5) When a vacancy occurs because a student has withdrawn from a charter school, the  
1422 charter school may immediately enroll a new student from its list of applicants.

1423 (6) Unless provisions have previously been made for enrollment in another school, a  
1424 charter school releasing a student from enrollment during a school year shall immediately  
1425 notify the school district of residence, which shall enroll the student in the school district of  
1426 residence and take additional steps as may be necessary to ensure compliance with laws  
1427 governing school attendance.

1428 (7) (a) The parent of a student enrolled in a charter school may withdraw the student  
1429 from the charter school for enrollment in the student's school of residence in the following  
1430 school year if an application of admission is submitted to the school district of residence by  
1431 June 30.

1432 (b) If the parent of a student enrolled in a charter school submits an application of  
1433 admission to the student's school district of residence after June 30 for the student's enrollment  
1434 in the school district of residence in the following school year, or an application of admission is  
1435 submitted for enrollment during the current school year, the student may enroll in a school of  
1436 the school district of residence that has adequate capacity in:

1437 (i) the student's grade level, if the student is an elementary school student; or  
1438 (ii) the core classes that the student needs to take, if the student is a secondary school  
1439 student.

1440 (c) State Board of Education rules made under Subsection (2)(a) shall specify how  
1441 adequate capacity in a grade level or core classes is determined for the purposes of Subsection  
1442 (7)(b).

1443 (8) Notwithstanding Subsection (7), a school district may enroll a student at any time  
1444 to protect the health and safety of the student.

1445 (9) A school district or charter school may charge secondary students a one-time \$5  
1446 processing fee, to be paid at the time of application.

1447 Section 16. Section **53A-1a-507** is amended to read:

1448 **53A-1a-507. Requirements for charter schools.**

1449 (1) A charter school shall be nonsectarian in its programs, admission policies,  
1450 employment practices, and operations.

1451 (2) A charter school may not charge tuition or fees, except those fees normally charged

1452 by other public schools.

1453 (3) A charter school shall meet all applicable federal, state, and local health, safety, and  
1454 civil rights requirements.

1455 (4) (a) A charter school shall make the same annual reports required of other public  
1456 schools under this title, including an annual financial audit report.

1457 (b) A charter school shall file its annual financial audit report with the Office of the  
1458 State Auditor within six months of the end of the fiscal year.

1459 (5) (a) A charter school shall be accountable to ~~[its chartering entity]~~ the charter  
1460 school's authorizer for performance as provided in the school's charter.

1461 (b) To measure the performance of a charter school, ~~[a chartering entity]~~ an authorizer  
1462 may use data contained in:

1463 (i) the charter school's annual financial audit report;

1464 (ii) a report submitted by the charter school as required by statute; or

1465 (iii) a report submitted by the charter school as required by its charter.

1466 (c) A ~~[chartering entity]~~ charter school authorizer may not impose performance  
1467 standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's  
1468 ability to successfully accomplish the purposes of charter schools as provided in Section  
1469 [53A-1a-503](#) or as otherwise provided in law.

1470 (6) A charter school may not advocate unlawful behavior.

1471 (7) Except as provided in Section [53A-1a-515](#), a charter school shall be organized and  
1472 managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its  
1473 authorization.

1474 (8) A charter school shall provide adequate liability and other appropriate insurance.

1475 (9) Beginning on July 1, ~~[2007]~~ 2014, a charter school shall submit any lease,  
1476 lease-purchase agreement, or other contract or agreement relating to the charter school's  
1477 facilities or financing of the charter ~~[school]~~ school's facilities to ~~[its chartering entity]~~ the  
1478 school's authorizer and an attorney for review and advice prior to the charter school entering  
1479 into the lease, agreement, or contract.

1480 (10) A charter school may not employ an educator whose license has been suspended  
1481 or revoked by the State Board of Education ~~[as provided in]~~ under Section [53A-6-501](#).

1482 Section 17. Section [53A-1a-508](#) is repealed and reenacted to read:



- 1483           **53A-1a-508. Charter agreement -- Content -- Modification.**
- 1484           (1) A charter agreement:
- 1485           (a) is a contract between the charter school applicant and the charter school authorizer;
- 1486           (b) shall describe the rights and responsibilities of each party; and
- 1487           (c) shall allow for the operation of the applicant's proposed charter school.
- 1488           (2) A charter agreement shall include:
- 1489           (a) the name of:
- 1490           (i) the charter school; and
- 1491           (ii) the charter school applicant;
- 1492           (b) the mission statement and purpose of the charter school;
- 1493           (c) the charter school's opening date;
- 1494           (d) the grade levels and number of students the charter school will serve;
- 1495           (e) a description of the structure of the charter school's governing board, including:
- 1496           (i) the number of board members;
- 1497           (ii) how members of the board are appointed; and
- 1498           (iii) board members' terms of office;
- 1499           (f) assurances that:
- 1500           (i) the governing board shall comply with:
- 1501           (A) the charter school's bylaws;
- 1502           (B) the charter school's articles of incorporation; and
- 1503           (C) applicable federal law, state law, and State Board of Education rules;
- 1504           (ii) the governing board will meet all reporting requirements described in Section
- 1505           [53A-1b-115](#); and
- 1506           (iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit
- 1507           Enhancement Program, neither the authorizer nor the state, including an agency of the state, is
- 1508           liable for the debts or financial obligations of the charter school or a person who operates the
- 1509           charter school;
- 1510           (g) which administrative rules the State Board of Education will waive for the charter
- 1511           school;
- 1512           (h) minimum financial standards for operating the charter school;
- 1513           (i) minimum standards for student achievement; and

1514 (j) signatures of the charter school authorizer and the charter school's governing board  
1515 members.

1516 (3) A charter agreement may not be modified except by mutual agreement between the  
1517 charter school authorizer and the governing board of the charter school.

1518 Section 18. Section **53A-1a-509** is amended to read:

1519 **53A-1a-509. Noncompliance -- Rulemaking.**

1520 (1) If a charter school is found to be out of compliance with the requirements of  
1521 Section **53A-1a-507** or the school's charter, the [~~chartering entity~~] charter school authorizer  
1522 shall notify the following in writing that the charter school has a reasonable time to remedy the  
1523 deficiency, except as otherwise provided in Subsection 53A-1a-510(4):

1524 (a) the governing [~~body~~] board of the charter school; and

1525 (b) if the charter school is a qualifying charter school with outstanding bonds issued in  
1526 accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah  
1527 Charter School Finance Authority.

1528 (2) If the charter school does not remedy the deficiency within the established timeline,  
1529 the [~~chartering entity~~] authorizer may:

1530 (a) subject to the requirements of Subsection (4), take one or more of the following  
1531 actions:

1532 (i) remove a charter school director or finance officer;

1533 (ii) remove a governing board member; or

1534 (iii) appoint an interim director or mentor to work with the charter school; or

1535 (b) subject to the requirements of Section **53A-1a-510**, terminate the school's charter.

1536 (3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a)  
1537 shall be paid from the funds of the charter school for which the interim director or mentor is  
1538 working.

1539 (4) The [~~chartering entity~~] authorizer shall notify the Utah Charter School Finance  
1540 Authority before the [~~chartering entity~~] authorizer takes an action described in Subsections  
1541 (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds  
1542 issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

1543 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1544 State Board of Education shall make rules:

- 1545 (a) specifying the timeline for remedying deficiencies under Subsection (1); and
- 1546 (b) ensuring the compliance of a charter school with its approved charter.

1547 Section 19. Section **53A-1a-510** is amended to read:

1548 **53A-1a-510. Termination of a charter.**

1549 (1) Subject to the requirements of Subsection (3), a [~~chartering entity~~] charter school  
1550 authorizer may terminate a school's charter for any of the following reasons:

- 1551 (a) failure of the charter school to meet the requirements stated in the charter;
- 1552 (b) failure to meet generally accepted standards of fiscal management;
- 1553 (c) subject to Subsection (8), failure to make adequate yearly progress under the No  
1554 Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
- 1555 (d) violation of requirements under this part or another law; or
- 1556 (e) other good cause shown.

1557 (2) (a) The [~~chartering entity~~] authorizer shall notify the following of the proposed  
1558 termination in writing, state the grounds for the termination, and stipulate that the governing  
1559 [~~body~~] board may request an informal hearing before the [~~chartering entity~~] authorizer:

- 1560 (i) the governing [~~body~~] board of the charter school; and
- 1561 (ii) if the charter school is a qualifying charter school with outstanding bonds issued in  
1562 accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah  
1563 Charter School Finance Authority.

1564 (b) Except as provided in Subsection (2)(e), the [~~chartering entity~~] authorizer shall  
1565 conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act,  
1566 within 30 days after receiving a written request under Subsection (2)(a).

1567 (c) If the [~~chartering entity~~] authorizer, by majority vote, approves a motion to  
1568 terminate a charter school, the governing [~~body~~] board of the charter school may appeal the  
1569 decision to the State Board of Education.

1570 (d) (i) The State Board of Education shall hear an appeal of a termination made  
1571 pursuant to Subsection (2)(c).

1572 (ii) The State Board of Education's action is final action subject to judicial review.

1573 (e) (i) If the [~~chartering entity~~] authorizer proposes to terminate the charter of a  
1574 qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part  
1575 2, Charter School Credit Enhancement Program, the [~~chartering entity~~] authorizer shall conduct

1576 a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the  
1577 proposed termination:

1578 (A) the governing [~~body~~] board of the qualifying charter school; and

1579 (B) the Utah Charter School Finance Authority.

1580 (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School  
1581 Finance Authority shall meet with the [~~chartering entity~~] authorizer to determine whether the  
1582 deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

1583 (3) [~~A chartering entity~~] An authorizer may not terminate the charter of a qualifying  
1584 charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter  
1585 School Credit Enhancement Program, without mutual agreement of the Utah Charter School  
1586 Finance Authority and the [~~chartering entity~~] authorizer.

1587 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1588 the State Board of Education shall make rules that require a charter school to report any threats  
1589 to the health, safety, or welfare of its students to the State Charter School Board in a timely  
1590 manner.

1591 (b) The rules under Subsection (4)(a) shall also require the charter school report to  
1592 include what steps the charter school has taken to remedy the threat.

1593 (5) Subject to the requirements of Subsection (3), the [~~chartering entity~~] authorizer may  
1594 terminate a charter immediately if good cause has been shown or if the health, safety, or  
1595 welfare of the students at the school is threatened.

1596 (6) If a charter is terminated during a school year, the following entities may apply to  
1597 the charter school's authorizer to assume operation of the school:

1598 (a) the school district [~~in which~~] where the charter school is located [~~may assume~~  
1599 ~~operation of the school; or~~];

1600 (b) the governing board of another charter school; or

1601 [~~(b)~~] (c) a private management company [~~may be hired to operate the charter school~~].

1602 (7) (a) If a charter is terminated, a student who attended the school may apply to and  
1603 shall be enrolled in another public school under the enrollment provisions of [~~Title 53A,~~]  
1604 Chapter 2, Part 2, District of Residency, subject to space availability.

1605 (b) Normal application deadlines shall be disregarded under Subsection (7)(a).

1606 (8) Subject to the requirements of Subsection (3), [~~a chartering entity~~] an authorizer

1607 may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local  
1608 educational agencies are required to implement alternative governance arrangements under 20  
1609 U.S.C. Sec. 6316.

1610 Section 20. Section **53A-1a-510.5** is amended to read:

1611 **53A-1a-510.5. Charter school closure.**

1612 (1) If a charter school is closed for any reason, including the termination of a charter in  
1613 accordance with Section **53A-1a-510** or the conversion of a charter school to a private school,  
1614 the provisions of this section apply.

1615 (2) (a) As soon as possible after the decision is made to close a charter school,  
1616 notification of the decision, in writing, shall be provided by the charter school to:

1617 (i) its [~~chartering entity~~] charter school authorizer;

1618 (ii) the State Charter School Board;

1619 (iii) the State Board of Education;

1620 (iv) parents of its students;

1621 (v) its creditors; and

1622 (vi) the school district in which the charter school is located and other charter schools  
1623 located in that school district.

1624 (b) The notification under Subsection (2)(a) shall include:

1625 (i) the proposed date of school closure;

1626 (ii) the school's plans to help students identify and transition into a new school; and

1627 (iii) contact information for the charter school during the transition.

1628 (3) A closing charter school shall:

1629 (a) present a school closure plan to its [~~chartering entity~~] authorizer as soon as possible  
1630 after the decision to close is made;

1631 (b) designate a custodian for the protection of student files and school business records;

1632 (c) maintain a base of operation throughout the charter school closing, including:

1633 (i) an office;

1634 (ii) hours of operation; and

1635 (iii) operational telephone service with voice messaging stating the hours of operation;

1636 (d) maintain insurance coverage and risk management coverage throughout the

1637 transition to closure and for a period following closure of the charter school as specified by the

1638 [~~chartering entity~~] authorizer;

1639 (e) complete a financial audit immediately after the decision to close is made;

1640 (f) inventory all assets of the charter school;

1641 (g) list all creditors of the charter school and specifically identify secured creditors and

1642 assets that are security interests; and

1643 (h) protect all school assets against theft, misappropriation, and deterioration.

1644 (4) (a) Any assets held subject to written conditions or limitations in accordance with

1645 Section [53A-1a-517](#) shall be disposed of in accordance with those conditions or limitations.

1646 (b) All liabilities and obligations of the closing charter school shall be paid and  
1647 discharged or adequate provisions shall be made to discharge the liabilities and obligations to  
1648 the extent of the closing school's assets.

1649 (c) (i) The remaining assets shall be returned to the closing charter school's [~~chartering~~  
1650 ~~entity~~] authorizer.

1651 (ii) The [~~chartering entity~~] authorizer may liquidate assets at fair market value or assign  
1652 the assets to another public school.

1653 (5) To the extent possible, all leases, service agreements, and other contracts not  
1654 necessary for the transition of the closing charter school should be terminated.

1655 (6) The closing charter school shall submit all documentation required by its  
1656 [~~chartering entity~~] authorizer, including documents to verify its compliance with procedural  
1657 requirements as well as satisfaction of all financial issues.

1658 (7) When the closing charter school's financial affairs are closed out and dissolution is  
1659 complete, the [~~chartering entity~~] authorizer shall ensure that a final audit of the charter school  
1660 is completed.

1661 (8) The State Board of Education may make rules that provide additional closure  
1662 requirements upon charter schools or that specify elements of charter school closure plans.

1663 Section 21. Section **53A-1a-512** is amended to read:

1664 **53A-1a-512. Employees of charter schools.**

1665 (1) A charter school shall select its own employees.

1666 (2) The school's governing [~~body~~] board shall determine the level of compensation and  
1667 all terms and conditions of employment, except as otherwise provided in Subsections (7) and

1668 (8) and under this part.

1669 (3) The following statutes governing public employees and officers do not apply to a  
1670 charter school:

1671 (a) Chapter 8a, Public Education Human Resource Management Act; and

1672 (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

1673 (4) (a) To accommodate differentiated staffing and better meet student needs, a charter  
1674 school, under rules adopted by the State Board of Education, shall employ teachers who:

1675 (i) are licensed; or

1676 (ii) on the basis of demonstrated competency, would qualify to teach under alternative  
1677 certification or authorization programs.

1678 (b) The school's governing ~~[body]~~ board shall disclose the qualifications of its teachers  
1679 to the parents of its students.

1680 (5) State Board of Education rules governing the licensing or certification of  
1681 administrative and supervisory personnel do not apply to charter schools.

1682 (6) (a) An employee of a school district may request a leave of absence in order to  
1683 work in a charter school upon approval of the local school board.

1684 (b) While on leave, the employee may retain seniority accrued in the school district and  
1685 may continue to be covered by the benefit program of the district if the charter school and the  
1686 locally elected school board mutually agree.

1687 ~~[(7) Except as provided under Subsection (8), an employee of a charter school shall be~~  
1688 ~~a member of a retirement system or plan under Title 49, Utah State Retirement and Insurance~~  
1689 ~~Benefit Act.]~~

1690 ~~[(8)] (7) (a) [At the time of application for a charter school, whether the chartering~~  
1691 ~~entity is the State Charter School Board, a local school board, or a board of trustees of a higher~~  
1692 ~~education institution, a proposed charter] A proposed or authorized charter school may [make  
1693 ~~an election of nonparticipation]~~ elect to participate as an employer for retirement programs  
1694 under:~~

1695 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

1696 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

1697 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

1698 ~~[(b) A charter school that was approved prior to July 1, 2004, may make an election of~~  
1699 ~~nonparticipation prior to December 31, 2004.]~~

1700 ~~[(e)]~~ (b) An election [~~provided~~] under this Subsection [~~(8)~~] (7):  
1701 ~~[(i) shall be made at the time specified under Subsection (8)(a) or (b);]~~  
1702 ~~[(ii)]~~ (i) shall be documented by a resolution adopted by the governing [~~body~~] board of  
1703 the charter school; and  
1704 ~~[(iii) is in effect unless the charter school makes an irrevocable retraction of the~~  
1705 ~~election of nonparticipation in accordance with Subsection (9); and]~~  
1706 ~~[(iv)]~~ (ii) applies to the charter school as the employer and to all employees of the  
1707 charter school.  
1708 ~~[(d)]~~ (c) The governing [~~body~~] board of a charter school may offer employee benefit  
1709 plans for its employees:  
1710 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;  
1711 or  
1712 (ii) under any other program.  
1713 ~~[(9) (a) A charter school that made an election of nonparticipation as an employer for~~  
1714 ~~the following retirement programs may subsequently make an irrevocable retraction of the~~  
1715 ~~election of nonparticipation:]~~  
1716 ~~[(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;]~~  
1717 ~~[(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or]~~  
1718 ~~[(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement~~  
1719 ~~Act.]~~  
1720 ~~[(b) A retraction provided under this Subsection (9):]~~  
1721 ~~[(i) shall be documented by a resolution adopted by the governing body of the charter~~  
1722 ~~school;]~~  
1723 ~~[(ii) is a one-time election;]~~  
1724 ~~[(iii) is irrevocable; and]~~  
1725 ~~[(iv) applies to the charter school as the employer and to all employees of the charter~~  
1726 ~~school.]~~  
1727 (8) A charter school may not revoke an election to participate made under Subsection  
1728 (7).  
1729 ~~[(10)]~~ (9) The governing [~~body~~] board of a charter school shall ensure that, prior to the  
1730 beginning of each school year, each of its employees signs a document acknowledging that the



1731 employee:

1732 (a) has received:

1733 (i) the disclosure required under Section 63A-4-204.5 if the charter school participates  
1734 in the Risk Management Fund; or

1735 (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if  
1736 the charter school does not participate in the Risk Management Fund; and

1737 (b) understands the legal liability protection provided to the employee and what is not  
1738 covered, as explained in the disclosure.

1739 Section 22. Section 53A-1a-514 is amended to read:

1740 **53A-1a-514. Tort liability.**

1741 (1) An employee of a charter school is a public employee and the governing [body]  
1742 board is a public employer in the same manner as a local school board for purposes of tort  
1743 liability.

1744 (2) The governing [body] board of a charter school, the nonprofit corporation under  
1745 which the charter school is organized and managed, and the school are solely liable for any  
1746 damages resulting from a legal challenge involving the operation of the school.

1747 Section 23. Section 53A-1a-515 is amended to read:

1748 **53A-1a-515. Charters authorized by local school boards -- Application process --**  
1749 **Local school board responsibilities.**

1750 (1) (a) ~~[Individuals and entities]~~ An applicant identified in Section 53A-1a-504 may  
1751 ~~[enter into an agreement with]~~ submit an application to a local school board to establish and  
1752 operate a charter school within the geographical boundaries of the school district administered  
1753 by the local school board.

1754 (b) (i) The principal, teachers, or parents of students at an existing public school may  
1755 submit an application to the local school board to convert the school or a portion of the school  
1756 to charter status.

1757 (A) If the entire school is applying for charter status, at least two-thirds of the licensed  
1758 educators employed at the school and at least two-thirds of the parents or guardians of students  
1759 enrolled at the school must have signed a petition approving the application prior to its  
1760 submission to the charter school authorizer.

1761 (B) If only a portion of the school is applying for charter status, the percentage is

1762 reduced to a simple majority.

1763 (ii) The local school board may not approve an application submitted under Subsection  
1764 (1)(b)(i) unless the local school board determines that:

1765 (A) students opting not to attend the proposed converted school would have access to a  
1766 comparable public education alternative; and

1767 (B) current teachers who choose not to teach at the converted charter school or who are  
1768 not retained by the school at the time of its conversion would receive a first preference for  
1769 transfer to open teaching positions for which they qualify within the school district, and, if no  
1770 positions are open, contract provisions or board policy regarding reduction in staff would  
1771 apply.

1772 (2) (a) An existing public school that converts to charter status under a charter granted  
1773 by a local school board may:

1774 (i) continue to receive the same services from the school district that it received prior to  
1775 its conversion; or

1776 (ii) contract out for some or all of those services with other public or private providers.

1777 (b) Any other charter school authorized by a local school board may contract with the  
1778 board to receive some or all of the services referred to in Subsection (3)(a).

1779 (c) Except as specified in a charter agreement, local school board assets do not transfer  
1780 to an existing public school that converts to charter status under a charter granted by a local  
1781 school board under this section.

1782 (3) (a) (i) A public school that converts to a charter school under a charter granted by a  
1783 local school board shall receive funding:

1784 (A) through the school district; and

1785 (B) on the same basis as it did prior to its conversion to a charter school.

1786 (ii) The school may also receive federal money designated for charter schools under  
1787 any federal program.

1788 (b) (i) A local school board-authorized charter school operating in a facility owned by  
1789 the school district and not paying reasonable rent to the school district shall receive funding:

1790 (A) through the school district; and

1791 (B) on the same basis that other district schools receive funding.

1792 (ii) The school may also receive federal money designated for charter schools under

1793 any federal program.

1794 (c) Subject to the provisions in Section [53A-1a-502.5](#), a charter school authorized by a  
1795 local school board shall receive funding as provided in Section [53A-1a-513](#).

1796 (d) (i) A charter school authorized by a local school board, but not described in  
1797 Subsection (3)(a), (b), or (c) shall receive funding:

1798 (A) through the school district; and

1799 (B) on the same basis that other district schools receive funding.

1800 (ii) The school may also receive federal money designated for charter schools under  
1801 any federal program.

1802 (4) (a) A local school board that receives an application for a charter school under this  
1803 section shall, within 45 days, either accept or reject the application.

1804 (b) If the board rejects the application, it shall notify the applicant in writing of the  
1805 reason for the rejection.

1806 (c) The applicant may submit a revised application for reconsideration by the board.

1807 (d) If the local school board refuses to authorize the applicant, the applicant may seek a  
1808 charter from the State Charter School Board under Section [53A-1a-505](#).

1809 (5) The State Board of Education shall make a rule providing for a timeline for the  
1810 opening of a charter school following the approval of a charter school application by a local  
1811 school board.

1812 (6) ~~[(a)]~~ After approval of a charter school application~~;~~ and in accordance with  
1813 Section [53A-1a-508](#), the applicant and the local school board shall set forth the terms and  
1814 conditions for the operation of the charter school in a written ~~[contractual]~~ charter agreement.

1815 ~~[(b) The agreement is the school's charter.]~~

1816 (7) A local school board shall:

1817 (a) annually review and evaluate the performance of charter schools authorized by the  
1818 local school board and hold the schools accountable for their performance;

1819 (b) monitor charter schools authorized by the local school board for compliance with  
1820 federal and state laws, rules, and regulations; and

1821 (c) provide technical support to charter schools authorized by the local school board to  
1822 assist them in understanding and performing their charter obligations.

1823 (8) A local school board may terminate a charter school it authorizes as provided in

1824 Sections [53A-1a-509](#) and [53A-1a-510](#).

1825 (9) In addition to the exemptions described in Sections [53A-1a-511](#) and [53A-1a-512](#), a  
1826 charter school authorized by a local school board is:

1827 (a) not required to separately submit a report or information required under this title to  
1828 the State Board of Education if the information is included in a report or information that is  
1829 submitted by the local school board or school district; and

1830 (b) exempt from the requirement under Section [53A-1a-507](#) that a charter school shall  
1831 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation  
1832 Act.

1833 (10) Before a local school board accepts a charter school application, the local school  
1834 board shall, in accordance with State Board of Education rules, establish and make public the  
1835 local school board's:

1836 (a) application requirements, in accordance with Section [53A-1a-504](#);

1837 (b) application process, including timelines, in accordance with this section; and

1838 (c) minimum academic, financial, and enrollment standards.

1839 Section 24. Section **53A-1a-517** is amended to read:

1840 **53A-1a-517. Charter school assets.**

1841 (1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant,  
1842 endowment, gift, or donation of any asset made to the school for any of the purposes of this  
1843 part.

1844 (b) Unless a donor or grantor specifically provides otherwise in writing, all assets  
1845 described in Subsection (1) shall be presumed to be made to the charter school and shall be  
1846 included in the charter school's assets.

1847 (2) It is unlawful for any person affiliated with a charter school to demand or request  
1848 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated  
1849 with the charter school as a condition for employment or enrollment at the school or continued  
1850 attendance at the school.

1851 (3) All assets purchased with charter school funds shall be included in the charter  
1852 school's assets.

1853 (4) A charter school may not dispose of its assets in violation of the provisions of this  
1854 part, state board rules, policies of its [~~chartering entity~~] charter school authorizer, or its charter,

1855 including the provisions governing the closure of a charter school under Section [53A-1a-510.5](#).

1856 Section 25. Section **53A-1a-520** is amended to read:

1857 **53A-1a-520. Accountability -- Rules.**

1858 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
1859 after consultation with chartering entities, the State Board of Education shall make rules that:

1860 (1) require a charter school to develop an accountability plan, approved by its

1861 [~~chartering entity~~] charter school authorizer, during its first year of operation;

1862 (2) require [~~a chartering entity~~] an authorizer to:

1863 (a) visit a charter school at least once during:

1864 (i) its first year of operation; and

1865 (ii) the review period described under Subsection (3); and

1866 (b) provide written reports to its charter schools after the visits; and

1867 (3) establish a review process that is required of a charter school once every five years

1868 by its [~~chartering entity~~] authorizer.

1869 Section 26. Section **53A-1a-521** is amended to read:

1870 **53A-1a-521. Charter schools authorized by a board of trustees of a higher**  
1871 **education institution -- Application process -- Board of trustees responsibilities.**

1872 (1) Subject to the approval of the State Board of Education and except as provided in

1873 Subsection (8), an [~~individual or entity~~] applicant identified in Section [53A-1a-504](#) may enter

1874 into an agreement with a board of trustees of a higher education institution authorizing the

1875 [~~individual or entity~~] applicant to establish and operate a charter school.

1876 (2) (a) An [~~individual or entity identified in Section 53A-1a-504~~] applicant applying

1877 for authorization from a board of trustees [~~of a higher education institution~~] to establish and

1878 operate a charter school shall provide a copy of the application to the State Charter School

1879 Board and the local school board of the school district in which the proposed charter school

1880 shall be located either before or at the same time [~~it files its~~] the applicant files the application

1881 with the board of trustees.

1882 (b) The State Charter School Board and the local school board may review the

1883 application and [~~may~~] offer suggestions or recommendations to the applicant or the board of

1884 trustees [~~of a higher education institution prior to its~~] before acting on the application.

1885 (c) The board of trustees [~~of a higher education institution~~] shall give due consideration

1886 to suggestions or recommendations made by the State Charter School Board or the local school  
1887 board under Subsection (2)(b).

1888 (3) (a) If a board of trustees [~~of a higher education institution~~] approves an application  
1889 to establish and operate a charter school, the board of trustees shall submit the application to  
1890 the State Board of Education.

1891 (b) The State Board of Education shall, by majority vote, within 60 days of receipt of  
1892 the application, approve or deny an application approved by a board of trustees [~~of a higher  
1893 education institution~~].

1894 (c) The State Board of Education's action under Subsection (3)(b) is final action subject  
1895 to judicial review.

1896 (4) The State Board of Education shall make a rule providing a timeline for the  
1897 opening of a charter school following the approval of a charter school application by a board of  
1898 trustees [~~of a higher education institution~~].

1899 (5) [~~(a)~~] After approval of a charter school application, the applicant and the board of  
1900 trustees [~~of a higher education institution~~] shall set forth the terms and conditions for the  
1901 operation of the charter school in a written [~~contractual~~] charter agreement.

1902 [~~(b) The agreement is the school's charter.~~]

1903 (6) (a) The school's charter may include a provision that the charter school pay an  
1904 annual fee for the board of trustees' costs in providing oversight of, and technical support to,  
1905 the charter school in accordance with Subsection (7).

1906 (b) In the first two years that a charter school is in operation, an annual fee described in  
1907 Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives  
1908 from the state in the current fiscal year.

1909 (c) Beginning with the third year that a charter school is in operation, an annual fee  
1910 described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter  
1911 school receives from the state in the current fiscal year.

1912 (d) An annual fee described in Subsection (6)(a) shall be:

1913 (i) paid to the board of trustees' higher education institution; and

1914 (ii) expended as directed by the board of trustees.

1915 (7) A board of trustees [~~of a higher education institution~~] shall:

1916 (a) annually review and evaluate the performance of charter schools authorized by the

1917 board of trustees and hold the schools accountable for their performance;

1918 (b) monitor charter schools authorized by the board of trustees for compliance with  
1919 federal and state laws, rules, and regulations; and

1920 (c) provide technical support to charter schools authorized by the board of trustees to  
1921 assist them in understanding and performing their charter obligations.

1922 (8) (a) In addition to complying with the requirements of this section, a campus board  
1923 of directors of a college campus within the Utah College of Applied Technology shall obtain  
1924 the approval of the Utah College of Applied Technology Board of Trustees before entering into  
1925 an agreement to establish and operate a charter school.

1926 (b) If a campus board of directors of a college campus with the Utah College of  
1927 Applied Technology approves an application to establish and operate a charter school, the  
1928 campus board of directors of the college campus shall submit the application to the Utah  
1929 College of Applied Technology Board of Trustees.

1930 (c) The Utah College of Applied Technology Board of Trustees shall, by majority vote,  
1931 within 60 days ~~[or]~~ of receipt of the application, approve or deny the application approved by  
1932 the campus board of directors.

1933 (d) The Utah College of Applied Technology Board of Trustees may deny an  
1934 application approved by a campus board of directors if the proposed charter school does not  
1935 accomplish a purpose of charter schools as provided in Section [53A-1a-503](#).

1936 (e) A charter school application may not be denied on the basis that the establishment  
1937 of the charter school will have any or all of the following impacts on a public school, including  
1938 another charter school:

- 1939 (i) an enrollment decline;
- 1940 (ii) a decrease in funding; or
- 1941 (iii) a modification of programs or services.

1942 (9) (a) Subject to the requirements of this part, a campus board of directors of a college  
1943 campus within the Utah College of Applied Technology may establish:

1944 (i) procedures for submitting applications to establish and operate a charter school to a  
1945 campus board of directors of a college campus within the Utah College of Applied Technology;  
1946 and

1947 (ii) criteria for a campus board of directors' approval of an application to establish and

1948 operate a charter school.

1949 (b) The Utah College of Applied Technology Board of Trustees may not establish  
1950 policy governing the procedures or criteria described in Subsection (9)(a).

1951 (10) Before a board of trustees accepts a charter school application, the board of  
1952 trustees shall, in accordance with State Board of Education rules, establish and make public the  
1953 board of trustees':

1954 (a) application requirements, in accordance with Section [53A-1a-504](#);

1955 (b) application process, including timelines, in accordance with this section; and

1956 (c) minimum academic, financial, and enrollment standards.

1957 Section 27. Section **53A-20b-201** is amended to read:

1958 **53A-20b-201. Charter School Credit Enhancement Program -- Standards for the**  
1959 **designation of qualifying charter schools -- Debt service reserve fund requirements.**

1960 (1) There is created the Charter School Credit Enhancement Program to assist  
1961 qualifying charter schools in obtaining favorable financing by providing a means of  
1962 replenishing a qualifying charter school's debt service reserve fund.

1963 (2) The authority shall establish standards for a charter school to be designated as a  
1964 qualifying charter school.

1965 (3) In establishing the standards described in Subsection (2) the authority shall  
1966 consider:

1967 (a) whether a charter school has received an investment grade rating, independent of  
1968 any rating enhancement resulting from the issuance of bonds pursuant to the credit  
1969 enhancement program;

1970 (b) the location of the charter school's project;

1971 (c) the operating history of the charter school;

1972 (d) the financial strength of the charter school; and

1973 (e) any other criteria the authority determines are relevant.

1974 (4) The bonds issued by the authority for a qualifying charter school are not an  
1975 indebtedness of the state or of the authority but are special obligations payable solely from:

1976 (a) the revenues or other funds pledged by the qualifying charter school; and

1977 (b) amounts appropriated by the Legislature pursuant to Subsection (9).

1978 (5) The authority shall notify the [~~chartering entity~~] authorizer of a charter school that



1979 the charter school is participating in the credit enhancement program if the authority:

1980 (a) designates the charter school as a qualifying charter school; and

1981 (b) issues bonds for the qualifying charter school under the credit enhancement  
1982 program.

1983 (6) One or more debt service reserve funds shall be established for a qualifying charter  
1984 school with respect to bonds issued pursuant to the credit enhancement program.

1985 (7) (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund  
1986 may not be withdrawn from the debt service reserve fund if the amount withdrawn would  
1987 reduce the level of money in the debt service reserve fund to less than the debt service reserve  
1988 fund requirement.

1989 (b) So long as the applicable bonds issued under the credit enhancement program  
1990 remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that  
1991 would reduce the level of money in the debt service reserve fund to less than the debt service  
1992 reserve fund requirement if the money is withdrawn for the purpose of:

1993 (i) paying the principal of, redemption price of, or interest on a bond when due and if  
1994 no other money of the qualifying charter school is available to make the payment, as  
1995 determined by the authority; or

1996 (ii) paying any redemption premium required to be paid when the bonds are redeemed  
1997 prior to maturity if no bonds will remain outstanding upon payment from the funds in the  
1998 qualifying charter school's debt service reserve fund.

1999 (8) Money in a qualifying charter school's debt service reserve fund that exceeds the  
2000 debt service reserve fund requirement may be withdrawn by the qualifying charter school.

2001 (9) (a) The authority shall annually, on or before December 1, certify to the governor  
2002 the amount, if any, required to restore amounts on deposit in the debt service reserve funds of  
2003 qualifying charter schools to the respective debt service reserve fund requirements.

2004 (b) The governor shall request from the Legislature an appropriation of the certified  
2005 amount to restore amounts on deposit in the debt service reserve funds of qualifying charter  
2006 schools to the respective debt service reserve fund requirements.

2007 (c) The Legislature may appropriate money to the authority to restore amounts on  
2008 deposit in the debt service reserve funds of qualifying charter schools to the respective debt  
2009 service reserve fund requirements.

2010           (d) A qualifying charter school that receives money from an appropriation to restore  
2011 amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement,  
2012 shall repay the state at the time and in the manner as the authority shall require.  
2013           (10) The authority may create and establish other funds for its purposes.