

SB0218S01 compared with SB0218

~~{deleted text}~~ shows text that was in SB0218 but was deleted in SB0218S01.

inserted text shows text that was not in SB0218 but was inserted into SB0218S01.

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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 }

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

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relating to an application:

- ▶ requires a local school board to, before accepting a charter school application, establish certain requirements, processes, and standards relating to an application;
- ▶ requires a charter school to obtain attorney review of certain documents relating to the charter school's facilities or financing the charter school's facilities;
- ▶ allows another charter school to apply for assumption of operation of a charter school whose charter agreement is terminated;
- ▶ allows a proposed or authorized charter school to elect to participate in state retirement programs;
- ▶ allows a charter school to weight its lottery to give a slightly better chance of admission to educationally disadvantaged students;
- ▶ requires the State Board of Education, in approving an increase in charter school enrollment capacity, to give, subject to a certain exception:
 - high priority to approving a charter school located in a high growth area; and
 - low priority to approving a charter school located in an area where student enrollment is stable or declining; ~~{ and }~~
- ▶ requires a charter school that is approved with high priority status after May 13, 2014, and is located in a high growth area to give an enrollment preference to students who reside within a two-mile radius of the charter school ~~{,}~~; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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[49-22-202](#), as last amended by Laws of Utah 2012, Chapter 298

[52-4-209](#), as last amended by Laws of Utah 2012, Chapter 403

[53A-1a-501.3](#), as last amended by Laws of Utah 2013, Chapter 10

[53A-1a-501.6](#), as last amended by Laws of Utah 2010, Chapter 353

[53A-1a-502.5](#), as last amended by Laws of Utah 2013, Chapter 376

[53A-1a-503.5](#), as last amended by Laws of Utah 2008, Chapter 319

[53A-1a-505](#), as last amended by Laws of Utah 2005, Chapter 291

[53A-1a-506](#), as last amended by Laws of Utah 2013, Chapter 278

[53A-1a-506.5](#), as last amended by Laws of Utah 2010, Chapter 162

[53A-1a-507](#), as last amended by Laws of Utah 2011, Chapter 349

[53A-1a-509](#), as last amended by Laws of Utah 2012, Chapter 201

[53A-1a-510](#), as last amended by Laws of Utah 2012, Chapter 201

[53A-1a-510.5](#), as enacted by Laws of Utah 2007, Chapter 344

[53A-1a-512](#), as last amended by Laws of Utah 2012, Chapter 425

[53A-1a-514](#), as last amended by Laws of Utah 2007, Chapter 344

[53A-1a-515](#), as last amended by Laws of Utah 2010, Chapters 162 and 303

[53A-1a-517](#), as enacted by Laws of Utah 2007, Chapter 344

[53A-1a-520](#), as last amended by Laws of Utah 2010, Chapter 353

[53A-1a-521](#), as last amended by Laws of Utah 2013, Chapter 239

[53A-20b-201](#), as enacted by Laws of Utah 2012, Chapter 201

REPEALS AND REENACTS:

[53A-1a-504](#), as last amended by Laws of Utah 2007, Chapter 344

[53A-1a-508](#), as last amended by Laws of Utah 2011, Chapter 349

Utah Code Sections Affected by Coordination Clause:

[53A-1a-508](#), as last amended by Laws of Utah 2011, Chapter 349

[53A-1a-513](#), as last amended by Laws of Utah 2013, Chapter 470

[53A-15-1403](#), Utah Code Annotated 1953

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

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

10-9a-103. Definitions.

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As used in this chapter:

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

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

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

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

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

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

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

(i) an operating charter school;

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

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

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

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

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

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution, Article I, Section 22.

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

(8) "Development activity" means:

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.

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

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

(10) "Educational facility":

(a) means:

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

(ii) a structure or facility:

- (A) located on the same property as a building described in Subsection (10)(a)(i); and
- (B) used in support of the use of that building; and

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

(b) does not include:

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

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

and

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

(ii) a therapeutic school.

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

(12) "Flood plain" means land that:

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

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

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

(14) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

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

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(15) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

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meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

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

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

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

(c) describe a building that:

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

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

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

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

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

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

(a) recording a subdivision plat; or

(b) beginning development activity.

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

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

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

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

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

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

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

(ii) has substantial evidence, on record:

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

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

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

(a) runs with the land; and

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

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

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

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

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

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

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

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

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

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

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

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- (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

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

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

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

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

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

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- (c) has been adopted as an element of the municipality's general plan.

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

- (a) no additional parcel is created; and
- (b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

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

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

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

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

(c) a survey of total residential land use;

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

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

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

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

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

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

(39) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

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

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

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

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

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

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

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

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

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

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

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

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

(48) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

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

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

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

(52) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the

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purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

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

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

(c) "Subdivision" does not include:

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

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

(A) no new lot is created; and

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

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

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

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

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

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

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

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

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has

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not been subdivided does not constitute a subdivision under this Subsection (52) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

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

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

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

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

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

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

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

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

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

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

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

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- (i) a contract; or
- (ii) a share in a water company, as defined in Section 73-3-3.5.

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

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

11-36a-102. Definitions.

As used in this chapter:

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

- (i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or
- (ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

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

(2) "Charter school" includes:

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

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

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

(4) "Development approval" means:

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

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

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

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

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

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

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

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

(6) "Encumber" means:

(a) a pledge to retire a debt; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) water rights and water supply, treatment, storage, and distribution facilities;
- (b) wastewater collection and treatment facilities;
- (c) storm water, drainage, and flood control facilities;
- (d) municipal power facilities;
- (e) roadway facilities;
- (f) parks, recreation facilities, open space, and trails;
- (g) public safety facilities; or
- (h) environmental mitigation as provided in Section 11-36a-205.

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

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

or

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

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

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

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

- (i) are necessitated by the new development; and
 - (ii) are not funded by the state or federal government.
- (c) "Roadway facilities" does not mean federal or state roadways.

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

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

(20) "Specified public agency" means:

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

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

(i) existing public facilities that are:

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

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

(ii) future public facilities identified in the impact fee analysis under Section

11-36a-304 that are intended to provide services to service areas within the community at large.

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

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

17-27a-103. Definitions.

As used in this chapter:

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

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

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

or

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

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

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

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

(i) an operating charter school;

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

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

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

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

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

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

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

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

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

(9) "Development activity" means:

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

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

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

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

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

(11) "Educational facility":

(a) means:

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

(ii) a structure or facility:

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

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

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

(b) does not include:

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

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

and

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

(ii) a therapeutic school.

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

(13) "Flood plain" means land that:

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

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

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

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

(16) "Geologic hazard" means:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

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

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
 - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

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

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

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

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

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

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

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

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

(a) recording a subdivision plat; or

(b) beginning development activity.

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

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

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

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

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

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

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

(ii) has substantial evidence, on record:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) no additional parcel is created; and

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

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

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

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

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

(c) a survey of total residential land use;

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

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

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

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

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

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

(43) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

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

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

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

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

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

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

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

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

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

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

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

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

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

(53) "Specified public agency" means:

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

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

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

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

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

(b) "Subdivision" includes:

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

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

(c) "Subdivision" does not include:

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

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

(A) no new lot is created; and

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

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

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

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

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

(A) an electrical transmission line or a substation;

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

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

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

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

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

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

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision

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ordinance.

(58) "Suspect soil" means soil that has:

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

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

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

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

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

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

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

(62) "Unincorporated" means the area outside of the incorporated area of a

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municipality.

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

- (a) each of the rights listed in Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) is irrevocable; and

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

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

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

or

(ii) under any other program.

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

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

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

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

(b) In addition to their participation in this system, participating employers may

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provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

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

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

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

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

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

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

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

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

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

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

(b) Upon approval of the resolution by the board, the employer is a participating

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employer in this system and is subject to this title.

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

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

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

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

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

(iii) is irrevocable; and

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

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

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

or

(ii) under any other program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) with a quorum who:

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

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

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

(d) "Monitor" means to:

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

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

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

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

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

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

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

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

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

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(A) participates; or

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

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

(a) give public notice of the electronic meeting:

(i) in accordance with Section 52-4-202; and

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

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

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

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

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

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

(c) provide an anchor location.

(4) The chair shall:

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

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

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

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

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

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

(ii) All of the content of the website shall be kept for an electronic meeting conducted

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under this section.

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

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

(i) is secure; and

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

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

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

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

53A-1a-501.3. Definitions.

As used in this part:

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

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

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

(a) the board of trustees of:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

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- (iv) Southern Utah University;
- (v) Snow College;
- (vi) Dixie State University;
- (vii) Utah Valley University; or
- (viii) Salt Lake Community College; or

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

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

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

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

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

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

(1) The State Charter School Board shall:

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

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

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

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

(i) identifying and promoting successful charter school models;

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

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

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

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- (v) assisting charter schools to understand and carry out their charter obligations;
- (e) provide technical support, as requested, to a ~~[chartering entity]~~ charter school authorizer relating to charter schools;
- (f) make recommendations on legislation and rules pertaining to charter schools to the Legislature and State Board of Education, respectively; and
- (g) make recommendations to the State Board of Education on the funding of charter schools.

(2) The State Charter School Board may:

- (a) contract;
- (b) sue and be sued; and
- (c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and
- (ii) charge fees for the provision of services or functions.

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

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

- (1) For the purposes of this section~~[-"next"]~~:
 - (a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.
 - (b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.
- (2) The State Board of Education may approve an increase in charter school enrollment capacity in the 2012-13 school year or thereafter subject to the Legislature:
 - (a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or
 - (b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.
- (3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.

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

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

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

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

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

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

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

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

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

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

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

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

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(1) Charter schools are:
(a) considered to be public schools within the state's public education system;
(b) subject to Subsection 53A-1-401(3); and
(c) governed by independent boards and held accountable to a legally binding written contractual agreement.

(2) A charter school may be established by:

(a) creating a new school; or

(b) converting an existing public school to charter status.

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

Section 12. Section 53A-1a-504 is repealed and reenacted to read:

53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.

(1) (a) An application to establish a charter school may be submitted by:

(i) an individual;

(ii) a group of individuals; or

(iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation;

and

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(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) require completion of a criminal background check for teachers;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

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

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

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

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

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

and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school;

and

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

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

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

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

(c) a proposed calendar;

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(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

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

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

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

(b) procedures and deadlines for the application process.

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

53A-1a-505. Charter schools authorized by the State Charter School Board -- Application process -- ~~{Contract}~~ Prohibited bases of application denial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{2}~~14. Section **53A-1a-506** is amended to read:

53A-1a-506. Eligible students.

(1) As used in this section:

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

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

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

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

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through ~~[(6)]~~ (8).

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

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

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

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

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

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

(f) students who reside within:

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

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

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

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

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

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

~~[(6)]~~ (7) (a) A charter school whose mission is to enhance learning opportunities for

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refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

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

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

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) neglected or delinquent students; and

(e) homeless students.

[(7)] ~~(8)~~ (9) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

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Legislative Review Note

— as of ~~2-19-14 11:44 AM~~

— ~~Office of Legislative Research and General Counsel;~~ Section 15. Section 53A-1a-506.5 is amended to read:

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

(1) As used in this section:

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

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

(c) "School district of residence" means a student's school district of residence as

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determined under Section 53A-2-201.

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

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

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

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

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

(B) ~~(H)~~ the school's opening date, if the school has not yet opened~~;~~, or ~~(H)~~ the school calendar; and

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

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

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

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

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

~~(vi)~~ (v) the admission of students~~;~~ provided that the admission does not disqualify the charter school from federal funding~~;~~ at:

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

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

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

(3) The parent of a student enrolled in a charter school may withdraw the student from

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the charter school for enrollment in another charter school or a school district by submitting to the charter school:

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

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

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

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

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

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

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

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

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

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

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of

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the school district of residence that has adequate capacity in:

(i) the student's grade level, if the student is an elementary school student; or

(ii) the core classes that the student needs to take, if the student is a secondary school student.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A ~~[chartering entity]~~ charter school authorizer may not impose performance

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standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53A-1a-503 or as otherwise provided in law.

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

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

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

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

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

Section 17. Section 53A-1a-508 is repealed and reenacted to read:

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

(1) A charter agreement:

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

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

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

(2) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels and number of students the charter school will serve;

(e) a description of the structure of the charter school's governing board, including:

(i) the number of board members;

(ii) how members of the board are appointed; and

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(iii) board members' terms of office;

(f) assurances that:

(i) the governing board shall comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and State Board of Education rules;

(ii) the governing board will meet all reporting requirements described in Section 53A-1b-115; and

(iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(g) which administrative rules the State Board of Education will waive for the charter school;

(h) minimum financial standards for operating the charter school;

(i) minimum standards for student achievement; and

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

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

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

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

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

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

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

(2) If the charter school does not remedy the deficiency within the established timeline,

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the [chartering entity] authorizer may:

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

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

(ii) remove a governing board member; or

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

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

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

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

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

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

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

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

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

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

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

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

(c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;

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

(e) other good cause shown.

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

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(i) the governing [body] board of the charter school; and

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

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

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

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

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

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

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

(B) the Utah Charter School Finance Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the State Charter School Board;

(iii) the State Board of Education;

(iv) parents of its students;

(v) its creditors; and

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

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

(i) the proposed date of school closure;

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

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

(3) A closing charter school shall:

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

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

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

(i) an office;

(ii) hours of operation; and

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

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

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

(f) inventory all assets of the charter school;

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The school's governing [body] board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this part.

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

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

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

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

(i) are licensed; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(iii) is in effect unless the charter school makes an irrevocable retraction of the election of nonparticipation in accordance with Subsection (9); and]~~

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

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

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

~~or~~

~~(ii) under any other program.~~

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

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election of nonparticipation:]

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

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

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

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

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

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

[(iii) is irrevocable; and]

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

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

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

(a) has received:

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

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

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

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

53A-1a-514. Tort liability.

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

(2) The governing [body] board of a charter school, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any

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damages resulting from a legal challenge involving the operation of the school.

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

53A-1a-515. Charters authorized by local school boards -- Application process --

Local school board responsibilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) through the school district; and

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

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

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

(A) through the school district; and

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

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

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

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

(A) through the school district; and

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

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

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

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

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

(d) If the local school board refuses to authorize the applicant, the applicant may seek a

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charter from the State Charter School Board under Section 53A-1a-505.

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

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

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

(7) A local school board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) its first year of operation; and

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

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

(3) establish a review process that is required of a charter school once every five years by its [chartering entity] authorizer.

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

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

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

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

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

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

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

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

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

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

(5) [(a)] After approval of a charter school application, the applicant and the board of trustees [of a higher education institution] shall set forth the terms and conditions for the

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operation of the charter school in a written ~~[contractual]~~ charter agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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the campus board of directors.

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

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

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) the operating history of the charter school;

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

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

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

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

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

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

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

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

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

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

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

(i) paying the principal of, redemption price of, or interest on a bond when due and if

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no other money of the qualifying charter school is available to make the payment, as determined by the authority; or

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

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

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

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

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

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

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