

Representative Daniel McCay proposes the following substitute bill:

CHARTER SCHOOL REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends provisions related to charter schools.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ enacts and consolidates provisions related to the powers and duties of charter school authorizers;
- ▶ requires the State Board of Education to adopt rules establishing minimum standards for a charter school application or charter school compliance;
- ▶ amends provisions related to the status and powers of the State Charter School Board;
- ▶ repeals outdated provisions;
- ▶ repeals provisions related to State Board of Education approval of an application for a charter school authorized by:
 - the State Charter School Board; or
 - a board of trustees of a higher education institution; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53F-2-702**, as renumbered and amended by Laws of Utah 2018, Chapter 2

32 **53F-2-704**, as enacted by Laws of Utah 2018, Chapter 2

33 **53G-5-102**, as renumbered and amended by Laws of Utah 2018, Chapter 3

34 **53G-5-202**, as renumbered and amended by Laws of Utah 2018, Chapter 3

35 **53G-5-302**, as renumbered and amended by Laws of Utah 2018, Chapter 3

36 **53G-5-304**, as renumbered and amended by Laws of Utah 2018, Chapter 3

37 **53G-5-305**, as renumbered and amended by Laws of Utah 2018, Chapter 3

38 **53G-5-306**, as renumbered and amended by Laws of Utah 2018, Chapter 3

39 **53G-5-409**, as renumbered and amended by Laws of Utah 2018, Chapter 3

40 **53G-5-502**, as renumbered and amended by Laws of Utah 2018, Chapter 3

41 **53G-5-503**, as renumbered and amended by Laws of Utah 2018, Chapter 3

42 **53G-5-504**, as renumbered and amended by Laws of Utah 2018, Chapter 3

43 ENACTS:

44 **53G-5-205**, Utah Code Annotated 1953



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

47 Section 1. Section **53F-2-702** is amended to read:

48 **53F-2-702. Funding for charter schools.**

49 ~~[(1) (a) Charter schools shall receive funding as described in this section, except~~
50 ~~Subsections (2) through (6) do not apply to charter schools described in Subsection (1)(b).]~~

51 ~~[(b) Charter schools authorized by local school boards that are converted from district~~
52 ~~schools or operate in district facilities without paying reasonable rent shall receive funding as~~
53 ~~prescribed in Section **53G-5-305**.]~~

54 [(2)] (1) Except as described in Section **53F-2-302**, a charter school shall receive state
55 funds, as applicable, on the same basis as a school district receives funds.

56 [~~3~~] (2) (a) As described in Section **53F-2-703**, the State Board of Education shall

57 distribute charter school levy per pupil revenues to charter schools.

58 (b) As described in Section 53F-2-704, and subject to future budget constraints, the
59 Legislature shall provide an appropriation for charter schools for each charter school student
60 enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues
61 described in Subsection ~~[(3)]~~ (2)(a).

62 ~~[(4)]~~ (3) Charter schools are eligible to receive federal funds if they meet all applicable
63 federal requirements and comply with relevant federal regulations.

64 ~~[(5)]~~ (4) The State Board of Education shall distribute funds for charter school students
65 directly to the charter school.

66 ~~[(6)]~~ (5) (a) Notwithstanding Subsection ~~[(2)]~~ (1), a charter school is not eligible to
67 receive state transportation funding.

68 (b) The board shall also adopt rules relating to the transportation of students to and
69 from charter schools, taking into account Sections 53F-2-403 and 53G-6-405.

70 (c) The governing board of the charter school may provide transportation through an
71 agreement or contract with the local school board, a private provider, or parents.

72 ~~[(7)]~~ (6) (a) (i) In accordance with Section 53F-2-705, the State Charter School Board
73 may allocate grants for start-up costs to charter schools from money appropriated for charter
74 school start-up costs.

75 (ii) The governing board of a charter school that receives money from a grant under
76 Section 53F-2-705 shall use the grant for expenses for planning and implementation of the
77 charter school.

78 (b) The State Board of Education shall coordinate the distribution of federal money
79 appropriated to help fund costs for establishing and maintaining charter schools within the
80 state.

81 ~~[(8)]~~ (7) (a) A charter school may receive, hold, manage and use any devise, bequest,
82 grant, endowment, gift, or donation of any property made to the school for any of the purposes
83 of Title 53G, Chapter 5, Charter Schools, or related provisions.

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

88 Section 2. Section 53F-2-704 is amended to read:

89 **53F-2-704. Charter school levy state guarantee.**

90 (1) As used in this section:

91 (a) "Charter school levy per pupil revenues" means the same as that term is defined in

92 Section 53F-2-703.

93 (b) "Charter school students' average local revenues" means the amount determined as
94 follows:

95 (i) for each student enrolled in a charter school on the previous October 1, calculate the
96 district per pupil local revenues of the school district in which the student resides;

97 (ii) sum the district per pupil local revenues for each student enrolled in a charter
98 school on the previous October 1; and

99 (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students
100 enrolled in charter schools on the previous October 1.

101 (c) "District local property tax revenues" means the sum of a school district's revenue
102 received from the following:

103 (i) a voted local levy imposed under Section 53F-8-301;

104 (ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended
105 for:

106 (A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of
107 taxable value of the school district's board local levy; and

108 (B) the K-3 Reading Improvement Program, up to the amount of revenue generated by
109 a .000121 per dollar of taxable value of the school district's board local levy;

110 (iii) a capital local levy imposed under Section 53F-8-303; and

111 (iv) a guarantee described in Section 53F-2-601, 53F-2-602, 53F-3-202, or 53F-3-203.

112 (d) "District per pupil local revenues" means, using data from the most recently
113 published school district annual financial reports and state superintendent's annual report, an
114 amount equal to district local property tax revenues divided by the sum of:

115 (i) a school district's average daily membership; and

116 (ii) the average daily membership of a school district's resident students who attend
117 charter schools.

118 (e) "Resident student" means a student who is considered a resident of the school

119 district under Title 53G, Chapter 6, Part 3, School District Residency.

120 (f) "Statewide average debt service revenues" means the amount determined as
121 follows, using data from the most recently published state superintendent's annual report:

122 (i) sum the revenues of each school district from the debt service levy imposed under
123 Section 11-14-310; and

124 (ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district
125 average daily membership.

126 (2) (a) Subject to future budget constraints, the Legislature shall provide an
127 appropriation for charter schools for each charter school student enrolled on October 1 to
128 supplement the allocation of charter school levy per pupil revenues described in Subsection
129 53F-2-702[(3)](2)(a).

130 (b) Except as provided in Subsection (2)(c), the amount of money provided by the state
131 for a charter school student shall be the sum of:

132 (i) charter school students' average local revenues minus the charter school levy per
133 pupil revenues; and

134 (ii) statewide average debt service revenues.

135 (c) If the total of charter school levy per pupil revenues distributed by the State Board
136 of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427,
137 the state shall provide an additional supplement so that a charter school receives at least \$1,427
138 per student under Subsection 53F-2-702[(3)](2).

139 (d) (i) If the appropriation provided under this Subsection (2) is less than the amount
140 prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter
141 schools in proportion to each charter school's enrollment as a percentage of the total enrollment
142 in charter schools.

143 (ii) If the State Board of Education makes adjustments to Minimum School Program
144 allocations as provided under Section 53F-2-205, the allocation provided in Subsection
145 (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

146 (3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter
147 school under Subsection 53F-2-702[(3)](2), 10% shall be expended for funding school
148 facilities only.

149 (b) Subsection (3)(a) does not apply to an online charter school.

150 Section 3. Section **53G-5-102** is amended to read:

151 **53G-5-102. Definitions.**

152 As used in this chapter:

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

- 155 (a) cash;
- 156 (b) stock or other investments;
- 157 (c) real property;
- 158 (d) equipment and supplies;
- 159 (e) an ownership interest;
- 160 (f) a license;
- 161 (g) a cause of action; and
- 162 (h) any similar property.

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

- 164 (a) the board of trustees of:
 - 165 (i) the University of Utah;
 - 166 (ii) Utah State University;
 - 167 (iii) Weber State University;
 - 168 (iv) Southern Utah University;
 - 169 (v) Snow College;
 - 170 (vi) Dixie State University;
 - 171 (vii) Utah Valley University; or
 - 172 (viii) Salt Lake Community College; or

173 (b) the board of directors of a technical college described in Section [53B-2a-108](#).

174 (3) "Charter agreement" or "charter" means an agreement made in accordance with
175 Section [53G-5-303](#) that authorizes the operation of a charter school.

176 (4) "Charter school authorizer" or "authorizer" means [~~the State Charter School Board,~~
177 ~~a local school board, or a board of trustees of a higher education institution that authorizes the~~
178 ~~establishment of a charter school]~~ an entity listed in Section [53G-5-205](#) that authorizes a
179 charter school.

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

181 Section 4. Section 53G-5-202 is amended to read:

182 **53G-5-202. Status and powers of State Charter School Board.**

183 [~~(1) The State Charter School Board shall:~~]

184 [~~(a) authorize and promote the establishment of charter schools, subject to the~~
185 ~~provisions in this chapter and other related provisions;~~]

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

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

190 [~~(d) provide technical support to charter schools and persons seeking to establish~~
191 ~~charter schools by:~~]

192 [~~(i) identifying and promoting successful charter school models;~~]

193 [~~(ii) facilitating the application and approval process for charter school authorization;~~]

194 [~~(iii) directing charter schools and persons seeking to establish charter schools to~~
195 ~~sources of private funding and support;~~]

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

199 [~~(v) assisting charter schools to understand and carry out their charter obligations;~~]

200 [~~(e) provide technical support, as requested, to a charter school authorizer relating to~~
201 ~~charter schools;~~]

202 [~~(f) make recommendations on legislation and rules pertaining to charter schools to the~~
203 ~~Legislature and State Board of Education, respectively; and]~~

204 [~~(g) make recommendations to the State Board of Education on the funding of charter~~
205 ~~schools.~~]

206 [~~(2)~~] The State Charter School Board may:

207 [~~(a) contract;~~]

208 (1) enter into contracts;

209 [~~(b)~~] (2) sue and be sued; and

210 [~~(c)-(i)~~] (3)(a) at the discretion of the charter school, provide administrative services
211 to, or perform other school functions for, charter schools authorized by the State Charter

212 School Board; and

213 ~~[(ii)]~~ (b) charge fees for the provision of services or functions.

214 Section 5. Section **53G-5-205** is enacted to read:

215 **53G-5-205. Charter school authorizers -- Power and duties -- Charter application**

216 **minimum standard.**

217 (1) The following entities are eligible to authorize charter schools:

218 (a) the State Charter School Board;

219 (b) a local school board; or

220 (c) a board of trustees of an institution in the state system of higher education as
221 described in Section [53B-1-102](#).

222 (2) A charter school authorizer shall:

223 (a) annually review and evaluate the performance of charter schools authorized by the
224 authorizer and hold a charter school accountable for the school's performance; and

225 (b) monitor charter schools authorized by the authorizer for compliance with federal
226 and state laws, rules, and regulations.

227 (3) A charter school authorizer may:

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

230 (b) make recommendations on legislation and rules pertaining to charter schools to the
231 Legislature and State Board of Education, respectively;

232 (c) make recommendations to the State Board of Education on the funding of charter
233 schools;

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

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

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

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

240 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of
241 supporting and strengthening proposals before an application for charter school authorization is
242 submitted to a charter school authorizer; or

243 (v) assisting charter schools to understand and carry out their charter obligations; or
 244 (e) provide technical support, as requested, to another charter school authorizer relating
 245 to charter schools.

246 (4) The State Board of Education shall, in accordance with Title 63, Chapter 3, Utah
 247 Administrative Rulemaking Act, make rules establishing minimum standards that a charter
 248 school authorizer is required to apply when:

249 (a) evaluating a charter school application; or
 250 (b) monitoring charter school compliance.

251 (5) The minimum standards described in Subsection (1) shall include:

252 (a) reasonable consequences for an authorizer that fails to comply with statute or board
 253 rule;

254 (b) a process for an authorizer to review:

255 (i) the skill and expertise of a proposed charter school's governing board; and

256 (ii) the functioning operation of the charter school governing board of an authorized
 257 charter school;

258 (c) a process for an authorizer to review the financial viability of a proposed charter
 259 school and of an authorized charter school;

260 (d) a process to evaluate:

261 (i) how well an authorizer's authorized charter school complies with the charter
 262 school's charter agreement;

263 (ii) whether an authorizer's authorized charter school maintains reasonable academic
 264 standards; and

265 (iii) standards that an authorizer is required to meet to demonstrate the authorizer's
 266 capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

267 Section 6. Section **53G-5-302** is amended to read:

268 **53G-5-302. Charter school application -- Applicants -- Contents.**

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

270 (i) an individual;

271 (ii) a group of individuals; or

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

273 (b) An authorized charter school may apply under this chapter for a charter from

274 another charter school authorizer.

275 (2) A charter school application shall include:

276 (a) the purpose and mission of the school;

277 (b) except for a charter school authorized by a local school board, a statement that,

278 after entering into a charter agreement, the charter school will be organized and managed under

279 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

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

281 (i) a list of the governing board members that describes the qualifications of each

282 member; and

283 (ii) an assurance that the applicant shall, within 30 days of authorization, [~~provide the~~

284 ~~authorizer with the results of]~~ complete a background check for each member consistent with

285 Section [53G-5-408](#);

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

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

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

289 and

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

291 (e) academic goals;

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

293 (i) comply with the criminal background check requirements described in Section

294 [53G-5-408](#);

295 (ii) require employee evaluations; and

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

297 (g) a description of how the charter school will provide, as required by state and federal

298 law, special education and related services;

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

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

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

302 (i) a statement that describes the charter school's plan for establishing the charter

303 school's facilities, including:

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

305 and

306 (ii) financing arrangements;

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

308 [~~(k)~~] a capital facility plan;

309 [~~(+)~~] (k) a business plan;

310 [~~(m)~~] (l) other major issues involving the establishment and operation of the charter
311 school; and

312 [~~(n)~~] (m) the signatures of the governing board members of the charter school.

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

314 (a) the charter school's proposed:

315 (i) curriculum;

316 (ii) instructional program; or

317 (iii) delivery methods;

318 (b) a method for assessing whether students are reaching academic goals, including, at
319 a minimum, administering the statewide assessments described in Section 53E-4-301;

320 (c) a proposed calendar;

321 (d) sample policies;

322 (e) a description of opportunities for parental involvement;

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

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

327 Section 7. Section 53G-5-304 is amended to read:

328 **53G-5-304. Charter schools authorized by the State Charter School Board --**

329 **Application process -- Prohibited basis of application denial.**

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

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

336 application.

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

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

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

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

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

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

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

350 (i) an enrollment decline;

351 (ii) a decrease in funding; or

352 (iii) a modification of programs or services.

353 (2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah
354 Administrative Rulemaking Act, make a rule providing a timeline for the opening of a charter
355 school following the approval of a charter school application by the State Charter School
356 Board.

357 (3) After approval of a charter school application and in accordance with Section
358 [53G-5-303](#), the applicant and the State Charter School Board shall set forth the terms and
359 conditions for the operation of the charter school in a written charter agreement.

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

362 (a) application requirements, in accordance with Section [53G-5-302](#);

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

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

365 Section 8. Section [53G-5-305](#) is amended to read:

366 **53G-5-305. Charters authorized by local school boards -- Application process --**

367 **Local school board responsibilities.**

368 (1) (a) An applicant identified in Section 53G-5-302 may submit an application to a
369 local school board to establish and operate a charter school within the geographical boundaries
370 of the school district administered by the local school board.

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

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

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

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

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

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

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

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

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

394 (b) Any other charter school authorized by a local school board may contract with the
395 board to receive some or all of the services referred to in Subsection ~~[(3)]~~ (2)(a).

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

398 school board under this section.

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

401 ~~[(A) through the school district; and]~~

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

403 ~~[(ii) The school may also receive federal money designated for charter schools under~~
404 ~~any federal program.]~~

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

407 ~~[(A) through the school district; and]~~

408 ~~[(B) on the same basis that other district schools receive funding.]~~

409 ~~[(ii) The school may also receive federal money designated for charter schools under~~
410 ~~any federal program.]~~

411 ~~[(c) Subject to the provisions in Section [53G-6-504](#), a charter school authorized by a~~
412 ~~local school board shall receive funding as provided in Title 53F, Chapter 2, Part 7, Charter~~
413 ~~School Funding.]~~

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

416 ~~[(A) through the school district; and]~~

417 ~~[(B) on the same basis that other district schools receive funding.]~~

418 ~~[(ii) The school may also receive federal money designated for charter schools under~~
419 ~~any federal program.]~~

420 ~~[(4)]~~ (3) (a) A local school board that receives an application for a charter school under
421 this section shall, within 45 days, either accept or reject the application.

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

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

425 (d) If the local school board refuses to authorize the applicant, the applicant may seek a
426 charter from ~~[the State Charter School Board under Section [53G-5-304](#)]~~ another authorizer.

427 ~~[(5)]~~ (4) The State Board of Education shall make a rule providing for a timeline for
428 the opening of a charter school following the approval of a charter school application by a local

429 school board.

430 ~~[(6)]~~ (5) After approval of a charter school application and in accordance with Section
431 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for
432 the operation of the charter school in a written charter agreement.

433 ~~[(7) A local school board shall:]~~

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

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

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

440 ~~[(8)]~~ (6) A local school board may terminate a charter school it authorizes as provided
441 in Sections 53G-5-501 and 53G-5-503.

442 ~~[(9)]~~ (7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202,
443 and 53G-5-407, a charter school authorized by a local school board is:

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

447 (b) exempt from the requirement under Section 53G-5-404 that a charter school shall
448 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation
449 Act.

450 ~~[(10)]~~ (8) Before a local school board accepts a charter school application, the local
451 school board shall, in accordance with State Board of Education rules, establish and make
452 public the local school board's:

453 (a) application requirements, in accordance with Section 53G-5-302;

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

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

456 Section 9. Section 53G-5-306 is amended to read:

457 **53G-5-306. Charter schools authorized by a board of trustees of a higher**
458 **education institution -- Application process -- Board of trustees responsibilities.**

459 (1) ~~[Subject to the approval of the State Board of Education and except]~~ Except as

460 provided in Subsection [(8)] (6), an applicant identified in Section [53G-5-302](#) may enter into
461 an agreement with a board of trustees of a higher education institution authorizing the applicant
462 to establish and operate a charter school.

463 (2) (a) An applicant applying for authorization from a board of trustees to establish and
464 operate a charter school shall provide a copy of the application to the State Charter School
465 Board and the local school board of the school district in which the proposed charter school
466 will be located either before or at the same time the applicant files the application with the
467 board of trustees.

468 (b) The State Charter School Board and the local school board may review the
469 application and offer suggestions or recommendations to the applicant or the board of trustees
470 before acting on the application.

471 (c) The board of trustees shall give due consideration to suggestions or
472 recommendations made by the State Charter School Board or the local school board under
473 Subsection (2)(b).

474 [~~(3)(a) If a board of trustees approves an application to establish and operate a charter
475 school, the board of trustees shall submit the application to the State Board of Education.]~~

476 [~~(b) The State Board of Education shall, by majority vote, within 60 days of receipt of
477 the application, approve or deny an application approved by a board of trustees.]~~

478 [~~(c) The State Board of Education's action under Subsection (3)(b) is final action
479 subject to judicial review.]~~

480 [(4)] (3) The State Board of Education shall make a rule providing a timeline for the
481 opening of a charter school following the approval of a charter school application by a board of
482 trustees.

483 [(5)] (4) After approval of a charter school application, the applicant and the board of
484 trustees shall set forth the terms and conditions for the operation of the charter school in a
485 written charter agreement.

486 [(6)] (5) (a) The school's charter may include a provision that the charter school pay an
487 annual fee for the board of trustees' costs in providing oversight of, and technical support to,
488 the charter school in accordance with [~~Subsection (7)]~~ Section [53G-5-205](#).

489 (b) In the first two years that a charter school is in operation, an annual fee described in
490 Subsection [(6)] (5)(a) may not exceed the product of 3% of the revenue the charter school

491 receives from the state in the current fiscal year.

492 (c) Beginning with the third year that a charter school is in operation, an annual fee
493 described in Subsection ~~[(6)]~~ (5)(a) may not exceed the product of 1% of the revenue a charter
494 school receives from the state in the current fiscal year.

495 (d) An annual fee described in Subsection ~~[(6)]~~ (5)(a) shall be:

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

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

498 ~~[(7) A board of trustees shall:]~~

499 ~~[(a) annually review and evaluate the performance of charter schools authorized by the~~
500 ~~board of trustees and hold the schools accountable for their performance;]~~

501 ~~[(b) monitor charter schools authorized by the board of trustees for compliance with~~
502 ~~federal and state laws, rules, and regulations; and]~~

503 ~~[(c) provide technical support to charter schools authorized by the board of trustees to~~
504 ~~assist them in understanding and performing their charter obligations.]~~

505 ~~[(8)]~~ (6) (a) In addition to complying with the requirements of this section, a technical
506 college board of directors described in Section 53B-2a-108 shall obtain the approval of the
507 Utah System of Technical Colleges Board of Trustees before entering into an agreement to
508 establish and operate a charter school.

509 (b) If a technical college board of directors approves an application to establish and
510 operate a charter school, the technical college board of directors shall submit the application to
511 the Utah System of Technical Colleges Board of Trustees.

512 (c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote,
513 within 60 days of receipt of an application described in Subsection ~~[(8)]~~ (6)(b), approve or deny
514 the application.

515 (d) The Utah System of Technical Colleges Board of Trustees may deny an application
516 approved by a technical college board of directors if the proposed charter school does not
517 accomplish a purpose of charter schools as provided in Section 53G-5-104.

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

521 (i) an enrollment decline;

522 (ii) a decrease in funding; or

523 (iii) a modification of programs or services.

524 ~~[(9)]~~ (7) (a) Subject to the requirements of this chapter and other related provisions, a
525 technical college board of directors may establish:

526 (i) procedures for submitting applications to establish and operate a charter school; or

527 (ii) criteria for approval of an application to establish and operate a charter school.

528 (b) The Utah System of Technical Colleges Board of Trustees may not establish policy
529 governing the procedures or criteria described in Subsection ~~[(9)]~~ (7)(a).

530 ~~[(10)]~~ (8) Before a technical college board of directors accepts a charter school
531 application, the technical college board of directors shall, in accordance with State Board of
532 Education rules, establish and make public:

533 (a) application requirements, in accordance with Section 53G-5-302;

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

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

536 Section 10. Section 53G-5-409 is amended to read:

537 **53G-5-409. Regulated transactions and relationships -- Definitions --**

538 **Rulemaking.**

539 (1) As used in this section:

540 (a) "Charter school officer" means:

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

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

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

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

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

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

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

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

- 555 (i) disclose the relationship, in writing, to the other charter school officers;
- 556 (ii) submit the employment decision to the charter school's governing board for the
557 approval, by majority vote, of the charter school's governing board;
- 558 (iii) abstain from voting on the issue; and
- 559 (iv) be absent from [~~any~~] the portion of the meeting [~~when~~] where the employment is
560 being considered and determined.

561 (3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a
562 relative of a charter school officer may not have a financial interest in a contract or other
563 transaction involving a charter school in which the charter school officer serves as a charter
564 school officer.

565 (b) If a charter school's governing board considers entering into a contract or executing
566 a transaction in which a charter school officer or a relative of a charter school officer has a
567 financial interest, the charter school officer shall:

- 568 (i) disclose the financial interest, in writing, to the other charter school officers;
- 569 (ii) submit the contract or transaction decision to the charter school's governing board
570 for the approval, by majority vote, of the charter school's governing board;
- 571 (iii) abstain from voting on the issue; and
- 572 (iv) be absent from [~~any~~] the portion of the meeting [~~when~~] where the contract or
573 transaction is being considered and determined.

574 (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of
575 employment for:

- 576 (i) the chief administrative officer of a charter school; or
- 577 (ii) a relative of the chief administrative officer of a charter school whose employment
578 is approved in accordance with the provisions in Subsection (2).

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

581 Section 11. Section **53G-5-502** is amended to read:

582 **53G-5-502. Voluntary school improvement process.**

583 (1) As used in this section, "high performing charter school" means a charter school

584 that:

585 (a) satisfies all requirements of state law and State Board of Education rules;

586 (b) has operated for at least three years meeting the terms of the school's charter
587 agreement; and

588 ~~[(c) has students performing at or above the academic performance standard in the
589 school's charter agreement.]~~

590 (c) is in good standing with the charter school's authorizer.

591 (2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the
592 charter school's authorizer to place the school in a school improvement process.

593 (b) A governing board shall provide notice and a hearing on the governing board's
594 intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled
595 in the charter school.

596 (3) An authorizer may grant a governing board's request to be placed in a school
597 improvement process if the governing board has provided notice and a hearing under
598 Subsection (2)(b).

599 (4) An authorizer that has entered into a school improvement process with a governing
600 board shall:

601 (a) enter into a contract with the governing board on the terms of the school
602 improvement process;

603 (b) notify the State Board of Education that the authorizer has entered into a school
604 improvement process with the governing board;

605 (c) make a report to a committee of the State Board of Education regarding the school
606 improvement process; and

607 (d) notify the Utah Charter School Finance Authority that the authorizer has entered
608 into a school improvement process with the governing board if the charter school is a
609 qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter
610 School Credit Enhancement Program.

611 (5) Upon notification under Subsection (4)(b), and after the report described in
612 Subsection (4)(c), the State Board of Education shall notify charter schools and the school
613 district in which the charter school is located that the governing board has entered into a school
614 improvement process with the charter school's authorizer.

615 (6) A high performing charter school or the school district in which the charter school
616 is located may apply to the governing board to assume operation and control of the charter
617 school that has been placed in a school improvement process.

618 (7) A governing board that has entered into a school improvement process shall review
619 applications submitted under Subsection (6) and submit a proposal to the charter school's
620 authorizer to:

621 (a) terminate the school's charter, notwithstanding the requirements of Section
622 [53G-5-503](#); and

623 (b) transfer operation and control of the charter school to:

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

625 (ii) a high performing charter school.

626 (8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer
627 may:

628 (a) approve a governing board's proposal under Subsection (7); or

629 (b) (i) deny a governing board's proposal under Subsection (7); and

630 (ii) (A) terminate the school's charter in accordance with Section [53G-5-503](#);

631 (B) allow the governing board to submit a revised proposal; or

632 (C) take no action.

633 (9) An authorizer may not take an action under Subsection (8) for a qualifying charter
634 school with outstanding bonds issued in accordance with Part 6, Charter School Credit
635 Enhancement Program, without mutual agreement of the Utah Charter School Finance
636 Authority and the authorizer.

637 (10) (a) An authorizer that intends to transfer operation and control of a charter school
638 as described in Subsection (7)(b) shall request approval from the State Board of Education.

639 (b) (i) The State Board of Education shall consider an authorizer's request under
640 Subsection (10)(a) within 30 days of receiving the request.

641 (ii) If the State Board of Education denies an authorizer's request under Subsection
642 (10)(a), the authorizer may not transfer operation and control of the charter school as described
643 in Subsection (7)(b).

644 (iii) If the State Board of Education does not take action on an authorizer's request
645 under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to

646 transfer operation and control of the charter school as described in Subsection (7)(b).

647 Section 12. Section **53G-5-503** is amended to read:

648 **53G-5-503. Termination of a charter.**

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

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

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

653 ~~[(c) subject to Subsection (8), failure to make adequate yearly progress under the No~~

654 ~~Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;~~]

655 ~~[(d)]~~ (c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3,
656 School Turnaround and Leadership Development; and

657 (ii) failure to improve the school's grade under the conditions described in Title 53E,
658 Chapter 5, Part 3, School Turnaround and Leadership Development;

659 ~~[(e)]~~ (d) violation of requirements under this chapter or another law; or

660 ~~[(f)]~~ (e) other good cause shown.

661 (2) (a) The authorizer shall notify the following of the proposed termination in writing,
662 state the grounds for the termination, and stipulate that the governing board may request an
663 informal hearing before the authorizer:

664 (i) the governing board of the charter school; and

665 (ii) if the charter school is a qualifying charter school with outstanding bonds issued in
666 accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School
667 Finance Authority.

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

671 (c) If the authorizer, by majority vote, approves a motion to terminate a charter school,
672 the governing board of the charter school may appeal the decision to the State Board of
673 Education.

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

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

677 (e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school
678 with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement
679 Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or
680 more after notifying the following of the proposed termination:

- 681 (A) the governing board of the qualifying charter school; and
- 682 (B) the Utah Charter School Finance Authority.

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

686 (3) An authorizer may not terminate the charter of a qualifying charter school with
687 outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement
688 Program, without mutual agreement of the Utah Charter School Finance Authority and the
689 authorizer.

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

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

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

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

- 701 (a) the school district where the charter school is located;
- 702 (b) the governing board of another charter school; or
- 703 (c) a private management company.

704 (7) (a) If a charter is terminated, a student who attended the school may apply to and
705 shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3,
706 School District Residency, subject to space availability.

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

708 ~~[(8) Subject to the requirements of Subsection (3), an authorizer may terminate a~~
709 ~~charter pursuant to Subsection (1)(c) under the same circumstances that local educational~~
710 ~~agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec.~~
711 ~~6316.]~~

712 Section 13. Section **53G-5-504** is amended to read:

713 **53G-5-504. Charter school closure.**

714 (1) If a charter school is closed for any reason, including the termination of a charter in
715 accordance with Section **53G-5-503** or the conversion of a charter school to a private school,
716 the provisions of this section apply.

717 (2) A decision to close a charter school is made:

718 (a) when a charter school authorizer approves a motion to terminate described in
719 Subsection **53G-5-503(2)(c)**;

720 (b) when the State Board of Education takes final action described in Subsection
721 **53G-5-503(2)(d)(ii)**; or

722 (c) when a charter school provides notice to the charter school's authorizer that the
723 charter school is relinquishing the charter school's charter.

724 (3) (a) No later than 10 days after the day on which a decision to close a charter school
725 is made, the charter school shall:

726 (i) provide notice to the following, in writing, of the decision:

727 (A) if the charter school made the decision to close, the charter school's authorizer;

728 (B) the State Charter School Board;

729 (C) if the State Board of Education did not make the decision to close, the State Board
730 of Education;

731 (D) parents of students enrolled at the charter school;

732 (E) the charter school's creditors;

733 (F) the charter school's lease holders;

734 (G) the charter school's bond issuers;

735 (H) other entities that may have a claim to the charter school's assets;

736 (I) the school district in which the charter school is located and other charter schools
737 located in that school district; and

738 (J) any other person that the charter school determines to be appropriate; and

- 739 (ii) post notice of the decision on the Utah Public Notice Website, created in Section
740 63F-1-701.
- 741 (b) The notice described in Subsection (3)(a) shall include:
- 742 (i) the proposed date of the charter school closure;
- 743 (ii) the charter school's plans to help students identify and transition into a new school;
- 744 and
- 745 (iii) contact information for the charter school during the transition.
- 746 (4) ~~[After a decision to close a charter school is made]~~ No later than 10 days after the
747 day on which a decision to close a charter school is made, the closing charter school shall:
- 748 (a) designate a custodian for the protection of student files and school business records;
- 749 (b) ~~[maintain]~~ designate a base of operation that will be maintained throughout the
750 charter school closing, including:
- 751 (i) an office;
- 752 (ii) hours of operation;
- 753 (iii) operational telephone service with voice messaging stating the hours of operation;
- 754 and
- 755 (iv) a designated individual to respond to questions or requests during the hours of
756 operation;
- 757 (c) assure that the charter school will maintain insurance coverage and risk
758 management coverage throughout the transition to closure and for a period following closure of
759 the charter school as specified by the charter school's authorizer;
- 760 (d) assure that the charter school will complete by the set deadlines for all fiscal years
761 in which funds are received or expended by the charter school a financial audit [or] and any
762 other procedure required by board rule [immediately after the decision to close is made];
- 763 (e) inventory all assets of the charter school; and
- 764 (f) list all creditors of the charter school and specifically identify secured creditors and
765 assets that are security interests.
- 766 (5) The closing charter school's authorizer shall oversee the closing charter school's
767 compliance with Subsection (4).
- 768 (6) (a) A closing charter school shall return any assets remaining, after all liabilities
769 and obligations of the closing charter school are paid or discharged, to the closing charter

770 school's authorizer.

771 (b) The closing charter school's authorizer shall liquidate assets at fair market value or
772 assign the assets to another public school.

773 (7) The closing charter school's authorizer shall oversee liquidation of assets and
774 payment of debt in accordance with board rule.

775 (8) The closing charter school shall:

776 (a) comply with all state and federal reporting requirements; and

777 (b) submit all documentation and complete all state and federal reports required by the
778 closing charter school's authorizer or the State Board of Education, including documents to
779 verify the closing charter school's compliance with procedural requirements and satisfaction of
780 all financial issues.

781 (9) When the closing charter school's financial affairs are closed out and dissolution is
782 complete, the authorizer shall ensure that a final audit of the charter school is completed.

783 (10) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah
784 Administrative Rulemaking Act, the State Board of Education shall, after considering
785 suggestions from charter school authorizers, make rules that:

786 (a) provide additional closure procedures for charter schools; and

787 (b) establish a charter school closure process.

788 Section 14. **Effective date.**

789 This bill takes effect on January 1, 2019.