

## HB0242S03 compared with HB0242S02

~~text~~ shows text that was in HB0242S02 but was deleted in HB0242S03.

text shows text that was not in HB0242S02 but was inserted into HB0242S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jefferson Moss proposes the following substitute bill:

### CHARTER SCHOOL OPERATIONS AND SCHOOL ACCOUNTING

#### AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: ~~\_\_\_\_\_~~ Daniel McCay

---

---

#### LONG TITLE

##### General Description:

This bill amends certain provisions related to school accounting methods, and the approval, oversight, and closure of charter schools by an authorizer.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates an initial review period before a charter school receives ongoing approval from an authorizer;
- ▶ requires a charter school to use the same accounting methods as district schools;
- ▶ requires district schools to use certain accounting methods; and

## HB0242S03 compared with HB0242S02

- ▶ permits authorizers to:
  - request financial documents from a charter school;
  - petition a district court to appoint a receiver for a charter school on certain grounds;
  - transfer operation and control of a charter school to a high performing charter school under certain circumstances; and
  - transfer students from a closing charter school to another charter school.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**53G-4-404**, as last amended by Laws of Utah 2019, Chapters 293 and 324

**53G-5-404**, as last amended by Laws of Utah 2019, Chapters 83 and 293

**53G-5-405**, as last amended by Laws of Utah 2019, Chapters 293 and 505

**53G-5-501**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-502**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-503**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-504**, as last amended by Laws of Utah 2019, Chapter 293

#### ENACTS:

**53G-5-307**, Utah Code Annotated 1953

---

---

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

Section 1. Section **53G-4-404** is amended to read:

**53G-4-404. Annual financial report -- Audit report.**

(1) (a) The annual financial report of each school district, containing items required by law or by the state board and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.

(b) A school district shall use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

## HB0242S03 compared with HB0242S02

(i) generally accepted accounting principles;

(ii) financial reporting requirements established by the state board under Section 53E-3-501; and

(iii) accounting report standards established by the state auditor as described in Section 51-2a-301.

(2) If auditors are employed under Section 51-2a-201, the auditors shall complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.

(3) (a) (i) The district shall forward the annual financial report to the state superintendent not later than October 1.

(ii) The report shall include information to enable the state superintendent to complete the statement of funds required under Section 53E-1-203.

(b) The state board shall publish electronically a copy of the report on the Internet not later than January 15.

(4) The completed audit report shall be delivered to the school district local school board and the state superintendent not later than November 30 of each year.

Section 2. Section **53G-5-307** is enacted to read:

### **53G-5-307. Charter school authorization -- Initial review period.**

(1) An authorizer shall grant a charter school approved under this title initial approval for a three-year review period, beginning with the first year of the charter school's operation.

(2) Beginning in the first year of the initial review period, the authorizer shall comply with the accountability and review procedures described in Section 53G-5-406.

(3) The authorizer may extend the initial review period for one year, up to two times during the initial review period.

(4) At the end of the initial review period, the authorizer shall:

(a) grant the charter school ongoing approval; or

(b) terminate the charter agreement, subject to the requirements of Section 53G-5-503.

(5) The authorizer shall, under the minimum standards described in Section 53G-5-205, base the decision to grant ongoing approval or terminate the charter agreement on:

(a) the charter school's compliance with the terms of the charter agreement;

(b) whether the charter school is meeting academic standards in the charter school's

## HB0242S03 compared with HB0242S02

charter agreement;

(c) the charter school's financial viability; and

(d) the charter school's capacity to meet governance standards.

(6) A charter school that is granted initial approval under this section may not participate in the Charter School Credit Enhancement Program until the authorizer grants ongoing approval of the charter school's charter.

Section 3. Section **53G-5-404** is amended to read:

### **53G-5-404. 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:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;  
[and]

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501[-]; and

(iii) use fund ~~{, program,}~~ and ~~{sub-program}~~ program accounting methods and standardized account codes capable of producing financial reports that comply with:

(A) generally accepted accounting principles;

(B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and

(C) accounting report standards established by the state auditor as described in Section 51-2a-301.

(b) Before, and as a condition for opening a charter school:

(i) a charter school shall:

(A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or

## HB0242S03 compared with HB0242S02

(B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and

(ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).

~~[(b)]~~ (c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.

(b) To measure the performance of a charter school, 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 agreement.

(c) A charter school authorizer may not impose performance 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 53G-5-104 or as otherwise provided in law.

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

(7) Except as provided in Section 53G-5-305, 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[-], including:

(a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school under Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the

## HB0242S03 compared with HB0242S02

charter school.

(9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, 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's facilities to the school's authorizer and an attorney for review and advice [~~prior to~~] before the charter school [~~entering into~~] enters the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license [~~has been~~] is suspended or revoked by the state board under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(12) (a) As used in this Subsection (12), "contracting entity" means a person with which a charter school contracts.

(b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:

(i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or

(ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(c) A charter school shall comply with a request described in Subsection (12)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.

(d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.

(e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial

## HB0242S03 compared with HB0242S02

compliance with federal or state law, are the property of the charter school.

Section 4. Section **53G-5-405** is amended to read:

### **53G-5-405. Application of statutes and rules to charter schools.**

(1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2) (a) Except as provided in Subsection (2)(b), state board rules governing the following do not apply to a charter school:

- (i) school libraries;
- (ii) required school administrative and supervisory services; and
- (iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

~~[(a) Section 53G-7-1202, requiring the establishment of a school community council;]~~

~~[(b) Section 53G-4-409, requiring the use of activity disclosure statements;]~~

~~[(c) Section 53G-7-606, requiring notification of intent to dispose of textbooks;]~~

~~[(d) Section 53G-10-404, requiring annual presentations on adoption;]~~

~~[(e) Sections 53G-7-304 and 53G-7-306 pertaining to fiscal procedures of school districts and local school boards; and]~~

~~[(f) Section 53E-4-408, requiring an independent evaluation of instructional materials.]~~

(a) Section 53E-4-408, requiring an independent evaluation of instructional materials;

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;

(d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;

(e) Section 53G-7-1202, requiring the establishment of a school community council;

and

(f) Section 53G-10-404, requiring annual presentations on adoption.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter

## HB0242S03 compared with HB0242S02

school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.

(ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 5. Section **53G-5-501** is amended to read:

### **53G-5-501. Noncompliance -- Rulemaking.**

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the 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 53G-5-503(4):

(a) the charter school governing board; and

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

(2) (a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

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

~~[(i)]~~ (A) remove a charter school director or finance officer;

~~[(ii)]~~ (B) remove a charter school governing board member; ~~[(or)]~~

~~[(iii)]~~ (C) appoint an interim director ~~[(or)]~~, mentor, or finance officer to work with the

## HB0242S03 compared with HB0242S02

charter school; or

(D) appoint a governing board member;

~~[(b)]~~ (ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement[-]; or

(iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.

(b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.

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

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in ~~[Subsections]~~ Subsection (2)(a)(i) ~~[through (iii)]~~ if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) The state board 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 agreement.

(6) (a) An authorizer may petition the district court where a charter school is located or incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer establishes that the charter school:

(i) is subject to closure under Section 53G-5-503; and

(ii) (A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or

(B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.

(b) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

(c) Among other duties ordered by the court, the receiver shall:

## HB0242S03 compared with HB0242S02

- (i) ensure the protection of the charter school's assets;
- (ii) preserve money owed to creditors; and
- (iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.
- (d) If the authorizer does not request, or the court does not appoint, a receiver:
  - (i) the authorizer may reconstitute the governing board of a charter school; or
  - (ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.
- (e) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:
  - (i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);
  - (ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or
  - (iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

Section 6. Section **53G-5-502** is amended to read:

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

- (1) As used in this section<sup>[7]</sup>:
  - (a) "[~~high~~] High performing charter school" means a charter school that:
    - ~~[(a)]~~ (i) satisfies all requirements of state law and state board rules;
    - ~~[(b)]~~ (ii) has operated for at least three years meeting the terms of the school's charter agreement; and
    - ~~[(c)]~~ (iii) is in good standing with the charter school's authorizer.
  - (b) "Low performing charter school" means a charter school that is designated a low performing school, as that term is defined in Section 53E-5-301.
  - (c) "School turnaround plan" means the same as that term is defined in Section 53E-5-301.

(2) (a) Subject to Subsection (2)(b), a charter school governing board may voluntarily request the charter school's authorizer to place the charter school, including a low performing charter school that has a school turnaround plan, in a school improvement process.

## **HB0242S03 compared with HB0242S02**

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

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

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

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

(b) notify the state board that the authorizer has entered into a school improvement process with the charter school governing board;

(c) make a report to a committee of the state board regarding the school improvement process; and

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

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

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

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

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

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

## HB0242S03 compared with HB0242S02

- (i) the school district in which the charter school is located; or
- (ii) a high performing charter school.

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

- (a) approve a charter school governing board's proposal under Subsection (7); or
- (b) (i) deny a charter school governing board's proposal under Subsection (7); and
- (ii) (A) terminate the school's charter agreement in accordance with Section

53G-5-503;

- (B) allow the charter school governing board to submit a revised proposal; or
- (C) take no action.

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

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

(b) (i) The state board shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the state board denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the state board does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

(11) If operation and control of a low performing charter school that has a school turnaround plan is transferred to a high performing charter school as described in Subsection (7)(b), the low performing charter school shall complete the requirements of the school turnaround plan and any other requirements imposed by the authorizer for school improvement.

Section 7. Section **53G-5-503** is amended to read:

### **53G-5-503. Termination of a charter agreement.**

(1) Subject to the requirements of Subsection (3), a charter school authorizer may

## HB0242S03 compared with HB0242S02

terminate a school's charter agreement for any of the following reasons:

- (a) failure of the charter school to meet the requirements stated in the charter agreement;
- (b) failure to meet generally accepted standards of fiscal management;
- (c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and  
(ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;
- (d) violation of requirements under this chapter or another law; or
- (e) other good cause shown.

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

- (i) the charter school governing board; and
- (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the 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 authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board may appeal the decision to the state board.

(d) (i) The state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The state board's action is final action subject to judicial review.

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

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

## HB0242S03 compared with HB0242S02

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

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

(4) (a) The state board 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.

(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 authorizer may terminate a charter agreement 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 agreement 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 where the charter school is located;
- (b) the charter school governing board of another charter school; [~~or~~]
- (c) a private management company[~~;~~]; or
- (d) the governing board of a nonprofit corporation.

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

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

Section 8. Section **53G-5-504** is amended to read:

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

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (12)(a), to accept enrollment applications from students of a closing charter school.

[~~(1)~~] (2) If a charter school is closed for any reason, including the termination of a

## HB0242S03 compared with HB0242S02

charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

~~[(2)]~~ (3) A decision to close a charter school is made:

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

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii);  
or

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

~~[(3)]~~ (4) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

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

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

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

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

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

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

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

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

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The notice described in Subsection ~~[(3)]~~ (4)(a) shall include:

(i) the proposed date of the charter school closure;

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

and

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

~~[(4)]~~ (5) No later than 10 days after the day on which a decision to close a charter

## HB0242S03 compared with HB0242S02

school is made, the closing charter school shall:

- (a) designate a custodian for the protection of student files and school business records;
- (b) designate a base of operation that will be maintained throughout the charter school

closing, including:

- (i) an office;
- (ii) hours of operation;
- (iii) operational telephone service with voice messaging stating the hours of operation;

and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage [~~and~~] or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

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

~~[(5)]~~ (6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection ~~[(4)]~~ (5).

~~[(6)]~~ (7) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

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

~~[(7)]~~ (8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

~~[(8)]~~ (9) The closing charter school shall:

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

## HB0242S03 compared with HB0242S02

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

~~[(9)]~~ (10) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

~~[(10)]~~ (11) On or before January 1, 2017, the state board shall, after considering suggestions from charter school authorizers, make rules that:

- (a) provide additional closure procedures for charter schools; and
- (b) establish a charter school closure process.

(12) (a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).

(c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.

(13) Notwithstanding the provisions of Title 53G, Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i) (A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications

## **HB0242S03 compared with HB0242S02**

from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (12).

(14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (12).