

## HB0301S02 compared with HB0301S01

~~text~~ shows text that was in HB0301S01 but was deleted in HB0301S02.

text shows text that was not in HB0301S01 but was inserted into HB0301S02.

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**Representative Karianne Lisonbee** proposes the following substitute bill:

### **CHARTER SCHOOL ACCOUNTABILITY AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: \_\_\_\_\_

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#### **LONG TITLE**

##### **General Description:**

This bill amends provisions of the charter school code.

##### **Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends the State Charter School Board compilation;
- ▶ amends certain charter school performance measures;
- ▶ requires the State Charter School Board to create bylaws;
- ▶ amends certain charter school accountability measures;
- ▶ replaces the State Charter School Board duties regarding certain application requests with charter school authorizers;
- ▶ allows charter schools found in noncompliance of certain requirements opportunity

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for a review of evidence of noncompliance before the charter school authorizer;

- ▶ amends provisions regarding transfer of operations from a terminated charter school to certain other entities; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

**53G-5-102**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1

**53G-5-104**, as renumbered and amended by Laws of Utah 2018, Chapter 3

**53G-5-201**, as last amended by Laws of Utah 2020, Chapter 352

**53G-5-202**, as last amended by Laws of Utah 2021, Chapter 439

**53G-5-203**, as last amended by Laws of Utah 2021, Chapter 345

**53G-5-204**, as renumbered and amended by Laws of Utah 2018, Chapter 3

**53G-5-205**, as last amended by Laws of Utah 2023, Chapter 235

**53G-5-301**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-302**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-303**, as last amended by Laws of Utah 2022, Chapters 291, 352

**53G-5-304**, as last amended by Laws of Utah 2020, Chapter 408

**53G-5-305**, as last amended by Laws of Utah 2019, Chapter 293

**53G-5-306**, as last amended by Laws of Utah 2021, Chapter 324

**53G-5-307**, as enacted by Laws of Utah 2020, Chapter 192

**53G-5-401**, as renumbered and amended by Laws of Utah 2018, Chapter 3

**53G-5-404**, as last amended by Laws of Utah 2023, Chapter 352

**53G-5-406**, as last amended by Laws of Utah 2020, Chapter 408

**53G-5-413**, as last amended by Laws of Utah 2019, Chapter 136

**53G-5-501**, as last amended by Laws of Utah 2023, Chapter 54

**53G-5-502**, as last amended by Laws of Utah 2020, Chapter 192

**53G-5-503**, as last amended by Laws of Utah 2023, Chapter 164

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53G-5-504, as last amended by Laws of Utah 2023, Chapters 54, 435

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

Section 1. Section **53G-5-102** is amended to read:

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

As used in this chapter:

(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) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

~~[(2) "Board of trustees of a]~~

(3) "Institution of higher education [institution] board of trustees" or "board of trustees" means:

- (a) the board of trustees of:
  - (i) the University of Utah;
  - (ii) Utah State University;
  - (iii) Weber State University;
  - (iv) Southern Utah University;
  - (v) Snow College;
  - (vi) Utah Tech University;
  - (vii) Utah Valley University; or
  - (viii) Salt Lake Community College; ~~[or]~~
- (b) a technical college board of trustees described in Section 53B-2a-108~~[:];~~ or

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(c) a board of trustees of a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

~~[(3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.]~~

Section 2. Section **53G-5-104** is amended to read:

### **53G-5-104. Purpose of charter schools.**

The purposes of the state's charter schools ~~[as a whole]~~ are to enhance school choice, meet the unique needs of Utah families, and encourage innovation within the public education system by:

- (1) ~~[continue]~~ continuing to improve student learning;
- (2) ~~[encourage]~~ encouraging the use of different and innovative teaching methods;
- (3) ~~[create]~~ creating new professional opportunities for educators that ~~[will]~~ allow ~~[them]~~ educators to actively participate in designing and implementing ~~[the]~~ learning ~~[program]~~ programs at the school;
- (4) ~~[increase]~~ increasing choice of learning opportunities for students;
- (5) ~~[establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools]~~ establishing new educational models and new forms of accountability that emphasize unique performance measures and innovative measurement tools to measure education outcomes;
- (6) ~~[provide]~~ providing opportunities for greater parental involvement in ~~[management and]~~ governance decisions at the school level; ~~[and]~~
- (7) ~~[expand]~~ expanding public school choice in areas where there is a lack of school choice or where schools have been identified for school improvement, corrective action, or restructuring ~~[under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.]; and~~
- (8) collaborating within the public education system.

Section 3. Section **53G-5-201** is amended to read:

### **53G-5-201. State Charter School Board created.**

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

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(2) (a) ~~[The]~~ This section creates the State Charter School Board.

~~(b) [is created consisting of the following members appointed by the governor with]~~  
With the advice and consent of the Senate, the governor shall appoint seven individuals to serve on the State Charter School Board to consist of:

(i) one member who has expertise in finance ~~[or]~~, small business management, law, or public policy;

(ii) ~~three~~ four members who:

(A) are nominated by an organization that represents Utah's charter schools; ~~[and]~~

(B) have expertise or experience in developing or administering a charter school; and

~~two members~~ one member who ~~[are]~~ is nominated by the state board; ~~and~~

~~one member]~~

~~two members who~~ two members who ~~[(A) has]~~ have expertise in ~~[personalized learning,~~  
including digital teaching and learning or deliberate practice, and ~~(B) supports]~~ innovation in education.

~~(c)~~ (c) Each appointee shall ~~[have demonstrated]~~ demonstrate support and dedication to the purposes of charter schools as ~~[outlined]~~ described in Section 53G-5-104.

~~(d)~~ (d) At least two candidates shall be nominated for each appointment made under Subsection ~~[(2)(a)(ii) or (iii)]~~ (2)(b)(ii).

~~(e)~~ (e) The governor may seek nominations for a prospective appointment under Subsection ~~[(2)(a)(ii)]~~ (2)(b)(ii) from one or more organizations that represent Utah's charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term, in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall ~~[annually elect a chair from its membership]~~ create bylaws to govern the State Charter School Board operations.

(b) Four members of the State Charter School Board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the State

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Charter School Board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106[~~;~~(b)] ~~§~~ and Section 63A-3-107; and

~~[(c)] (b) rules [made by] that~~ the Division of Finance ~~[pursuant to]~~ makes in accordance with Sections 63A-3-106 and 63A-3-107.

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

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

(1) The State Charter School Board may:

(a) enter into contracts;

(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.

(2) The state board shall:

(a) approve ~~[the annual budget and expenditures of]~~ the State Charter School ~~[Board]~~ Board's annual budget; and

(b) otherwise grant autonomy to the State Charter School Board to manage the State Charter School Board's budget.

Section 5. Section **53G-5-203** is amended to read:

### **53G-5-203. State Charter School Board -- Staff director -- Facilities.**

(1) (a) The State Charter School Board~~[, with the consent of the state superintendent,]~~ shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director ~~[with the consent of the state superintendent].~~

(c) The position of staff director is exempt from the career service provisions of Title 63A, Chapter 17, Utah State Personnel Management Act.

(2) The state superintendent shall provide space for ~~[staff of the]~~ State Charter School Board staff in facilities occupied by the state board or the state board's employees, with costs charged for the facilities equal to those charged to other sections and divisions under the state

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board.

(3) Notwithstanding Subsection (2), the State Charter School Board may use facilities for State Charter School Board operations other than facilities that the state board or the state board's employees occupy.

Section 6. Section **53G-5-204** is amended to read:

### **53G-5-204. Charter school innovative practices -- Report to State Charter School Board.**

~~[Prior to]~~

(1) On or before July 31 of each year, a charter school may identify and report to the State Charter School Board ~~[its]~~ the charter school's innovative practices which fulfill the purposes of charter schools as ~~[outlined]~~ described in Section 53G-5-104, including:

~~[(1)]~~ (a) unique learning opportunities providing increased choice in education;

~~[(2)]~~ (b) new public school models;

~~[(3)]~~ (c) innovative teaching practices;

~~[(4)]~~ (d) opportunities for educators to actively participate in the design and implementation of the learning program;

~~[(5)]~~ (e) new forms of accountability emphasizing ~~[the measurement of learning outcomes and the creation of new]~~ measurement tools in measuring education outcomes;

~~[(6)]~~ (f) opportunities for greater parental involvement, including involvement in ~~[management]~~ governance decisions; and

~~[(7)]~~ (g) the impact of the innovative practices on student achievement.

(2) The Charter School Board may forward the report received under Subsection (1) to the state board.

Section 7. Section **53G-5-205** is amended to read:

### **53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.**

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

(a) the State Charter School Board;

(b) a local school board; or

(c) ~~[a board of trustees of an institution in the state system of higher education as described]~~ an institution of higher education board of trustees, as that term is defined in Section

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[53B-1-102; or] 53G-5-102.

~~[(d) a board of trustees of a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.]~~

(2) A charter school authorizer shall:

(a) authorize and promote the establishment of charter schools;

(b) before an application for charter school authorization is submitted to a charter school authorizer, review and evaluate the proposal to support and strengthen the charter school authorization proposal;

(c) [annually] review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the [school's] performance measures established in the charter school's charter agreement; [and]

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

(d) assist charter schools in understanding and carrying out the charter school's charter obligations; and

(e) 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; or

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

(3) A charter school authorizer may:

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

~~[(b)] (a) make recommendations to the Legislature on legislation [and rules] pertaining to charter schools [to the Legislature and state board, respectively];~~

~~[(c)] (b) make recommendations to the state board on [the] charter school rules and charter school funding [of charter schools]; or~~

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

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



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~~[(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 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 charter school authorizer; or]~~

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

~~[(e)] (c) provide technical support, as requested, to another charter school authorizer relating to charter schools.~~

(4) Within 60 days after ~~[an authorizer's approval of]~~ the day on which an authorizer approves an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.

(5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when~~[:{ }]~~

~~[(a)]~~ evaluating a charter school application~~[:or]~~.

~~[(b) monitoring charter school compliance.]~~

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

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

(b) a process for an authorizer to review:

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

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

(c) a process for an authorizer to review the financial viability of a proposed charter

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school and of an authorized charter school;

(d) a process to evaluate:

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

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

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

Section 8. Section **53G-5-301** is amended to read:

**53G-5-301. Charter school authorizer to request applications for certain types of charter schools.**

(1) To meet the unique learning styles and needs of students, [~~the State Charter School Board~~] a charter school authorizer shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.

(2) (a) [~~The State Charter School Board~~] A charter school authorizer shall request individuals, groups of individuals, or [~~not-for-profit~~] nonprofit legal entities to submit an application to [~~the State Charter School Board~~] a charter school authorizer to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:

(i) a military charter school;

(ii) a charter school [~~whose mission is to enhance~~] that focuses on learning opportunities for students at risk of academic failure;

(iii) a charter school [~~whose focus is~~] that focuses on career and technical education;

(iv) a single gender charter school; [~~or~~]

(v) a charter school with an international focus that provides opportunities for the exchange of students or teachers~~[-];~~;

(vi) a charter school that focuses on serving underserved students; or

(vii) an alternative charter school offering programs for nontraditional students.

(b) In addition to a charter school identified in Subsection (2)(a), [~~the State Charter School Board~~] a charter school authorizer shall request applications for other types of charter schools that meet the unique learning styles and needs of students.

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(3) [~~The State Charter School Board~~] A charter school authorizer shall publicize a request for applications to establish a charter school specified in Subsection (2).

(4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures [~~specified in~~] in accordance with Section 53G-5-304.

(5) [~~The State Charter School Board~~] A charter school authorizer and the state board may approve one or more applications for each charter school [~~specified~~] described in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as [~~provided~~] described in Section 53G-6-504.

(6) The state board shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Section 9. Section **53G-5-302** is amended to read:

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

(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~~] in accordance with 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 charter school governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of the date of authorization, complete a background check for each member [~~consistent with~~] in accordance with Section 53G-5-408;

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

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- (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
- (iii) the ages or grade levels the school proposes to serve;
  - (e) [~~academic goals~~] the school's unique performance measures, including academic goals;
  - (f) qualifications and policies for school employees, including policies that:
    - (i) comply with the criminal background check requirements [~~described in~~] in accordance with Section 53G-5-408;
    - (ii) require employee evaluations;
    - (iii) address employment of relatives within the charter school; and
    - (iv) address human resource management and ensure that:
      - (A) at least one of the school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and
      - (B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives human resource management training, as defined in Section 17B-1-805;
    - (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 district 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) anticipated financing arrangements;
  - (j) a market analysis of the community the school plans to serve;
  - (k) a business plan;
  - (l) other major issues involving the establishment and operation of the charter school;
- and
- (m) the signatures of the charter school governing board members.

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- (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,~~] the school's performance measures and academic goals, including administering the statewide assessments [~~described~~] as defined in Section 53E-4-301;
  - (c) a proposed calendar;
  - (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.

Section 10. Section **53G-5-303** is amended to read:

### **53G-5-303. Charter agreement -- Content -- Modification.**

~~[(1)]~~ As used in this section:

~~[(2)]~~ (1) (a) "Innovation plan" means the same as that term is defined in Section 53G-7-221.

(b) "Satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.

~~[(3)]~~ (2) 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.

~~[(4)]~~ (3) A charter agreement shall include:

- (a) the name of:
  - (i) the charter school; and
  - (ii) [~~the charter school applicant~~] the entity with whom the charter school authorizer

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### contracts;

(b) the mission statement and purpose of the charter school;  
(c) the charter school's opening date;  
(d) the grade levels the charter school will serve;  
(e) (i) subject to Section 53G-6-504, the maximum number of students a charter school will serve; or

(ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;

(f) a description of the structure of the charter school governing board, including:

(i) the number of charter school governing board members;

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

(iii) charter school governing board members' terms of office;

(g) assurances that:

(i) the charter school governing board will 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 rules;

(ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and

(iii) except as provided in Part 6, 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;

(h) which administrative rules the state board will waive for the charter school;

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

(j) minimum performance standards [~~for student achievement~~]; and

(k) signatures of the charter school authorizer and the charter school governing board members.

~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b)]~~ (4)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter

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agreement without the mutual agreement described in Subsection ~~[(5)(a)]~~ (4)(a) to:

- (i) include an enrollment preference as described in Subsection 53G-6-502(4)(h); or
- (ii) only as described in Subsection 53G-7-221(5), include or remove an innovation plan.

Section 11. Section **53G-5-304** is amended to read:

### **53G-5-304. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited basis 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]~~ will be located either before or at the same time ~~[it]~~ as the applicant files [its] the charter school application with the State Charter School Board.

(b) The local school board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board ~~[prior to its acting]~~ before taking action 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) 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 shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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) After approval of a charter school application and in accordance with Section 53G-5-303, 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 charter agreement.

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

- (a) application requirements, in accordance with Section 53G-5-302;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum ~~for~~ academic, ~~for~~ governance, operational, and financial ~~[, and enrollment]~~ standards.

Section 12. Section **53G-5-305** is amended to read:

### **53G-5-305. Charters authorized by local school boards -- Application process -- Local school board responsibilities.**

(1) (a) An applicant identified in Section 53G-5-302 may 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 of students enrolled at the school ~~[must have signed]~~ shall sign a petition approving the application ~~[prior to its]~~ before 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 of the licensed educators employed at the school and a simple majority of the parents of students enrolled at the school shall sign a petition approving the application before submission to the charter school authorizer.

(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]~~ the teachers qualify within the school district, and, if no positions are open, contract provisions or local school board policy regarding



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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]~~ the school received ~~[prior to its]~~ before the charter school's conversion; or

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

(b) Any other charter school authorized by a local school board may contract with the local school board to receive some or all of the services referred to in Subsection (2)(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) 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 local school board rejects the application, ~~[it]~~ the local school board shall notify the applicant in writing of the reason for the rejection.

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

(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from another authorizer.

(4) The state board 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.

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

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

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

(a) not required to separately submit a report or information required under this public education code to the state board if the information is included in a report or information that is

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submitted by the local school board or school district; and

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

(8) Before a local school board accepts a charter school application, the local school board shall, in accordance with state board rules, establish and make public the local school board's:

- (a) application requirements, in accordance with Section 53G-5-302;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum ~~for~~ academic, ~~for~~ governance, operational, and financial ~~[, and enrollment]~~ standards.

Section 13. Section **53G-5-306** is amended to read:

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

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

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

(b) The local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the local school board under Subsection (2)(b).

(3) The state board 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.

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

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(5) (a) The school's charter agreement 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 Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(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 (5)(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 (5)(a) shall be:

- (i) paid to the [~~board of trustees' higher education institution~~] board of trustees; and
- (ii) expended as directed by the board of trustees.

(6) (a) In addition to complying with the requirements of this section, a technical college board of trustees [~~described~~], as defined in Section 53B-2a-108, shall obtain the approval of the Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of trustees approves an application to establish and operate a charter school, the technical college board of trustees shall submit the application to the Utah Board of Higher Education.

(c) The Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The Utah Board of Higher Education may deny an application approved by a technical college board of trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(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.

(7) (a) Subject to the requirements of this chapter and other related provisions, a

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technical college board of trustees may establish:

- (i) procedures for submitting applications to establish and operate a charter school; or
- (ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of trustees accepts a charter school application, the technical college board of trustees shall, in accordance with state board rules, establish and make public:

- (a) application requirements, in accordance with Section 53G-5-302;
- (b) the application process, including timelines, in accordance with this section; and
- (c) minimum ~~the~~ academic, governance, operational, and financial ~~[-, and enrollment]~~

standards.

Section 14. Section **53G-5-307** is amended 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 accordance with 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]~~ the performance measures in the charter school's charter agreement and minimum academic standards;
- (c) the charter school's financial viability; and
- (d) the charter school's capacity to meet governance standards.

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(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 15. Section **53G-5-401** is amended to read:

### **53G-5-401. Status of charter schools.**

(1) Charter schools are:

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

(b) subject to Subsection 53E-3-401(8); 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~~] district school to charter status.

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

Section 16. Section **53G-5-404** is amended to read:

### **53G-5-404. Requirements for charter schools.**

(1) A charter school shall be nonsectarian in [~~its~~] the charter school's 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;

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

(iii) use fund and 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

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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

(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).

(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 charter 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]~~ the charter school's 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.

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(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed [~~under~~] in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, [~~after its~~] upon the charter school's 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~~] in accordance with Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the 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 before the charter school enters the lease, agreement, or contract.]~~

~~[(10)]~~ (9) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.

~~[(11)]~~ (10) (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)]~~ (10)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:

(i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;

(ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and

(iii) the operating charter school shall:

(A) register on behalf of each affiliated satellite charter school; and

(B) when submitting entity registry information [~~under~~] in accordance with Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry

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information for each affiliated satellite, including the address of each affiliated satellite charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

~~[(12)]~~ (11) (a) As used in this Subsection ~~[(12)]~~ (11), "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)]~~ (11)(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 compliance with federal or state law, are the property of the charter school.

~~[(13)]~~ (12) For each grading period and for each course in which a student is enrolled, a charter school shall issue a grade or performance report to the student:

(a) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(b) in accordance with the charter school's adopted grading or performance standards and criteria.

~~[(14)]~~ (13) (a) As used in this Subsection ~~[(14)]~~ (13):

(i) "Learning material" means any learning material or resource used to deliver or



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support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a charter school governing board adopts and approves for use within the charter school.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class, or another class with required instructional material that is not subject to selection by the charter school governing board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a charter school governing board has not considered and adopted, approved, or prohibited for classroom use within the charter school.

(b) A charter school shall:

(i) make instructional material that the charter school uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the charter school of how to access the information described in Subsection [(14)(b)(i)] (13)(b)(i); and

(iii) include on the charter school's website information about how to access the information described in Subsection [(14)(b)(i)] (13)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a charter school governing board shall:

(i) establish an open process, involving educators and parents of students enrolled in the charter school, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection [(14)(c)(i)] (13)(c)(i), the charter school governing board:

(A) before the public meetings described in Subsection [(14)(c)(ii)(B)] (13)(c)(ii)(B), posts the recommended learning materials online to allow for public review or, for copyrighted material, makes the recommended learning material available at the charter school for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provide an opportunity for educators

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whom the charter school employs and parents of students enrolled in the charter school to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A charter school governing board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If a charter school contracts with another party to provide online or digital materials, the charter school shall include in the contract a requirement that the provider give notice to the charter school any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection [(14)] (13) requires a charter school governing board to review all learning materials used within the charter school.

Section 17. Section **53G-5-406** is amended to read:

### **53G-5-406. Accountability -- Rules.**

The state board shall, after consultation with chartering entities, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) require a charter school to develop an accountability plan, approved by [its] the charter school's charter school authorizer, during [its] the charter school's first year of operation;

(2) require an authorizer to:

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

(i) [its] the charter school's first year of operation; and

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

(b) provide written reports to [its] the authorizer's charter schools after the required visits; and

(3) establish a [review] process that [~~is required of a~~] requires an authorizer to review the authorizer's charter school once every five years [~~by its authorizer~~].

Section 18. Section **53G-5-413** is amended to read:

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### 53G-5-413. Charter school governing board meetings -- Rules of order and procedure.

(1) As used in this section, "rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:

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

(2) A charter school governing board shall:

(a) adopt rules of order and procedure to govern a public meeting of the charter school governing board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public[:].

~~[(i) at each public meeting of the charter school governing board; and]~~

~~[(ii) on the charter school governing board's public website, if available.]~~

(3) The requirements of this section do not affect a charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 19. Section **53G-5-501** is amended to read:

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

(1) ~~(a)~~ If a charter school is found to be materially 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]~~ provide written notice of the reason for the charter school's noncompliance and a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4)[:], to:

~~[(a)]~~ (i) the charter school governing board; and

~~[(b)]~~ (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) The notice described in Subsection (1)(a) shall state that the charter school governing board may request an informal review before the charter school's authorizer to

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present evidence related to the deficiency.

(c) The charter school authorizer shall:

(i) review the evidence within a reasonable time to determine if the charter school has remedied the noncompliance or if the circumstances necessitate additional time for the charter school to remedy the deficiency; and

(ii) if the charter school authorizer determines that circumstances necessitate additional time to remedy the noncompliance, establish a deadline to remedy the noncompliance.

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

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

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

(B) remove a charter school governing board member;

(C) appoint an interim director, mentor, or finance officer to work with the charter school; or

(D) appoint a governing board member;

(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)~~] Section 53G-5-502, 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, mentor, or finance officer appointed under Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working, unless the authorizer chooses to pay all or some of the costs.

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

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Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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]~~ the charter school's 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)]~~ Section 53G-5-403; 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:

(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 liabilities and obligations in accordance with ~~[Subsection 53G-5-504(7)]~~ Section 53G-5-504 and state board rule.

(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:

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

### **53G-5-502. Voluntary school improvement and transfer processes.**

(1) As used in this section:

(a) "High performing charter school" means a charter school that:

- (i) satisfies all requirements of state law and state board rules;
- (ii) has operated for at least three years meeting the terms of the school's charter

agreement; and

(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.

(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

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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:

(i) the school district in which the charter school is located; ~~[or]~~

(ii) ~~[a high performing charter school.]~~ the governing board of another charter school;

(iii) a private management company; or

(iv) the governing board of a nonprofit corporation.

(8) A charter school governing board that has not entered into a school improvement process may voluntarily provide a proposal to the authorizer for consideration of transferring operation and control of the charter school to:

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

(b) the governing board of another charter school;

(c) a private management company; or

(d) the governing board of a nonprofit corporation.

~~[(8)]~~ (9) Except as provided in Subsection ~~[(9)]~~ (10) and subject to Subsection ~~[(10);]~~ (11), an authorizer may:

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- (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)]~~ (10) An authorizer may not take an action under Subsection ~~[(8)]~~ (9) 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)]~~ (11) (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)]~~ (11)(a) within 30 days of receiving the request.

(ii) If the state board denies an authorizer's request under Subsection ~~[(10)(a)]~~ (11)(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)]~~ (11)(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)]~~ (12) 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 21. 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 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;



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(c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Improvement and Leadership Development; and

(ii) failure to improve the school's performance under the conditions described in Title 53E, Chapter 5, Part 3, School Improvement 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~~] the day a written request under Subsection (2)(a) is received.

(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~~] in accordance with 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.

(ii) [~~Prior to~~] Before 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

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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) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of ~~[its]~~ the charter school's 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 charter school is threatened.

(6) If a charter agreement is terminated, 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;
- (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]~~ in accordance with Chapter 6, Part 3, School District Residency, subject to space availability.

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

Section 22. 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.

(2) If a charter school is closed for any reason, including the termination of a 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.

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

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

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

(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)]~~ (B) if the state board did not make the decision to close, the state board;

~~[(D)]~~ (C) parents of students enrolled at the charter school;

~~[(E)]~~ (D) the charter school's creditors;

~~[(F)]~~ (E) the charter school's lease holders;

~~[(G)]~~ (F) the charter school's bond issuers;

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

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

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

(ii) publish notice of the decision for the school district in which the charter school is located, as a class A notice under Section 63G-30-102, for at least 30 days.

(b) The notice described in Subsection (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.

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

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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 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.

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

(7) (a) Unless a different order is determined by a bankruptcy court under 11 U.S.C. Sec. 1001 et seq., a closing charter school shall distribute the assets of the closing charter school in the following order:

(i) return assets donated by a private donor to the private donor if:

(A) the assets were donated for a specific purpose;

(B) the private donor restricted use of the assets to only that specific purpose; and

(C) the closing charter school has assets that have not been used for the specific purpose;

(ii) distribute assets to satisfy outstanding payroll obligations for employees of the closing charter school;

(iii) distribute assets to creditors of the closing charter school; and

(iv) distribute assets to satisfy any outstanding liability or obligation to the state board,

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state, or federal government.

(b) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged consistent with Subsection (7)(a), to the closing charter school's authorizer.

(c) Upon receipt of the assets under Subsection (7)(b), the closing charter school's authorizer shall:

- (i) liquidate assets at fair market value; or
- (ii) assign the assets to another public school.

(d) The closing charter school's authorizer shall oversee liquidation of assets and payment of liabilities and obligations in accordance with this section, Sections 53F-9-307 and 53G-5-501, and state board rule.

(8) The closing charter school shall:

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

(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) 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) [~~On or before January 1, 2017, the~~] The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and 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.

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

(i) notwithstanding provisions [~~to the contrary in~~] of 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

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effective date and time of the dissolution described in Subsection (11)(a).

(c) The effective date and time of dissolution described in Subsection (11)(b) may not exceed five years after the date of the termination of the charter agreement.

(12) Notwithstanding the provisions of 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 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).

(13) 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~~] oneself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (12).

**Section 23. Effective date.**

This bill takes effect on May 1, 2024.