

IN THE SENATE

SENATE BILL NO. 1376

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202A, IDAHO CODE,  
2 TO DEFINE TERMS AND TO REVISE A DEFINITION; AMENDING SECTION 33-5203,  
3 IDAHO CODE, TO PROVIDE AN ADDITIONAL WAY TO FORM A PUBLIC CHARTER SCHOOL  
4 AND TO SPECIFY THAT A CHARTER HOLDER MAY NOT OPERATE ENTERPRISES OTHER  
5 THAN THE PUBLIC CHARTER SCHOOLS FOR WHICH IT HAS BEEN AUTHORIZED;  
6 AMENDING SECTION 33-5204, IDAHO CODE, TO ALLOW PUBLIC CHARTER SCHOOL  
7 NONPROFIT BOARDS TO HOLD MULTIPLE CHARTERS UNDER CERTAIN CONDITIONS AND  
8 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-5204, IDAHO CODE,  
9 AS AMENDED BY SECTION 71, CHAPTER 141, LAWS OF 2015, TO ALLOW PUBLIC  
10 CHARTER SCHOOL NONPROFIT BOARDS TO HOLD MULTIPLE CHARTERS UNDER CER-  
11 TAIN CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
12 33-5205, IDAHO CODE, TO REVISE PROVISIONS REGARDING PETITIONS TO ESTAB-  
13 LISH PUBLIC CHARTER SCHOOLS, TO REVISE CODE REFERENCES AND TO MAKE TECH-  
14 NICAL CORRECTIONS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE  
15 ADDITION OF A NEW SECTION 33-5205C, IDAHO CODE, TO PROVIDE FOR CHARTER  
16 SCHOOL REPLICATION AND RELATED PROVISIONS; AMENDING SECTION 33-5206,  
17 IDAHO CODE, TO REQUIRE REPLICATION PUBLIC CHARTER SCHOOLS TO ESTABLISH  
18 A CERTAIN ADMISSION PREFERENCE POLICY, TO ALLOW PUBLIC CHARTER SCHOOLS  
19 TO CONTRACT WITH EDUCATIONAL SERVICES PROVIDERS SUBJECT TO CERTAIN CON-  
20 DITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5207,  
21 IDAHO CODE, TO PROVIDE THAT REPLICATION PUBLIC CHARTER SCHOOLS ARE SUB-  
22 JECT TO PROVISIONS REGARDING CHARTER REPEAL PROCEDURES; AMENDING SEC-  
23 TION 33-5208, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING  
24 SECTION 33-5209A, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACCOUNT-  
25 ABILITY REQUIREMENTS; AMENDING SECTION 33-5209B, IDAHO CODE, TO REVISE  
26 PROVISIONS REGARDING CHARTER RENEWALS; AMENDING SECTION 33-5209C,  
27 IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ENFORCEMENT, REVOCATION  
28 AND APPEAL PROCESS FOR CHARTER HOLDERS; AMENDING SECTION 33-5210, IDAHO  
29 CODE, TO REVISE PROVISIONS REGARDING CERTAIN EXEMPTIONS, TO REMOVE A  
30 PROVISION THAT SUBJECTS CERTAIN PUBLIC CHARTER SCHOOLS TO CERTAIN RULES  
31 AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE.  
32

33 Be It Enacted by the Legislature of the State of Idaho:

34 SECTION 1. That Section 33-5202A, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-  
37 quires otherwise:

38 (1) "Authorized chartering entity" means any of the following:

39 (a) A local board of trustees of a school district in this state;

40 (b) The public charter school commission created pursuant to the provi-  
41 sions of this chapter;

42 (c) An Idaho public college, university or community college;

1 (d) A private, nonprofit Idaho-based, nonsectarian college or univer-  
 2 sity that is accredited by the same organization that accredits Idaho  
 3 public colleges and universities.

4 (2) "Charter" means the grant of authority approved by the authorized  
 5 chartering entity to the board of directors of the public charter school.

6 (3) "Charter holder" means the public charter school's board of direc-  
 7 tors to which a charter is granted pursuant chapter 52, title 33, Idaho Code.

8 (4) "Educational services provider" means a nonprofit or for-profit  
 9 entity that contracts with a public charter school to provide educational  
 10 services and resources including administrative support and educational  
 11 design, implementation or management.

12 (5) "Founder" means a person, including employees or staff of a pub-  
 13 lic charter school, who makes a material contribution toward the establish-  
 14 ment of a public charter school in accordance with criteria determined by  
 15 the board of directors of the public charter school, and who is designated  
 16 as such at the time the board of directors acknowledges and accepts such con-  
 17 tribution. The criteria for determining when a person is a founder shall not  
 18 discriminate against any person on any basis prohibited by the federal or  
 19 state constitutions or any federal, state or local law. The designation of a  
 20 person as a founder, and the admission preferences available to the children  
 21 of a founder, shall not constitute pecuniary benefits.

22 (46) "Performance certificate" means a fixed-term, renewable certifi-  
 23 cate between a public charter school and an authorized chartering entity  
 24 that outlines the roles, powers, responsibilities and performance expecta-  
 25 tions for each party to the certificate.

26 (57) "Petition" means the document submitted by a person or persons to  
 27 the authorized chartering entity to request the creation of a public charter  
 28 school.

29 (68) "Professional-technical regional public charter school" means a  
 30 public charter secondary school authorized under this chapter to provide  
 31 programs in professional-technical education which meet the standards and  
 32 qualifications established by the division of professional-technical ed-  
 33 ucation. A professional-technical regional public charter school may be  
 34 approved by an authorized chartering entity and, by the terms of its char-  
 35 ter, shall operate in association with at least two (2) school districts.  
 36 Notwithstanding the provisions of section 33-5205(3) (j), Idaho Code, par-  
 37 ticipating school districts need not be contiguous.

38 (79) "Public charter school" means a school that is authorized under  
 39 this chapter to deliver public education in Idaho.

40 (810) "Traditional public school" means any school existing or to be  
 41 built that is operated and controlled by a school district in this state.

42 (911) "Virtual school" means a school that delivers a full-time, se-  
 43 quential program of synchronous and/or asynchronous instruction primarily  
 44 through the use of technology via the internet in a distributed environment.  
 45 Schools classified as virtual must have an online component to their school  
 46 with online lessons and tools for student and data management.

47 SECTION 2. That Section 33-5203, Idaho Code, be, and the same is hereby  
 48 amended to read as follows:

1 33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public  
2 charter schools is hereby authorized. Public charter schools shall be part  
3 of the state's program of public education.

4 (2) New public charter schools which may begin educational instruction  
5 in any one (1) school year shall be subject to the following:

6 (a) No whole school district may be converted to a charter district or  
7 any configuration which includes all schools as public charter schools;  
8 and

9 (b) A petition must be received by the initial authorized chartering  
10 entity no later than September 1 to be eligible to begin instruction the  
11 first complete school year following receipt of the petition; and

12 (c) To begin operations, a newly chartered public school must be autho-  
13 rized by no later than January 1 of the previous school year.

14 (3) A public charter school may be formed either by creating a new  
15 public charter school or replicating an existing high-performing public  
16 charter school, which charter may be approved by any authorized chartering  
17 entity, or by converting an existing traditional public school to a public  
18 charter school, which charter may only be approved by the board of trustees  
19 of the school district in which the existing public school is located.

20 (4) No charter shall be approved under this chapter:

21 (a) Which provides for the conversion of any existing private or  
22 parochial school to a public charter school.

23 (b) To a for-profit entity or any school which is operated by a for-  
24 profit entity, provided however, nothing herein shall prevent the board  
25 of directors of a public charter school from legally contracting with  
26 for-profit entities for the provision of products or services that aid  
27 in the operation of the school.

28 (c) By the board of trustees of a school district if the public charter  
29 school's physical location is outside the boundaries of the authorizing  
30 school district.

31 (5) A public virtual school charter may be approved by any authorized  
32 chartering entity except a local school district board of trustees. In addi-  
33 tion, a charter may also be approved by the state board of education pursuant  
34 to section 33-5207(5) (b), Idaho Code.

35 (6) A charter holder may not operate enterprises other than the public  
36 charter schools for which it has been authorized.

37 (7) The state board of education shall adopt rules, subject to law, to  
38 establish a consistent application and review process for the approval and  
39 maintenance of all public charter schools.

40 (78) Each public charter school authorized by an authorized charter-  
41 ing entity other than a local school district board of trustees is hereby  
42 designated as a local education agency (LEA) as such term is defined in 34  
43 CFR 300.28. Public charter schools chartered by the board of trustees of a  
44 school district may also be designated by the board of trustees as an LEA,  
45 with the concurrence of the public charter school board of directors. Other-  
46 wise, the public charter school shall be included in that district's LEA.

47 SECTION 3. That Section 33-5204, Idaho Code, be, and the same is hereby  
48 amended to read as follows:

1           33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A public  
2     public charter school shall be organized and managed under the Idaho nonprofit  
3     corporation act. The board of directors of a public charter school shall  
4     be deemed public agents authorized by a public school district, the public  
5     charter school commission, or the state board of education to control the  
6     public charter school, but shall function independently of any school board  
7     of trustees in any school district in which the public charter school is located  
8     or independently of the public charter school commission, except as  
9     provided in the charter. The nonprofit board as the charter holder may hold  
10    multiple charters under the following conditions:

11           (a) Each public charter school must have its own performance certificate; and

12           (b) Each public charter school must be independently accountable for  
13           its academic, financial and operational outcomes.

14           (2) For the purposes of section 59-1302(15), Idaho Code, a public charter  
15     school created pursuant to this chapter shall be deemed a governmental  
16     entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to  
17     or purchases by a public charter school are exempt from payment of the sales  
18     and use tax. A public charter school and the board of directors of a public  
19     charter school are subject to the provisions of:

20           (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt  
21     influence, except as provided by section 33-5204A(2), Idaho Code;

22           (b) Chapter 5, title 74, Idaho Code, on prohibitions against contracts  
23     with officers;

24           (c) Chapter 4, title 74, Idaho Code, on ethics in government;

25           (d) Chapter 2, title 74, Idaho Code, on open public meetings; and

26           (e) Chapter 1, title 74, Idaho Code, on disclosure of public records;

27     in the same manner that a traditional public school and the board of school  
28     trustees of a school district are subject to those provisions.

29           (23) A public charter school may sue or be sued, purchase, receive, hold  
30     and convey real and personal property for school purposes, and borrow money  
31     for such purposes, to the same extent and on the same conditions as a traditional  
32     public school district, and its employees, directors and officers  
33     shall enjoy the same immunities as employees, directors and officers of traditional  
34     public school districts and other public schools, including those  
35     provided by chapter 9, title 6, Idaho Code. The authorized chartering entity  
36     that approves a public school charter shall have no liability for the acts,  
37     omissions, debts or other obligations of a public charter school, except as  
38     may be provided in the charter. A local public school district shall have  
39     no liability for the acts, omissions, debts or other obligations of a public  
40     charter school located in its district that has been approved by an authorized  
41     chartering entity other than the board of trustees of the local school  
42     district.

43           (34) Nothing in this chapter shall prevent the board of directors of a  
44     public charter school, operating as a nonprofit corporation, from borrowing  
45     money to finance the purchase or lease of school building facilities,  
46     equipment and furnishings of those school building facilities. Subject to  
47     the terms of a contractual agreement between the board and a lender, nothing  
48     herein shall prevent the board from using the facility, its equipment and  
49     furnishings as collateral for the loan.  
50

1 (45) Public charter schools shall secure insurance for liability and  
2 property loss.

3 (56) It shall be unlawful for:

4 (a) Any director to have pecuniary interest, directly or indirectly,  
5 in any contract or other transaction pertaining to the maintenance or  
6 conduct of the authorized chartering entity and charter or to accept  
7 any reward or compensation for services rendered as a director except  
8 as may be otherwise provided in this subsection. The board of directors  
9 of a public charter school may accept and award contracts involving the  
10 public charter school to businesses in which the director or a person  
11 related to him by blood or marriage within the second degree has a direct  
12 or indirect interest, provided that the procedures set forth in section  
13 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-  
14 ing or acceptance of moneys of a public charter school for deposit in any  
15 bank or trust company, or the lending of moneys by any bank or trust com-  
16 pany to any public charter school, shall not be deemed to be a contract  
17 pertaining to the maintenance or conduct of a public charter school and  
18 authorized chartering entity within the meaning of this section; nor  
19 shall the payment by any public charter school board of directors of  
20 compensation to any bank or trust company for services rendered in the  
21 transaction of any banking business with such public charter school  
22 board of directors be deemed the payment of any reward or compensation  
23 to any officer or director of any such bank or trust company within the  
24 meaning of this section.

25 (b) The board of directors of any public charter school to enter into  
26 or execute any contract with the spouse of any member of such board, the  
27 terms of which said contract require, or will require, the payment or  
28 delivery of any public charter school funds, moneys or property to such  
29 spouse, except as provided in paragraph (c) of this subsection or in  
30 section 18-1361 or 18-1361A, Idaho Code.

31 (c) No spouse of any director may be employed by a public charter school  
32 physically located within the boundaries of a school district with a  
33 fall student enrollment population of greater than one thousand two  
34 hundred (1,200) in the prior school year. For public charter schools  
35 physically located within the boundaries of a school district with a  
36 fall student enrollment population of one thousand two hundred (1,200)  
37 or less in the prior school year, such spouse may be employed in a non-  
38 administrative position for a school year if each of the following  
39 conditions has been met:

40 (i) The position has been listed as open for application on the  
41 public charter school website or in a local newspaper, whichever  
42 is consistent with the school's current practice, and the position  
43 shall be listed for at least sixty (60) days, unless the opening  
44 occurred during the school year, in which case the position shall  
45 be so listed for at least fifteen (15) days. If the position is  
46 listed in a newspaper, the listing shall be made in a manner con-  
47 sistent with the provisions of section 60-106, Idaho Code;

48 (ii) No applications were received that met the minimum certifi-  
49 cation, endorsement, education or experience requirements of the  
50 position other than such spouse;

1 (iii) The director abstained from voting in the employment of the  
 2 spouse and was absent from the meeting while such employment was  
 3 being considered and determined.

4 The public charter school may employ such spouse for further school  
 5 years, provided that the conditions contained in this paragraph are  
 6 met for each school year in which such spouse is employed. The director  
 7 shall abstain from voting in any decisions affecting the compensation,  
 8 benefits, individual performance evaluation or disciplinary action  
 9 related to the spouse and shall be absent from the meeting while such  
 10 issues are being considered and determined. Such limitation shall  
 11 include, but not be limited to: any matters relating to negotiations  
 12 regarding compensation and benefits; discussion and negotiation with  
 13 district benefits providers; and any matter relating to the spouse and  
 14 letters of reprimand, direction, probation or termination. Such lim-  
 15 itations shall not prohibit the trustee spouse from participating in  
 16 deliberation and voting upon the district's annual fiscal budget or an-  
 17 nual audit report. Any spouse of a director employed as a certificated  
 18 employee pursuant to this paragraph shall be employed under a category 1  
 19 contract pursuant to section 33-514A, Idaho Code.

20 (67) When any relative of any director or relative of the spouse of a  
 21 director related by affinity or consanguinity within the second degree is to  
 22 be considered for employment in a public charter school, such director shall  
 23 abstain from voting in the election of such relative and shall be absent from  
 24 the meeting while such employment is being considered and determined.

25 SECTION 4. That Section 33-5204, Idaho Code, as amended by Section 71,  
 26 Chapter 141, Laws of 2015, be, and the same is hereby amended to read as fol-  
 27 lows:

28 33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-  
 29 lic charter school shall be organized and managed under the Idaho nonprofit  
 30 corporation act. The board of directors of a public charter school shall  
 31 be deemed public agents authorized by a public school district, the public  
 32 charter school commission, or the state board of education to control the  
 33 public charter school, but shall function independently of any school board  
 34 of trustees in any school district in which the public charter school is lo-  
 35 cated or independently of the public charter school commission, except as  
 36 provided in the charter. The nonprofit board may hold multiple charters un-  
 37 der the following conditions:

38 (a) Each public charter school must have its own performance certifi-  
 39 cate; and

40 (b) Each public charter school must be independently accountable for  
 41 its academic, financial and operational outcomes.

42 (2) For the purposes of section 59-1302(15), Idaho Code, a public char-  
 43 ter school created pursuant to this chapter shall be deemed a governmental  
 44 entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to  
 45 or purchases by a public charter school are exempt from payment of the sales  
 46 and use tax. A public charter school and the board of directors of a public  
 47 charter school are subject to the provisions of:

1 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-  
2 rupt influence, except as provided by section 33-5204A(2), Idaho Code;

3 (b) Chapter 5, title 74, Idaho Code, on prohibitions against contracts  
4 with officers;

5 (c) Chapter 4, title 74, Idaho Code, on ethics in government;

6 (d) Chapter 2, title 74, Idaho Code, on open public meetings; and

7 (e) Chapter 1, title 74, Idaho Code, on disclosure of public records;

8 in the same manner that a traditional public school and the board of school  
9 trustees of a school district are subject to those provisions.

10 (23) A public charter school may sue or be sued, purchase, receive, hold  
11 and convey real and personal property for school purposes, and borrow money  
12 for such purposes, to the same extent and on the same conditions as a tra-  
13 ditional public school district, and its employees, directors and officers  
14 shall enjoy the same immunities as employees, directors and officers of tra-  
15 ditional public school districts and other public schools, including those  
16 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity  
17 that approves a public school charter shall have no liability for the acts,  
18 omissions, debts or other obligations of a public charter school, except as  
19 may be provided in the charter. A local public school district shall have  
20 no liability for the acts, omissions, debts or other obligations of a public  
21 charter school located in its district that has been approved by an autho-  
22 rized chartering entity other than the board of trustees of the local school  
23 district.

24 (34) Nothing in this chapter shall prevent the board of directors of a  
25 public charter school, operating as a nonprofit corporation, from borrow-  
26 ing money to finance the purchase or lease of school building facilities,  
27 equipment and furnishings of those school building facilities. Subject to  
28 the terms of a contractual agreement between the board and a lender, noth-  
29 ing herein shall prevent the board from using the facility, its equipment and  
30 furnishings as collateral for the loan.

31 (45) Public charter schools shall secure insurance for liability and  
32 property loss.

33 (56) It shall be unlawful for:

34 (a) Any director to have pecuniary interest, directly or indirectly,  
35 in any contract or other transaction pertaining to the maintenance or  
36 conduct of the authorized chartering entity and charter or to accept  
37 any reward or compensation for services rendered as a director except  
38 as may be otherwise provided in this subsection. The board of directors  
39 of a public charter school may accept and award contracts involving the  
40 public charter school to businesses in which the director or a person  
41 related to him by blood or marriage within the second degree has a direct  
42 or indirect interest, provided that the procedures set forth in section  
43 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-  
44 ing or acceptance of moneys of a public charter school for deposit in any  
45 bank or trust company, or the lending of moneys by any bank or trust com-  
46 pany to any public charter school, shall not be deemed to be a contract  
47 pertaining to the maintenance or conduct of a public charter school and  
48 authorized chartering entity within the meaning of this section; nor  
49 shall the payment by any public charter school board of directors of  
50 compensation to any bank or trust company for services rendered in the

1 transaction of any banking business with such public charter school  
 2 board of directors be deemed the payment of any reward or compensation  
 3 to any officer or director of any such bank or trust company within the  
 4 meaning of this section.

5 (b) The board of directors of any public charter school to enter into  
 6 or execute any contract with the spouse of any member of such board, the  
 7 terms of which said contract require, or will require, the payment or  
 8 delivery of any public charter school funds, moneys or property to such  
 9 spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

10 ~~(67)~~ When any relative of any director or relative of the spouse of a  
 11 director related by affinity or consanguinity within the second degree is to  
 12 be considered for employment in a public charter school, such director shall  
 13 abstain from voting in the election of such relative and shall be absent from  
 14 the meeting while such employment is being considered and determined.

15 SECTION 5. That Section 33-5205, Idaho Code, be, and the same is hereby  
 16 amended to read as follows:

17 33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group  
 18 of persons may petition to establish a new public charter school, or to con-  
 19 vert an existing traditional public school to a public charter school. The  
 20 purpose of the charter petition is to present the proposed public charter  
 21 school's academic and operational vision and plans, demonstrate the peti-  
 22 tioner's capacities to execute the proposed vision and plans and provide the  
 23 authorized chartering entity a clear basis for assessing the applicant's  
 24 plans and capacities. An approved charter petition shall not serve as the  
 25 school's performance certificate.

26 (a) A petition to establish a new public charter school, including a  
 27 public virtual charter school, shall be signed by not fewer than thirty  
 28 (30) qualified electors of the attendance area designated in the peti-  
 29 tion, unless it is a petition for approval by an authorized chartering  
 30 entity permitted pursuant to ~~subsection (1) (c) or (1) (d) of section~~  
 31 33-5202A(1) (c) or (d), Idaho Code. Proof of elector qualifications  
 32 shall be provided with the petition. A petition to establish a new pub-  
 33 lic charter school may be submitted directly to an authorized charter-  
 34 ing entity permitted pursuant to ~~subsection (1) (c) or (1) (d) of section~~  
 35 33-5202A(1) (c) or (d), Idaho Code; provided however, that no such indi-  
 36 vidual authorized chartering entity shall approve more than one (1) new  
 37 public charter school each year within the boundaries of a single school  
 38 district. Except as provided in ~~this paragraphs~~ (a) and (c) of this  
 39 subsection, authorized chartering entities permitted pursuant to ~~the~~  
 40 provisions of subsection (1) (c) or (1) (d) of section 33-5202A(1) (c) or  
 41 (d), Idaho Code, shall be governed by the same laws and rules in approv-  
 42 ing new public charter schools as the public charter school commission.

43 ~~(b) A petition to establish a new public virtual school shall not be~~  
 44 ~~submitted directly to a local school district board of trustees. Ex-~~  
 45 ~~cept as provided in paragraph (a) of this subsection, a petition to~~  
 46 ~~establish a new public charter school, other than a new public virtual~~  
 47 ~~school, shall first be submitted to the local board of trustees in which~~  
 48 ~~the public charter school will be located. A petition shall be consid-~~  
 49 ~~ered to be received by an authorized chartering entity as of the next~~

1 regularly scheduled meeting of the authorized chartering entity after  
2 submission of the petition.

3 (c) Petitions meeting the following conditions may be submitted di-  
4 rectly to the public charter school commission or Idaho university or  
5 college pursuant to section 33-5202A, Idaho Code: (i) a petition to es-  
6 tablish a new virtual public charter school; or (ii) a petition for a new  
7 or replication public charter school from an existing charter holder  
8 authorized by the public charter school commission or an Idaho univer-  
9 sity or college pursuant to section 33-5202A, Idaho Code. An existing  
10 charter holder authorized by the public charter school commission or an  
11 Idaho university or college pursuant to section 33-5202A, Idaho Code,  
12 may submit a petition for an additional new charter directly to its ex-  
13 isting authorizer.

14 (d) The board of trustees may either: (i) consider the petition and  
15 approve the charter; or (ii) consider the petition and deny the charter;  
16 or (iii) refer the petition to the public charter school commission, but  
17 such referral shall not be made until the local board has documented its  
18 due diligence in considering the petition. Such documentation shall be  
19 submitted with the petition to the public charter school commission. If  
20 the petitioners and the local board of trustees have not reached mutual  
21 agreement on the provisions of the charter, after a reasonable and good  
22 faith effort, within seventy-five (75) days from the date the charter  
23 petition is received, the petitioners may withdraw their petition from  
24 the local board of trustees and may submit their charter petition to  
25 the public charter school commission. Documentation of the reason-  
26 able and good faith effort between the petitioners and the local board  
27 of trustees must be submitted with the petition to the public charter  
28 school commission.

29 (de) A petition to convert an existing traditional public school shall  
30 be submitted to the board of trustees of the district in which the school  
31 is located for review and approval. The petition shall be signed by  
32 not fewer than sixty percent (60%) of the teachers currently employed  
33 by the school district at the school to be converted, and by one (1) or  
34 more parents or guardians of not fewer than sixty percent (60%) of the  
35 students currently attending the school to be converted. Each petition  
36 submitted to convert an existing school or to establish a new charter  
37 school shall contain a copy of the articles of incorporation and the  
38 bylaws of the nonprofit corporation, which shall be deemed incorporated  
39 into the petition.

40 (2) Not later than seventy-five (75) days after receiving a petition  
41 for a new or replication public charter school, the authorized chartering  
42 entity shall hold a public hearing for the purpose of discussing the provi-  
43 sions of the charter, at which time the authorized chartering entity shall  
44 consider the merits of the petition and the level of employee and parental  
45 support for the petition. In the case of a petition submitted to the public  
46 charter school commission, such public hearing must be not later than sev-  
47 enty-five (75) days after receipt of the petition, which may be extended for  
48 an additional specified period of time if both parties agree to an extension.  
49 Such agreement shall be established in writing and signed by representatives  
50 of both parties.

1        (a) In the case of a petition for a public virtual charter school, if  
2 the primary attendance area described in the petition of a proposed pub-  
3 lic virtual charter school extends within the boundaries of five (5) or  
4 fewer local school districts, the prospective authorizer shall provide  
5 notice in writing of the public hearing no less than thirty (30) days  
6 prior to such public hearing to those local school districts. Such pub-  
7 lic hearing shall include any oral or written comments that an autho-  
8 rized representative of the local school districts may provide regard-  
9 ing the merits of the petition and any potential impacts on the school  
10 districts.

11        (b) In the case of a petition for a non-virtual new or replication pub-  
12 lic charter school submitted to the public charter school commission,  
13 the board of the district in which the proposed public charter school  
14 will be physically located, shall be notified of the hearing in writ-  
15 ing, by the public charter school commission, no less than thirty (30)  
16 days prior to the public hearing. Such public hearing shall include  
17 any oral or written comments that an authorized representative of the  
18 school district in which the proposed public charter school would be  
19 physically located may provide regarding the merits of the petition and  
20 any potential impacts on the school district. The hearing shall include  
21 any oral or written comments that petitioners may provide regarding  
22 any potential impacts on such school district. If the school district  
23 chooses not to provide any oral or written comments as provided for in  
24 this subsection, such school district shall notify the public charter  
25 school commission of such decision. This public hearing shall be an op-  
26 portunity for public participation and oral presentation by the public.  
27 This hearing is not a contested case hearing as described in chapter 52,  
28 title 67, Idaho Code. Following review of any petition and any public  
29 hearing provided for in this section, the authorized chartering entity  
30 shall within seventy-five (75) days either:

31            (a) Approve the charter;

32            (b) Deny the charter; or

33            (c) Provide a written response identifying the specific defi-  
34 ciencies in the petition.

35        (c) If the authorized chartering entity exercises the option provided  
36 for in paragraph (b) (iii) of this subsection, then the petitioners may  
37 revise the petition and resubmit such within thirty (30) days. Within  
38 forty-five (45) days of receiving a revised petition, the authorized  
39 chartering entity shall review the revised petition and either approve  
40 or deny the petition based upon whether the petitioners have adequately  
41 addressed the specific deficiencies identified in the authorized char-  
42 tering entity's written response, or based upon any other changes made  
43 to the petition, and upon no other criteria.

44        (3) An authorized chartering entity may approve a charter under the  
45 provisions of this chapter only if it determines that the petition contains  
46 the requisite signatures, the information required by subsections (4) and  
47 (5) of this section, and additional statements describing all of the follow-  
48 ing:

49            (a) The proposed educational program of the public charter school, de-  
50 signed, among other things, to identify what it means to be an "educated

1 person" in the twenty-first century, and how learning best occurs. The  
2 goals identified in the program shall include how all educational thor-  
3 oughness standards as defined in section 33-1612, Idaho Code, shall be  
4 fulfilled.

5 (b) The measurable student educational standards identified for use  
6 by the public charter school. "Student educational standards" for the  
7 purpose of this chapter means the extent to which all students of the  
8 public charter school demonstrate they have attained the skills and  
9 knowledge specified as goals in the school's educational program.

10 (c) The method by which student progress in meeting those student edu-  
11 cational standards is to be measured.

12 (d) A provision by which students of the public charter school will be  
13 tested with the same standardized tests as other Idaho public school  
14 students.

15 (e) A provision which ensures that the public charter school shall be  
16 state accredited as provided by rule of the state board of education.

17 (f) The governance structure of the public charter school including,  
18 but not limited to, the person or entity who shall be legally account-  
19 able for the operation of the public charter school, and the process to  
20 be followed by the public charter school to ensure parental involve-  
21 ment.

22 (g) The qualifications to be met by individuals employed by the pub-  
23 lic charter school. Instructional staff shall be certified teachers as  
24 provided by rule of the state board of education.

25 (h) The procedures that the public charter school will follow to ensure  
26 the health and safety of students and staff.

27 (i) A plan for the requirements of section 33-205, Idaho Code, for the  
28 denial of school attendance to any student who is an habitual truant, as  
29 defined in section 33-206, Idaho Code, or who is incorrigible, or whose  
30 conduct, in the judgment of the board of directors of the public charter  
31 school, is such as to be continuously disruptive of school discipline,  
32 or of the instructional effectiveness of the school, or whose presence  
33 in a public charter school is detrimental to the health and safety of  
34 other pupils, or who has been expelled from another school district in  
35 this state or any other state.

36 (j) The primary attendance area of the charter school, which shall be  
37 composed of a compact and contiguous area. For the purposes of this sec-  
38 tion, if services are available to students throughout the state, the  
39 state of Idaho is considered a compact and contiguous area.

40 (k) Admission procedures, including provision for overenrollment.  
41 Such admission procedures shall provide that the initial admission pro-  
42 cedures for a new public charter school or replication public charter  
43 school, including provision for overenrollment, will be determined by  
44 lottery or other random method, except as otherwise provided herein.  
45 If initial capacity is insufficient to enroll all pupils who submit  
46 a timely application, then the admission procedures may provide that  
47 preference shall be given in the following order: first, to children  
48 of founders, provided that this admission preference shall be limited  
49 to not more than ten percent (10%) of the capacity of the public charter  
50 school; second, to siblings of pupils already selected by the lottery

1 or other random method; third, to pupils seeking to transfer from an-  
2 other Idaho public charter school at which they have been enrolled for  
3 at least one (1) year, provided that this admission preference shall be  
4 subject to an existing written agreement for such preference between  
5 the subject charter schools; fourth, to students residing within the  
6 primary attendance area of the public charter school; and fifth, by an  
7 equitable selection process such as a lottery or other random method.  
8 If so stated in its petition, a new public charter school or replication  
9 public charter school may include the children of full-time employees  
10 of the public charter school within the first priority group subject to  
11 the limitations therein. Otherwise, such children shall be included in  
12 the highest priority group for which they would otherwise be eligible.  
13 If capacity is insufficient to enroll all pupils who submit a timely  
14 application for subsequent school terms, then the admission procedures  
15 may provide that preference shall be given in the following order:  
16 first, to pupils returning to the public charter school in the second or  
17 any subsequent year of its operation; second, to children of founders,  
18 provided that this admission preference shall be limited to not more  
19 than ten percent (10%) of the capacity of the public charter school;  
20 third, to siblings of pupils already enrolled in the public charter  
21 school; fourth, to pupils seeking to transfer from another Idaho pub-  
22 lic charter school at which they have been enrolled for at least one  
23 (1) year, provided that this admission preference shall be subject to  
24 an existing written agreement for such preference between the subject  
25 charter schools; fifth, to students residing within the primary at-  
26 tendance area of the public charter school; and sixth, by an equitable  
27 selection process such as a lottery or other random method. There shall  
28 be no carryover from year to year of the list maintained to fill vacan-  
29 cies. A new lottery shall be conducted each year to fill vacancies which  
30 become available. If so stated in its petition, a public charter school  
31 may include the following children within the second priority group  
32 subject to the limitations therein:

33 (i) The children of full-time employees of the public charter  
34 school;

35 (ii) Children who previously attended the public charter school  
36 within the previous three (3) school years, but who withdrew as a  
37 result of the relocation of a parent or guardian due to an academic  
38 sabbatical, employer or military transfer or reassignment.

39 Otherwise, such children shall be included in the highest priority  
40 group for which they would otherwise be eligible.

41 (l) The manner in which annual audits of the financial operations of the  
42 public charter school are to be conducted.

43 (m) The disciplinary procedures that the public charter school will  
44 utilize, including the procedure by which students may be suspended,  
45 expelled and reenrolled, and the procedures required by section 33-210,  
46 Idaho Code.

47 (n) A provision which ensures that all staff members of the public char-  
48 ter school will be covered by the public employee retirement system,  
49 federal social security, unemployment insurance, worker's compensa-  
50 tion insurance, and health insurance.

1 (o) If the public charter school is a conversion of an existing tradi-  
2 tional public school, the public school attendance alternative for stu-  
3 dents residing within the school district who choose not to attend the  
4 public charter school.

5 (p) A description of the transfer rights of any employee choosing to  
6 work in a public charter school that is approved by the board of trustees  
7 of a school district, and the rights of such employees to return to any  
8 noncharter school in the same school district after employment at such  
9 charter school.

10 (q) A provision which ensures that the staff of the public charter  
11 school shall be considered a separate unit for purposes of collective  
12 bargaining.

13 (r) The manner by which special education services will be provided to  
14 students with disabilities who are eligible pursuant to the federal in-  
15 dividuals with disabilities education act, including disciplinary pro-  
16 cedures for these students.

17 (s) A plan for working with parents who have students who are dually en-  
18 rolled pursuant to section 33-203, Idaho Code.

19 (t) The process by which the citizens in the primary attendance area  
20 shall be made aware of the enrollment opportunities of the public char-  
21 ter school.

22 (u) A proposal for transportation services including estimated first  
23 year costs.

24 (v) A plan for termination of the charter by the board of directors, to  
25 include:

26 (i) Identification of who is responsible for dissolution of the  
27 charter school;

28 (ii) A description of how payment to creditors will be handled;

29 (iii) A procedure for transferring all records of students with  
30 notice to parents of how to request a transfer of student records  
31 to a specific school; and

32 (iv) A plan for the disposal of the public charter school's as-  
33 sets.

34 (4) An authorized chartering entity, except for a school district board  
35 of trustees, may approve a charter for a public virtual school under the pro-  
36 visions of this chapter only if it determines that the petition contains the  
37 requirements of subsections (3) and (5) of this section and the additional  
38 statements describing the following:

39 (a) The learning management system by which courses will be delivered;

40 (b) The role of the online teacher, including the consistent availabil-  
41 ity of the teacher to provide guidance around course material, methods  
42 of individualized learning in the online course and the means by which  
43 student work will be assessed;

44 (c) A plan for the provision of professional development specific to  
45 the public virtual school environment;

46 (d) The means by which public virtual school students will receive  
47 appropriate teacher-to-student interaction, including timely and fre-  
48 quent feedback about student progress;

49 (e) The means by which the public virtual school will verify student at-  
50 tendance and award course credit. Attendance at public virtual schools

1 shall focus primarily on coursework and activities that are correlated  
2 to the Idaho state thoroughness standards;

3 (f) A plan for the provision of technical support relevant to the deliv-  
4 ery of online courses;

5 (g) The means by which the public virtual school will provide opportu-  
6 nity for student-to-student interaction; and

7 (h) A plan for ensuring equal access to all students, including the pro-  
8 vision of necessary hardware, software and internet connectivity re-  
9 quired for participation in online coursework.

10 (5) The petitioner shall provide information regarding the proposed  
11 operation and potential effects of the public charter school including, but  
12 not limited to, the facilities to be utilized by the public charter school,  
13 the manner in which administrative services of the public charter school  
14 are to be provided and the potential civil liability effects upon the public  
15 charter school and upon the authorized chartering entity.

16 (6) An initial charter, if approved, shall be granted for a term of  
17 three (3) operating years. This term shall commence on the public charter  
18 school's first day of operation.

19 SECTION 6. That Chapter 52, Title 33, Idaho Code, be, and the same is  
20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
21 ignated as Section 33-5205C, Idaho Code, and to read as follows:

22 33-5205C. PUBLIC CHARTER SCHOOL REPLICATION. (1) Public charter  
23 schools may petition for replication, subject to the following provisions:

24 (a) The public charter schools must have successfully completed at  
25 least one (1) renewal cycle and be eligible for a nonconditional re-  
26 newal; or

27 (b) Public charter schools that are scheduled to be evaluated for re-  
28 newal or nonrenewal between March 1, 2016, and March 1, 2019, must be  
29 rated in the top twenty percent (20%) of all Idaho public schools by the  
30 state's accountability system for the two (2) previous years.

31 (2) Replication public charter schools must serve the same, or a subset  
32 of the same, grades as the public charter school being replicated and the op-  
33 erational model must be the same as that of the public charter school being  
34 replicated.

35 (3) A public charter school authorized by the public charter school  
36 commission or an Idaho college or university pursuant to section 33-5202A,  
37 Idaho Code, must provide written notice and opportunity to comment to the  
38 school district for which the replication school will be located at least  
39 thirty (30) days prior to submitting the replication request to the au-  
40 thORIZING entity. The petitioner must provide written notice to the state  
41 department of education at the time the petition is submitted to the autho-  
42 rized chartering entity.

43 (4) A school district authorizer may not approve the replication of a  
44 public charter school that is physically located outside of the authorizer's  
45 school district boundaries.

46 (5) Replication petitions are not subject to a sufficiency review by  
47 the state department of education.

48 (6) The replicated public charter schools under a single charter holder  
49 shall be authorized and funded as separate schools. The charter holder

1 must obtain annual independent comprehensive fiscal audits that treat each  
2 school as a separate component unit. Funds appropriated by the state must be  
3 used toward the operations of the public charter school for which they were  
4 appropriated. This does not prohibit multiple public charter schools under  
5 a single charter holder from combining resources toward administrative or  
6 program costs or prohibit public charter schools from participating in co-  
7 operative education services pursuant to sections 33-315 and 33-316, Idaho  
8 Code.

9 (7) Authorized chartering entities must establish policies regarding  
10 the criteria that will be considered when evaluating a petition for replica-  
11 tion. Such criteria must include at a minimum the following replication pe-  
12 tition requirements:

13 (a) A description of the capacity of the charter holder to successfully  
14 replicate an additional school;

15 (b) A description of how the charter holder will manage multiple  
16 charter schools while maintaining a high level of academic and fiscal  
17 performance in the original public charter school and the replication  
18 school; and

19 (c) A description of how the charter holder will incorporate represen-  
20 tation and input in the school operations from the local area where the  
21 replication public charter school is physically located if the location  
22 is outside of the school district of the public charter school being  
23 replicated.

24 SECTION 7. That Section 33-5206, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC  
27 CHARTER SCHOOL. (1) In addition to any other requirements imposed in this  
28 chapter, a public charter school shall be nonsectarian in its programs,  
29 affiliations, admission policies, employment practices, and all other op-  
30 erations, shall not charge tuition, levy taxes or issue bonds, and shall  
31 not discriminate against any student on any basis prohibited by the federal  
32 or state constitutions or any federal, state or local law. Admission to  
33 a public charter school shall not be determined according to the place of  
34 residence of the student, or of the student's parent or guardian within the  
35 district, except that a new, replication or conversion public charter school  
36 established under the provisions of this chapter shall adopt and maintain a  
37 policy giving admission preference to students who reside within the primary  
38 attendance area of that public charter school.

39 (2) No board of trustees shall require any employee of the school dis-  
40 trict to be involuntarily assigned to work in a public charter school.

41 (3) Certified teachers in a public charter school shall be considered  
42 public school teachers. Educational experience shall accrue for service in  
43 a public charter school and such experience shall be counted by any school  
44 district for any teacher who has been employed in a public charter school.

45 (4) Employment of charter school teachers and administrators shall be  
46 on written contract in form as approved by the state superintendent of public  
47 instruction, conditioned upon a valid certificate being held by such profes-  
48 sional personnel at the time of entering upon the duties thereunder.

1 (5) No board of trustees shall require any student enrolled in the  
2 school district to attend a public charter school.

3 (6) Authorized chartering entities may establish reasonable pre-open-  
4 ing requirements or conditions to monitor the start-up progress of newly  
5 approved public charter schools and ensure that they are prepared to open  
6 smoothly on the date agreed, and to ensure that each school meets all build-  
7 ing, health, safety, insurance and other legal requirements for school  
8 opening.

9 (7) Each public charter school shall annually submit the audit of the  
10 fiscal operations as required in section 33-5205(3)(1), Idaho Code, and a  
11 copy of the public charter school's accreditation report to the authorized  
12 chartering entity that approved its charter.

13 (8) A public charter school or the authorized chartering entity may  
14 enter into negotiations to revise a charter or performance certificate at  
15 any time. If a public charter school petitions to revise its charter or  
16 performance certificate, the authorized chartering entity's review of the  
17 revised petition shall be limited in scope solely to the proposed revisions.  
18 Except for public charter schools authorized by a school district board of  
19 trustees, when a non-virtual public charter school submits a proposed char-  
20 ter revision to its authorized chartering entity and such revision includes  
21 a proposal to increase such public charter school's approved student enroll-  
22 ment cap by ten percent (10%) or more, the authorized chartering entity shall  
23 hold a public hearing on such petition. The authorized chartering entity  
24 shall provide the board of the local school district in which the public  
25 charter school is physically located notice in writing of such hearing no  
26 later than thirty (30) days prior to the hearing. The public hearing shall  
27 include any oral or written comments that an authorized representative of  
28 the school district in which the public charter school is physically located  
29 may provide regarding the impact of the proposed charter revision upon the  
30 school district. Such public hearing shall also include any oral or written  
31 comments that any petitioner may provide regarding the impact of the pro-  
32 posed charter revision upon such school district.

33 (9) When a charter is nonrenewed pursuant to the provisions of section  
34 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code, or  
35 the board of directors of the public charter school terminates the charter,  
36 the assets of the public charter school remaining after all debts of the pub-  
37 lic charter school have been satisfied must be returned to the authorized  
38 chartering entity for distribution in accordance with applicable law.

39 (10) Public charter schools may contract with educational services  
40 providers subject to the following provisions:

41 (a) Educational services providers, whether for-profit or nonprofit,  
42 shall be third-party entities separate from the public charter schools  
43 with which they contract. Educational services providers shall not be  
44 considered governmental entities.

45 (b) No more than one-third (1/3) of the public charter school's board  
46 membership may be comprised of nonprofit educational services provider  
47 representatives. Nonprofit educational services provider repre-  
48 sentatives may not be employees of the public charter school or the  
49 educational services provider and may not hold office as president or  
50 treasurer on the public charter school's board. For-profit educational

1 services providers may not have representatives on the public charter  
2 school's board of directors.

3 (c) Public charter school board of director members shall annually dis-  
4 close any existing and potential conflicts of interest, pecuniary or  
5 otherwise, with affiliated educational services providers.

6 (d) Charter holders shall retain responsibility for academic, fiscal  
7 and organizational operations and outcomes of the school and may not re-  
8 linquish this responsibility to any other entity.

9 (e) Contracts must ensure that school boards retain the right to termi-  
10 nate the contract for failure to meet defined performance standards.

11 (f) Contracts must ensure that assets purchased by educational ser-  
12 vices providers on behalf of the school, using public funds, shall  
13 remain assets of the school. The provisions of this paragraph shall  
14 not prevent educational services providers from acquiring assets using  
15 revenue acquired through management fees.

16 (g) Charter holders shall consult legal counsel independent of the  
17 party with whom they are contracting for purposes of reviewing the  
18 school's management contract and facility lease or purchase agreements  
19 to ensure compliance with applicable state and federal law, including  
20 requirements that state entities not enter into contracts that obligate  
21 them beyond the terms of any appropriation of funds by the state legis-  
22 lature.

23 (h) Charter holders must ensure that their facility contracts are sepa-  
24 rate from any and all management contracts.

25 (i) Prior to approval of the charter petition indicating the school  
26 board's intention to contract with an educational services provider,  
27 authorized chartering entities shall conduct a thorough evaluation of  
28 the academic, financial and organizational outcomes of other schools  
29 that have contracted with the educational services provider and evi-  
30 dence of the educational services provider's capacity to successfully  
31 grow the public charter school while maintaining quality management and  
32 instruction in existing schools.

33 SECTION 8. That Section 33-5207, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of  
36 trustees, acting in its capacity as an authorized chartering entity, ap-  
37 proves a petition for the conversion of an existing traditional public  
38 school within the school district over the objection of thirty (30) or more  
39 persons or employees of the district, or if an authorized chartering en-  
40 tity denies a petition for the establishment of a new or replication public  
41 charter school for any reason including, but not limited to, failure by the  
42 petitioner to follow procedures or for failure to provide required infor-  
43 mation, then such decisions may be appealed to the state superintendent of  
44 public instruction within thirty (30) days of the date of the written de-  
45 cision, at the request of persons opposing the conversion of an existing  
46 traditional public school, or at the request of the petitioner whose request  
47 for a new charter was denied.

48 (2) The state superintendent of public instruction shall select a  
49 hearing officer to review the action of the authorized chartering entity,

1 pursuant to section 67-5242, Idaho Code. The hearing officer shall, within  
2 thirty (30) days of receipt of the request, review the full record regard-  
3 ing the charter petition and convene a public hearing regarding the charter  
4 petition. Within ten (10) days of the public hearing, the hearing officer  
5 shall submit a written recommendation to the authorized chartering en-  
6 tity and to the persons requesting the review. The recommendation by the  
7 hearing officer either to affirm or reverse the decision of the authorized  
8 chartering entity shall be based upon the full record regarding the charter  
9 petition, including the standards and criteria contained in this chapter and  
10 upon any public charter school rules adopted by the state board of education.  
11 The recommendation shall be in writing and accompanied by a reasoned state-  
12 ment that explains the criteria and standards considered relevant, states  
13 the relevant contested facts relied upon, and explains the rationale for the  
14 recommendations based on the applicable statutory provisions and factual  
15 information contained in the record.

16 (3) Within thirty (30) days following receipt of the hearing officer's  
17 written recommendation, the authorized chartering entity shall hold a meet-  
18 ing open to the public for the purpose of reviewing the hearing officer's  
19 written recommendation. Within ten (10) days of such meeting, the autho-  
20 rized chartering entity shall either affirm or reverse its initial decision.  
21 The authorized chartering entity's decision shall be in writing and contain  
22 findings which explain the reasons for its decision.

23 (4) If, upon reconsideration of a decision to approve the conversion  
24 of a traditional public school to a public charter school, the local school  
25 board:

26 (a) Affirms its initial decision to authorize such conversion, the  
27 charter shall be approved and there shall be no further appeal.

28 (b) Reverses its initial decision and denies the conversion, that deci-  
29 sion is final and there shall be no further appeal.

30 (5) If, upon reconsideration of a decision to deny a petition for a pub-  
31 lic charter school, the authorized chartering entity:

32 (a) Reverses its initial decision and approves the public charter  
33 school petition, there shall be no further appeal.

34 (b) Affirms its initial decision denying the public charter school pe-  
35 tition, the board of directors of the nonprofit corporation identified  
36 in the petition may appeal to the state board of education. The state  
37 board of education shall hold a public hearing within a reasonable time  
38 after receiving notice of such appeal but no later than sixty (60) cal-  
39 endar days after receiving such notice, and after the public hearing,  
40 shall take any of the following actions: (i) approve or deny the pe-  
41 tition for the public charter school, provided that the state board of  
42 education shall only approve the petition if it determines that the au-  
43 thorized chartering entity failed to appropriately consider the char-  
44 ter petition, or if it acted in an arbitrary manner in denying the peti-  
45 tion; or (ii) in the case of a denial by the board of a local school dis-  
46 trict, redirect the matter to the public charter school commission for  
47 further review. Such public hearing shall be conducted pursuant to pro-  
48 cedures as set by the state board of education.

49 (6) A public charter school for which a charter is approved by the state  
50 board of education shall qualify fully as a public charter school for all

1 funding and other purposes of this chapter. The public charter school com-  
2 mission shall assume the role of the authorized chartering entity for any  
3 charter approved by the state board of education as provided in subsection  
4 (5) (b) of this section. Employees of a public charter school approved by  
5 the state board of education shall not be considered employees of the local  
6 school district in which the public charter school is located, nor of the  
7 state board of education, nor of the commission.

8 (7) The decision of the state board of education shall be subject to re-  
9 view pursuant to chapter 52, title 67, Idaho Code. Nothing in this section  
10 shall prevent a petitioner from bringing a new petition for a public charter  
11 school at a later time.

12 (8) There shall be no appeal of a decision by a local school board of  
13 trustees which denies the conversion of an existing traditional public  
14 school within that district to a public charter school, or by an authorized  
15 chartering entity which approves a petition for a public charter school.

16 SECTION 9. That Section 33-5208, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided  
19 in subsection (10) of this section, from the state educational support pro-  
20 gram the state department of education shall make the following apportion-  
21 ment to each public charter school for each fiscal year based on attendance  
22 figures submitted in a manner and time as required by the department of edu-  
23 cation:

24 (1) Per student support. Computation of support units for each public  
25 charter school shall be calculated as if it were a separate school accord-  
26 ing to the schedules in section 33-1002(4), Idaho Code, except that public  
27 charter schools with fewer than one hundred (100) secondary ADA shall use a  
28 divisor of twelve (12) and the minimum units shall not apply, and no public  
29 charter school shall receive an increase in support units that exceeds the  
30 support units it received in the prior year by more than thirty (30). Funding  
31 from the state educational support program shall be equal to the total dis-  
32 tribution factor, plus the salary-based apportionment provided in chapter  
33 10, title 33, Idaho Code. Provided however, any public charter school that  
34 is formed by the conversion of an existing traditional public school shall  
35 be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no  
36 lower than the divisors of the school district in which the traditional pub-  
37 lic school is located, for each category of pupils listed.

38 (2) Special education. For each student enrolled in the public charter  
39 school who is entitled to special education services, the state and federal  
40 funds from the exceptional child education program for that student that  
41 would have been apportioned for that student to the school district in which  
42 the public charter school is located.

43 (3) Alternative school support. Public charter schools may qualify un-  
44 der the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided  
45 the public charter school meets the necessary statutory requirements, and  
46 students qualify for attendance at an alternative school as provided by rule  
47 of the state board of education.

48 (4) Transportation support. Support shall be paid to the public char-  
49 ter school as provided in chapter 15, title 33, Idaho Code, and section

1 33-1006, Idaho Code. Each public charter school shall furnish the depart-  
 2 ment with an enrollment count as of the first Friday in November, of public  
 3 charter school students who are eligible for reimbursement of transporta-  
 4 tion costs under the provisions of this subsection and who reside more than  
 5 one and one-half (1 1/2) miles from the school. The state department of edu-  
 6 cation is authorized to include in the annual appropriation to the charter  
 7 school sixty percent (60%) of the estimated transportation cost. The final  
 8 appropriation payment in July shall reflect reimbursements of actual costs  
 9 pursuant to section 33-1006, Idaho Code. To be eligible for state reimburse-  
 10 ment under the provisions of section 33-1006, Idaho Code, the student to be  
 11 transported must reside within the public charter school's primary atten-  
 12 dance area, and must meet at least one (1) of the following two (2) criteria:

13 (a) The student resides within the school district in which the public  
 14 charter school is physically located; or

15 (b) The student resides within fifteen (15) miles of the public charter  
 16 school, by road.

17 The limitations placed by this subsection on the reimbursement of  
 18 transportation costs for certain students shall not apply to public virtual  
 19 schools.

20 (5) Facilities funds. The state department of education shall distrib-  
 21 ute facilities funds to public charter schools for each enrolled student in  
 22 which a majority of the student's instruction is received at a facility that  
 23 is owned or leased by the public charter school. Such funds shall be used to  
 24 defray the purchase, fee, loan or lease costs associated with payments for  
 25 real property used by the students or employees of the public charter school  
 26 for educational or administrative purposes. Such funds shall be distributed  
 27 from the moneys appropriated to the educational support program, and shall  
 28 be calculated as a percentage of the statewide average amount of bond and  
 29 plant facility funds levied per student by Idaho school districts, as fol-  
 30 lows:

31 Fiscal Year 2014 Twenty Percent (20%)

32 Fiscal Year 2015 Thirty Percent (30%)

33 For fiscal year 2016 and each fiscal year thereafter, this percentage  
 34 shall increase by ten percent (10%) each time the total appropriation of  
 35 state funds for the educational support program increases by three percent  
 36 (3%) or more over the prior fiscal year, and shall decrease by ten percent  
 37 (10%) each time the total appropriation of state funds for the educational  
 38 support program decreases as compared to the prior fiscal year. Provided  
 39 however, that the percentage shall be no less than twenty percent (20%) and  
 40 no greater than fifty percent (50%), and that the average amount of funding  
 41 received per public charter school shall not exceed the average amount of  
 42 funding received by each school district pursuant to the provisions of sec-  
 43 tion 33-906, Idaho Code.

44 For those public charter schools that do not receive facilities funds  
 45 for all enrolled students, the school may submit to the state department of  
 46 education a reimbursement claim for any costs for which facilities funds may  
 47 be used. The state department of education shall reduce such claim by the  
 48 greater of fifty percent (50%) or the percentage of the school's enrolled  
 49 students for which the school receives facilities funds, and shall pay the

1 balance. Provided however, that the total reimbursements paid to a public  
2 charter school, in combination with any facilities stipend received by the  
3 school, shall not exceed the amount of facilities funds that would have been  
4 received by the school had the school received facilities funds for all en-  
5 rolled students. For the purposes of this subsection, the term "real prop-  
6 erty" shall be used as defined in section 63-201, Idaho Code.

7 (6) Payment schedule. The state department of education is authorized  
8 to make an advance payment of twenty-five percent (25%) of a public charter  
9 school's estimated annual apportionment for its first year of operation,  
10 and each year thereafter, provided the public charter school is serving more  
11 grades or at least ten percent (10%) more classes than the previous year, to  
12 assist the school with initial start-up costs or payroll obligations. For a  
13 public charter school entering its second or greater year of operations, the  
14 state department of education may require documentation establishing the  
15 need for such an advance payment, including comparative class schedules and  
16 proof of a commensurate increase in the number of employees.

17 (a) For a public charter school to receive the advance payment, the  
18 school shall submit its anticipated fall membership for each grade  
19 level to the state department of education by June 1.

20 (b) Using the figures provided by the public charter school, the state  
21 department of education shall determine an estimated annual apportion-  
22 ment from which the amount of the advance payment shall be calculated.  
23 Advance payment shall be made to the school on or after July 1 but no  
24 later than July 31.

25 (c) All subsequent payments, taking into account the one-time advance  
26 payment made for the first year of operation, shall be made to the public  
27 charter school in the same manner as other traditional public schools in  
28 accordance with the provisions of section 33-1009, Idaho Code.

29 A public charter school shall comply with all applicable fiscal requirements  
30 of law, except that the following provisions shall not be applicable to pub-  
31 lic charter schools: that portion of section 33-1004, Idaho Code, relating  
32 to reduction of the administrative and instructional staff allowance and the  
33 pupil service staff allowance when there is a discrepancy between the number  
34 allowed and the number actually employed; and section 33-1004E, Idaho Code,  
35 for calculation of district staff indices.

36 (7) Nothing in this chapter shall be construed to prohibit any private  
37 person or organization from providing funding or other financial assistance  
38 to the establishment or operation of a public charter school.

39 (8) Each public charter school shall pay an authorizer fee to its autho-  
40 rized chartering entity, to defray the actual documented cost of monitoring,  
41 evaluation and oversight, which, in the case of public charter schools  
42 authorized by the public charter school commission, shall include each  
43 school's proportional fee share of moneys appropriated from the public char-  
44 ter school authorizers fund to the public charter school commission, plus  
45 fifteen percent (15%). Provided however, that each public charter school's  
46 board of directors may direct up to ten percent (10%) of the calculated fee  
47 to pay membership fees to an organization or association that provides tech-  
48 nical assistance, training and advocacy for Idaho public charter schools.  
49 Unless the authorized chartering entity declines payment, such fee shall be  
50 paid by March 15 of each fiscal year and shall not exceed the greater of:

1 (a) All state funds distributed to public schools on a support unit ba-  
 2 sis for the prior fiscal year, divided by the statewide number of public  
 3 school students in average daily attendance in the first reporting pe-  
 4 riod in the prior fiscal year; or

5 (b) The lesser of:

6 (i) The result of the calculation in subsection (8) (a) of this  
 7 section, multiplied by four (4); or

8 (ii) One and one-half percent (1.5%) of the result of the calcula-  
 9 tion in subsection (8) (a) of this section, multiplied by the pub-  
 10 lic charter school's average daily attendance in the first report-  
 11 ing period in the current fiscal year.

12 (9) Nothing in this chapter shall prevent a public charter school from  
 13 applying for federal grant moneys.

14 (10) (a) Each student in attendance at a public virtual school shall be  
 15 funded based upon either the actual hours of attendance in the public  
 16 virtual school on a flexible schedule, or the percentage of coursework  
 17 completed, whichever is more advantageous to the school, up to the maxi-  
 18 mum of one (1) full-time equivalent student.

19 (b) All federal educational funds shall be administered and dis-  
 20 tributed to public charter schools, including public virtual schools,  
 21 that have been designated as a local education agency (LEA), as provided  
 22 in section 33-5203(78), Idaho Code.

23 (11) Nothing in this section prohibits separate face-to-face learning  
 24 activities or services.

25 (12) The provisions of section 33-1021, Idaho Code, shall apply to pub-  
 26 lic charter schools provided for in this chapter.

27 SECTION 10. That Section 33-5209A, Idaho Code, be, and the same is  
 28 hereby amended to read as follows:

29 33-5209A. ACCOUNTABILITY. (1) Performance framework. The perfor-  
 30 mance provisions within the performance certificate shall be based upon a  
 31 performance framework that clearly sets forth the academic and operational  
 32 performance indicators, measures and metrics that will guide the authorized  
 33 chartering entity's evaluations of each public charter school. The perfor-  
 34 mance framework shall include indicators, measures and metrics for, at a  
 35 minimum:

36 (a) Student academic proficiency;

37 (b) Student academic growth;

38 (c) College and career readiness (for high schools); and

39 (d) Board performance and stewardship, including compliance with all  
 40 applicable laws, regulations and terms of the performance certificate.

41 (2) Measurable performance targets shall be set by each charter holder  
 42 for each public charter school for which it holds a charter in conjunction  
 43 with its authorized chartering entity and shall, at a minimum, require that  
 44 each school meet applicable federal, state and authorized chartering entity  
 45 goals for student achievement.

46 (3) The performance framework shall allow the inclusion of additional  
 47 rigorous, valid and reliable indicators proposed by a public charter school  
 48 holder to augment external evaluations of its performance, provided that the  
 49 authorized chartering entity approves the quality and rigor of such school-

1 ~~proposed~~ proposed indicators, and that they are consistent with the purposes  
2 of this chapter.

3 (4) For each public charter school it oversees, the authorized char-  
4 tering entity shall be responsible for analyzing and reporting all data from  
5 state assessments in accordance with the performance framework.

6 SECTION 11. That Section 33-5209B, Idaho Code, be, and the same is  
7 hereby amended to read as follows:

8 33-5209B. CHARTER RENEWALS. (1) A charter may be renewed for succes-  
9 sive five (5) year terms of duration. An authorized chartering entity may  
10 grant renewal with specific, written conditions for necessary improvements  
11 to a public charter school. Any such specific, written conditions shall  
12 state the date by which the conditions must be met.

13 (2) Following the initial three (3) year term, an authorized chartering  
14 entity may nonrenew or grant renewal for an additional five (5) years, based  
15 upon the performance of the public charter school on the performance indica-  
16 tors, measures and metrics contained in the performance certificate. Subse-  
17 quent renewals shall be for a term of five (5) years.

18 (3) No later than November 15, the authorized chartering entity shall  
19 issue a public charter school performance report and charter renewal ap-  
20 plication guidance to any charter holder with a public charter school whose  
21 charter will expire the following year. The performance report shall sum-  
22 marize the public charter school's performance record to date, based upon  
23 the data required by this chapter and the performance certificate, and shall  
24 provide notice of any weaknesses or concerns determined by the authorized  
25 chartering entity concerning the public charter school that may jeopardize  
26 its position in seeking renewal, if not timely rectified. The ~~public~~ char-  
27 ter ~~school~~ holder shall have thirty (30) days to respond to the performance  
28 report and submit any corrections or clarifications for the report.

29 (4) The renewal application guidance shall, at a minimum, provide an  
30 opportunity for the ~~public~~ charter ~~school~~ holder to:

31 (a) Present additional evidence, beyond the data contained in the per-  
32 formance report, supporting its case for charter renewal; and

33 (b) Describe improvements undertaken or planned for the school.

34 (5) The renewal application guidance shall include or refer explicitly  
35 to the criteria that will guide the authorized chartering entity's renewal  
36 decisions, which shall be based on independent fiscal audits and the perfor-  
37 mance framework set forth in the performance certificate.

38 (6) No later than December 15, the ~~governing board of a public charter~~  
39 ~~school holder~~ seeking renewal shall submit a renewal application to the au-  
40 thorized chartering entity pursuant to the renewal application guidance is-  
41 sued by the authorized chartering entity. The authorized chartering entity  
42 shall vote on the renewal application no later than March 15.

43 (7) In making charter renewal decisions, every authorized chartering  
44 entity shall:

45 (a) Ground its decisions in evidence of the school's performance over  
46 the term of the performance certificate in accordance with the perfor-  
47 mance framework set forth in the performance certificate;

48 (b) Ensure that data used in making renewal decisions are available to  
49 the school and the public; and

1 (c) Provide a public report summarizing the evidence basis for each de-  
2 cision.

3 (8) An authorized chartering entity must develop revocation and nonre-  
4 newal processes that:

5 (a) Provide the charter holders with a timely notification of the  
6 prospect of revocation or nonrenewal and of the reasons for such possi-  
7 ble closure, which shall be limited to failure to meet the terms of the  
8 performance certificate or the written conditions established pursuant  
9 to the provisions of subsection (1) of this section;

10 (b) Allow the charter holders a reasonable amount of time in which to  
11 prepare a response;

12 (c) Provide the charter holders with an opportunity to submit documents  
13 and give testimony challenging the rationale for closure and in support  
14 of the continuation of the school at an orderly proceeding held for that  
15 purpose;

16 (d) Allow the charter holders to be represented by counsel and to call  
17 witnesses on their behalf;

18 (e) Permit the recording of such proceedings; and

19 (f) After a reasonable period for deliberation, require a final deter-  
20 mination to be made and conveyed in writing to the charter holders.

21 (9) An authorized chartering entity shall renew any charter in which  
22 the public charter school met all of the terms of its performance certificate  
23 at the time of renewal. An authorized chartering entity may renew or nonre-  
24 new any charter in which the public charter school failed to meet one (1) or  
25 more of the terms of its performance certificate.

26 SECTION 12. That Section 33-5209C, Idaho Code, be, and the same is  
27 hereby amended to read as follows:

28 33-5209C. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized  
29 chartering entity shall continually monitor the performance and legal com-  
30 pliance of the public charter schools it oversees, including collecting and  
31 analyzing data to support ongoing evaluation according to the performance  
32 certificate. Every authorized chartering entity shall have the authority  
33 to conduct or require oversight activities that enable the authorized char-  
34 tering entity to fulfill its responsibilities pursuant to the provisions  
35 of this chapter, including conducting appropriate inquiries and investi-  
36 gations, so long as those activities are consistent with the intent of this  
37 chapter, adhere to the terms of the performance certificate and do not unduly  
38 inhibit the autonomy granted to public charter schools.

39 (2) Each authorized chartering entity shall annually publish and make  
40 available to the public a performance report for each public charter school  
41 it oversees, in accordance with the performance framework set forth in the  
42 performance certificate and section 33-5209A, Idaho Code. The authorized  
43 chartering entity may require each public charter school it oversees to sub-  
44 mit an annual report to assist the authorized chartering entity in gather-  
45 ing complete information about each school consistent with the performance  
46 framework. Each public charter school shall publish its annual performance  
47 report on the school's website.

48 (3) If an authorized chartering entity has reason to believe that a  
49 public charter school cannot remain fiscally sound for the remainder of its

1 certificate term, it shall provide the state department of education with  
2 written notification of such concern. Upon receiving such notification,  
3 the state department of education shall have the authority to modify the  
4 percentage of the total appropriation to be paid to the public charter school  
5 pursuant to the provisions of section 33-1009(1), Idaho Code, such that  
6 equal percentages are paid on each of the prescribed dates.

7 (4) If an authorized chartering entity has reason to believe that a  
8 charter holder or public charter school has violated any provision of law, it  
9 shall notify the public charter school holder and the entity responsible for  
10 administering said law of the possible violation.

11 (5) If an authorized chartering entity revokes or does not renew a char-  
12 ter, the authorized chartering entity shall clearly state, in a resolution  
13 of its governing board, the reasons for the revocation or nonrenewal.

14 (6) Within fourteen (14) days of taking action to renew, not renew or  
15 revoke a charter, the authorized chartering entity shall report to the state  
16 board of education the action taken and shall provide a copy of the report to  
17 the public charter school holder at the same time that the report is submit-  
18 ted to the state board of education. The report shall include a copy of the  
19 authorized chartering entity's resolution setting forth the action taken  
20 and reasons for the decision and assurances as to compliance with all of the  
21 requirements set forth in this chapter.

22 (7) A charter may be revoked by the authorized chartering entity if the  
23 public charter school has failed to meet any of the specific, written condi-  
24 tions for necessary improvements established pursuant to the provisions of  
25 section 33-5209B(1), Idaho Code, by the dates specified. Revocation may not  
26 occur until the public charter school holder has been afforded a public hear-  
27 ing, unless the authorized chartering entity determines that the continued  
28 operation of the public charter school presents an imminent public safety  
29 issue, in which case the charter may be revoked immediately. Public hearings  
30 shall be conducted by the authorized chartering entity or such other per-  
31 son or persons appointed by the authorized chartering entity to conduct pub-  
32 lic hearings and receive evidence as a contested case in accordance with the  
33 provisions of section 67-5242, Idaho Code. Notice and opportunity to reply  
34 shall include, at a minimum, written notice setting out the basis for con-  
35 sideration of revocation, a period of not less than thirty (30) days within  
36 which the public charter school holder can reply in writing, and a public  
37 hearing within thirty (30) days of the receipt of the written reply.

38 (8) A decision to revoke or nonrenew a charter or to deny a revision of  
39 a charter may be appealed directly to the state board of education. With re-  
40 spect to such appeal, the state board of education shall substantially fol-  
41 low the procedure as provided in section 33-5207(5) (b), Idaho Code. In the  
42 event the state board of education reverses a decision of revocation or non-  
43 renewal, the public charter school holder subject to such action shall then  
44 be placed under the chartering authority of the public charter school com-  
45 mission.

46 SECTION 13. That Section 33-5210, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

1           33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION  
2 FROM STATE RULES. (1) All public charter schools are under the general super-  
3 vision of the state board of education.

4           (2) Every authorized chartering entity that approves a charter shall  
5 be responsible for ensuring that each public charter school program approved  
6 by that authorized chartering entity meets the terms of the charter, com-  
7 plies with the general education laws of the state unless specifically di-  
8 rected otherwise in this chapter ~~52, title 33, Idaho Code~~, and operates in  
9 accordance with the state educational standards of thoroughness ~~as defined~~  
10 ~~in pursuant to~~ section 33-1612, Idaho Code.

11           (3) Each public charter school shall comply with the financial report-  
12 ing requirements of section 33-701, subsections 5. through 10., Idaho Code,  
13 in the same manner as those requirements are imposed upon school districts.

14           (4) Other than as specified in this section, ~~e~~Each public charter  
15 school is ~~otherwise~~ exempt from rules governing school districts which have  
16 been promulgated by the state board of education, with the exception of state  
17 rules relating to:

18           (a) ~~Waiver of t~~Teacher certification as necessitated by the provisions  
19 of section 33-5205(3)(g), Idaho Code;

20           (b) Accreditation of the school as necessitated by the provisions of  
21 section 33-5205(3)(e), Idaho Code;

22           (c) Qualifications of a student for attendance at an alternative school  
23 as necessitated by the provisions of section 33-5208(3), Idaho Code;

24           (d) ~~The r~~Requirements that all employees of the school undergo a crimi-  
25 nal history check as required by section 33-130, Idaho Code; ~~and~~

26           (e) Rules promulgated pursuant to section 33-1612, Idaho Code; and

27           (f) All rules which specifically pertain to public charter schools pro-  
28 mulgated by the state board of education. ~~Public charter schools autho-~~  
29 ~~rized by the public charter school commission are also subject to rules~~  
30 ~~promulgated by the public charter school commission.~~

31           SECTION 14. The provisions of Section 4 of this act shall be in full  
32 force and effect on and after July 1, 2018.