

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 590

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE,
2 TO REVISE PROVISIONS RELATING TO A PETITION SUBMITTED TO THE BOARD OF
3 TRUSTEES, TO REVISE PROVISIONS RELATING TO PETITIONS RECEIVED BY AN
4 AUTHORIZED CHARTERING ENTITY, TO REVISE PROVISIONS RELATING TO A PUBLIC
5 HEARING, TO REVISE CERTAIN TIMING PROVISIONS, TO PROVIDE FOR AN AGREE-
6 MENT, TO PROVIDE FOR A PRIMARY ATTENDANCE AREA, TO REVISE PROVISIONS
7 RELATING TO ADMISSION PROCEDURES, TO REVISE PROVISIONS RELATING TO
8 TRANSPORTATION SERVICES, TO ESTABLISH PROVISIONS RELATING TO A CHARTER
9 FOR A PUBLIC VIRTUAL SCHOOL, TO ELIMINATE LANGUAGE RELATING TO A PUBLIC
10 CHARTER SCHOOL WORKSHOP AND TO ELIMINATE LANGUAGE RELATING TO A CHAR-
11 TER FOR A PUBLIC VIRTUAL CHARTER SCHOOL; AMENDING SECTION 33-5205A,
12 IDAHO CODE, TO REVISE TERMINOLOGY RELATING TO THE TRANSFER OF A CHARTER
13 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5206, IDAHO
14 CODE, TO REVISE PROVISIONS RELATING TO ATTENDANCE AREA, TO ESTABLISH
15 PROVISIONS RELATING TO REVISION OF A CHARTER AND TO PROVIDE A CORRECT
16 CODE REFERENCE; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PRO-
17 VISIONS RELATING TO THE REVIEW OF A CHARTER PETITION; AMENDING SECTION
18 33-5208, IDAHO CODE, TO ELIMINATE OBSOLETE LANGUAGE AND TO REMOVE A
19 CODE REFERENCE; AMENDING SECTION 33-5209, IDAHO CODE, TO ELIMINATE LAN-
20 GUAGE RELATING TO THE REVISION OF A CHARTER; AMENDING SECTION 33-5210,
21 IDAHO CODE, TO PROVIDE THAT CERTAIN PUBLIC CHARTER SCHOOLS ARE SUBJECT
22 TO RULES; AMENDING SECTION 33-5211, IDAHO CODE, TO REVISE PROVISIONS
23 RELATING TO ASSISTANCE PROVIDED BY THE STATE DEPARTMENT OF EDUCATION;
24 AMENDING SECTION 33-5213, IDAHO CODE, TO REVISE PROVISIONS RELATING
25 TO TERMS OF OFFICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
26 33-1619, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING
27 SECTION 33-5202A, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE A
28 TECHNICAL CORRECTION.
29

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

31 SECTION 1. That Section 33-5205, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of
34 persons may petition to establish a new public charter school, or to convert
35 an existing traditional public school to a public charter school.

36 (a) A petition to establish a new public charter school, including a
37 public virtual charter school, shall be signed by not fewer than thirty
38 (30) qualified electors of the attendance area designated in the peti-
39 tion. Proof of elector qualifications shall be provided with the peti-
40 tion.

41 (b) A petition to establish a new public virtual school must be sub-
42 mitted directly to the public charter school commission. A petition to

1 establish a new public charter school, other than a new public virtual
2 school, shall first be submitted to the local board of trustees in which
3 the public charter school will be located. A petition shall be consid-
4 ered to be received by an authorized chartering entity as of the next
5 scheduled meeting of the authorized chartering entity after submission
6 of the petition.

7 (c) The board of trustees may either: (i) consider the petition and ap-
8 prove the charter; or (ii) consider the petition and deny the charter;
9 or (iii) refer the petition to the public charter school commission, but
10 such referral shall not be made until the local board has documented its
11 due diligence in considering the petition. Such documentation shall be
12 submitted with the petition to the public charter school commission. If
13 the petitioners and the local board of trustees have not reached mutual
14 agreement on the provisions of the charter, after a reasonable and good
15 faith effort, within sixty seventy-five (6075) days from the date the
16 charter petition is received, the petitioners may withdraw their peti-
17 tion from the local board of trustees and may submit their charter peti-
18 tion to the public charter school commission, ~~provided it is signed by~~
19 ~~thirty (30) qualified electors as required by subsection (1) (a) of this~~
20 ~~section.~~ Documentation of the reasonable and good faith effort between
21 the petitioners and the local board of trustees must be submitted with
22 the petition to the public charter school commission.

23 (d) The public charter school commission may either: (i) consider the
24 petition and approve the charter; or (ii) consider the petition and deny
25 the charter.

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

37 (2) Not later than sixty seventy-five (6075) days after receiving a pe-
38 ~~tion signed by thirty (30) qualified electors as required by subsection~~
39 ~~(1) (a) of this section,~~ the authorized chartering entity shall hold a public
40 hearing for the purpose of discussing the provisions of the charter, at which
41 time the authorized chartering entity shall consider the merits of the pe-
42 tition and the level of employee and parental support for the petition. In
43 the case of a petition submitted to the public charter school commission,
44 such public hearing must be not later than sixty seventy-five (6075) days af-
45 ~~ter receipt of the petition, which may be extended to ninety (90) days for an~~
46 ~~additional specified period of time if both parties agree to an extension.~~
47 Such agreement shall be established in writing and signed by representatives
48 of both parties.

49 In the case of a petition for a public virtual charter school, if the
50 primary attendance area described in the petition of a proposed public vir-

1 tual charter school extends within the boundaries of five (5) or fewer local
2 school districts, the public charter school commission shall provide notice
3 in writing of the public hearing no less than thirty (30) days prior to such
4 public hearing to those local school districts. Such public hearing shall
5 include any oral or written comments that an authorized representative of
6 the local school districts may provide regarding the merits of the petition
7 and any potential impacts on the school districts.

8 In the case of a petition for a non-virtual public charter school sub-
9 mitted to the public charter school commission, the board of the district in
10 which the proposed public charter school will be physically located, shall
11 be notified of the hearing in writing, by the public charter school commis-
12 sion, no less than thirty (30) days prior to the public hearing. Such public
13 hearing shall include any oral or written comments that an authorized repre-
14 sentative of the school district in which the proposed public charter school
15 would be physically located may provide regarding the merits of the petition
16 and any potential impacts on the school district. The hearing shall include
17 any oral or written comments that petitioners may provide regarding any po-
18 tential impacts on such school district. If the school district chooses not
19 to provide any oral or written comments as provided for in this subsection
20 (2), such school district shall notify the public charter school commission
21 of such decision. Following review of any petition and any public hearing
22 provided for in this section, the authorized chartering entity shall either
23 approve or deny the charter within sixty seventy-five (6075) days after the
24 date of the public hearing, provided however, that the date may be extended
25 by an additional sixty (60) days specified period of time if the petition
26 fails to contain all of the information required in this section, or if both
27 parties agree to the extension. Such agreement shall be established in writ-
28 ing and signed by representatives of both parties. This public hearing shall
29 be an opportunity for public participation and oral presentation by the pub-
30 lic. This hearing is not a contested case hearing as described in chapter 52,
31 title 67, Idaho Code.

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

37 (a) The proposed educational program of the public charter school, de-
38 signed among other things, to identify what it means to be an "educated
39 person" in the twenty-first century, and how learning best occurs. The
40 goals identified in the program shall include how all educational thor-
41 oughness standards as defined in section 33-1612, Idaho Code, shall be
42 fulfilled.

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

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

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

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

6 (f) The governance structure of the public charter school including,
7 but not limited to, the person or entity who shall be legally account-
8 able for the operation of the public charter school, and the process to
9 be followed by the public charter school to ensure parental involve-
10 ment.

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

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

16 (i) A plan for the requirements of section 33-205, Idaho Code, for the
17 denial of school attendance to any student who is an habitual truant, as
18 defined in section 33-206, Idaho Code, or who is incorrigible, or whose
19 conduct, in the judgment of the board of directors of the public charter
20 school, is such as to be continuously disruptive of school discipline,
21 or of the instructional effectiveness of the school, or whose presence
22 in a public charter school is detrimental to the health and safety of
23 other pupils, or who has been expelled from another school district in
24 this state or any other state.

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

29 (k) Admission procedures, including provision for overenrollment.
30 Such admission procedures shall provide that the initial admission
31 procedures for a new public charter school, including provision for ov-
32 erenrollment, will be determined by lottery or other random method, ex-
33 cept as otherwise provided herein. If initial capacity is insufficient
34 to enroll all pupils who submit a timely application, then the admission
35 procedures may provide that preference shall be given in the following
36 order: first, to children of founders, provided that this admission
37 preference shall be limited to not more than ten percent (10%) of the
38 capacity of the public charter school; second, to siblings of pupils
39 already selected by the lottery or other random method; ~~and~~ third, to
40 students residing within the primary attendance area of the public
41 charter school; and fourth, by an equitable selection process such as
42 by a lottery or other random method. If so stated in its petition, a new
43 public charter school may include the children of full-time employees
44 of the public charter school within the first priority group subject to
45 the limitations therein. Otherwise, such children shall be included
46 in the ~~third~~ highest priority group for which they would otherwise be
47 eligible. If capacity is insufficient to enroll all pupils who submit
48 a timely application for subsequent school terms, ~~who submit a timely~~
49 application, then the admission procedures may provide that preference
50 shall be given in the following order: first, to pupils returning to the

1 public charter school in the second or any subsequent year of its oper-
 2 ation; second, to children of founders, provided that this admission
 3 preference shall be limited to not more than ten percent (10%) of the
 4 capacity of the public charter school; third, to siblings of pupils al-
 5 ready enrolled in the public charter school; ~~and fourth, to students re-~~
 6 siding within the primary attendance area of the public charter school;
 7 and fifth, by an equitable selection process such as by a lottery or
 8 other random method. There shall be no carryover from year to year of
 9 the list maintained to fill vacancies. A new lottery shall be conducted
 10 each year to fill vacancies which become available. If so stated in its
 11 petition, a public charter school may include the following children
 12 within the second priority group subject to the limitations therein:

13 (i) The children of full-time employees of the public charter
 14 school;

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

19 Otherwise, such children shall be included in the ~~fourth~~ highest prior-
 20 ity group for which they would otherwise be eligible.

21 (~~l~~) The manner in which ~~an~~ annual audits of the financial and program-
 22 matic operations of the public charter school ~~is~~ are to be conducted.

23 (~~l~~m) The disciplinary procedures that the public charter school will
 24 utilize, including the procedure by which students may be suspended,
 25 expelled and reenrolled, and the procedures required by section 33-210,
 26 Idaho Code.

27 (~~n~~) A provision which ensures that all staff members of the pub-
 28 lic charter school will be covered by the public employee retirement
 29 system, federal social security, unemployment insurance, worker's com-
 30 pensation insurance, and health insurance.

31 (~~o~~) The public school attendance alternative for students residing
 32 within the school district who choose not to attend the public charter
 33 school.

34 (~~p~~) A description of the transfer rights of any employee choosing to
 35 work in a public charter school that is approved by the board of trustees
 36 of a school district, and the rights of such employees to return to any
 37 noncharter school in the same school district after employment at such
 38 charter school.

39 (~~q~~) A provision which ensures that the staff of the public charter
 40 school shall be considered a separate unit for purposes of collective
 41 bargaining.

42 (~~r~~) The manner by which special education services will be provided to
 43 students with disabilities who are eligible pursuant to the federal in-
 44 dividuals with disabilities education act, including disciplinary pro-
 45 cedures for these students.

46 (~~s~~) A plan for working with parents who have students who are dually
 47 enrolled pursuant to section 33-203, Idaho Code.

48 (~~t~~) The process by which the citizens in the ~~area of~~ primary attendance
 49 area shall be made aware of the enrollment opportunities of the public
 50 charter school.

1 ~~(tu)~~ A proposal for transportation services as required by section
2 ~~33-5208(4), Idaho Code~~ including estimated first year costs.

3 ~~(uv)~~ A plan for termination of the charter by the board of directors, to
4 include:

5 (i) Identification of who is responsible for dissolution of the
6 charter school;

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

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

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

13 (4) The public charter school commission may approve a charter for a
14 public virtual school under the provisions of this chapter only if it deter-
15 mines that the petition contains the requirements of subsections (3) and (5)
16 of this section and the additional statements describing the following:

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

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

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

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

27 (e) The means by which the public virtual school will verify student at-
28 tendance and award course credit. Attendance at public virtual schools
29 shall focus primarily on coursework and activities that are correlated
30 to the Idaho state thoroughness standards;

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

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

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

38 (5) The petitioner shall provide information regarding the proposed
39 operation and potential effects of the public charter school including, but
40 not limited to, the facilities to be utilized by the public charter school,
41 the manner in which administrative services of the public charter school
42 are to be provided and the potential civil liability effects upon the public
43 charter school and upon the authorized chartering entity.

44 ~~(5) At least one (1) person among a group of petitioners of a prospec-~~
45 ~~tive public charter school shall attend a public charter school workshop~~
46 ~~offered by the state department of education. The state department of educa-~~
47 ~~tion shall provide notice of dates and locations when workshops will be held,~~
48 ~~and shall provide proof of attendance to workshop attendees. Such proof~~
49 ~~shall be submitted by the petitioners to an authorized chartering entity~~
50 ~~along with the charter petition.~~

1 ~~(6) The public charter school commission may approve a charter for a~~
 2 ~~public virtual school under the provisions of this chapter only if it deter-~~
 3 ~~mines that the petition contains the requirements of subsections (3) and (4)~~
 4 ~~of this section and the additional statements describing the following:~~

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

6 ~~(b) The role of the online teacher, including the consistent availabil-~~
 7 ~~ity of the teacher to provide guidance around course material, methods~~
 8 ~~of individualized learning in the online course and the means by which~~
 9 ~~student work will be assessed;~~

10 ~~(c) A plan for the provision of professional development specific to~~
 11 ~~the public virtual school environment;~~

12 ~~(d) The means by which public virtual school students will receive ap-~~
 13 ~~propriate teacher-to-student interaction, including timely, frequent~~
 14 ~~feedback about student progress;~~

15 ~~(e) The means by which the public virtual school will verify student at-~~
 16 ~~tendance and award course credit. Attendance at public virtual schools~~
 17 ~~shall focus primarily on coursework and activities that are correlated~~
 18 ~~to the Idaho state thoroughness standards;~~

19 ~~(f) A plan for the provision of technical support relevant to the deliv-~~
 20 ~~ery of online courses;~~

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

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

26 SECTION 2. That Section 33-5205A, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 33-5205A. TRANSFER OF CHARTER. (1) A charter for a public charter
 29 school approved by the board of trustees of a local school district may be
 30 transferred to, and placed under the chartering authority of, the public
 31 charter school commission if the board of trustees of such local school dis-
 32 trict, the public charter school commission, and the board of directors of
 33 the public charter school all agree to such transfer, including any revi-
 34 sion to the charter that may be required in connection with such transfer.
 35 A charter for a public charter school approved by the public charter school
 36 commission may be transferred to, and placed under the chartering authority
 37 of, the board of trustees of the local school district in which the public
 38 charter school is located if the public charter school commission, the board
 39 of trustees of such local school district, and the board of directors of the
 40 public charter school all agree to such transfer, including any revisions to
 41 the charter that may be required in connection with such transfer. A request
 42 to transfer a charter may be initiated by the board of directors of a public
 43 charter school or by the authorized chartering entity with chartering au-
 44 thority over the charter of such public charter school.

45 (2) A public charter school, ~~approved~~ authorized by the public charter
 46 school commission, which has a primary attendance area located within more
 47 than one (1) school district, may transfer the physical location of its pub-
 48 lic charter school within its primary attendance area to locate the facil-
 49 ities within the boundaries of another school district within the ~~approved~~

1 primary attendance area if the public charter school commission, the board
 2 of trustees of each of the relevant school districts and the board of direc-
 3 tors of the public charter school all approve of such transfer of facilities
 4 location, and if the public charter school commission approves any revisions
 5 to the charter that may be required in connection with such transfer.

6 (3) If all parties fail to reach agreement in regard to the request to
 7 transfer a charter, as required herein, then the matter may be appealed di-
 8 rectly to the state board of education. With respect to such appeal, the
 9 state board of education shall substantially follow the procedure as pro-
 10 vided in section 33-5207(5)(b), Idaho Code. A transferred charter school
 11 shall not be considered a new public charter school, and shall not be subject
 12 to the limitations of section 33-5203(2), Idaho Code.

13 SECTION 3. That Section 33-5206, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC
 16 CHARTER SCHOOL. (1) In addition to any other requirements imposed in this
 17 chapter, a public charter school shall be nonsectarian in its programs,
 18 affiliations, admission policies, employment practices, and all other op-
 19 erations, shall not charge tuition, levy taxes or issue bonds, and shall
 20 not discriminate against any student on any basis prohibited by the federal
 21 or state constitutions or any federal, state or local law. Admission to
 22 a public charter school shall not be determined according to the place of
 23 residence of the student, or of the student's parent or guardian within the
 24 district, except that a new or conversion public charter school established
 25 under the provisions of this chapter shall adopt and maintain a policy giving
 26 admission preference to students who reside within the primary attendance
 27 area of that public charter school. ~~The attendance area of a charter school,~~
 28 ~~as described in the petition, shall be composed of compact and contiguous~~
 29 ~~area. For the purposes of this section, if services are available to stu-~~
 30 ~~dents throughout the state, the state of Idaho is considered a compact and~~
 31 ~~contiguous area.~~

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

34 (3) Certified teachers in a public charter school shall be considered
 35 public school teachers. Educational experience shall accrue for service in
 36 a public charter school and such experience shall be counted by any school
 37 district for any teacher who has been employed in a public charter school.

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

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

44 (6) Upon approval of the petition by the authorized chartering entity,
 45 the petitioner shall provide written notice of that approval, including a
 46 copy of the approved petition, to the state board of education. For the pur-
 47 pose of implementing the provisions of section 33-5203(2), Idaho Code, the
 48 state board of education shall assign a number to each petition it receives.

1 Petitions shall be numbered based on the chronological order in which notice
2 of the approved petition is received by the state board of education.

3 (7) Each public charter school shall annually submit a report to the
4 authorized chartering entity which approved its charter. The report shall
5 contain the audit of the fiscal and programmatic operations as required in
6 section 33-5205(3) (~~*1~~), Idaho Code, a report on student progress based on
7 the public charter school's measurable student educational standards iden-
8 tified in section 33-5205(3) (b), Idaho Code, and a copy of the public charter
9 school's accreditation report.

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

29 (9) When a charter is revoked pursuant to section 33-5209, Idaho Code,
30 or the board of directors of the public charter school terminates the char-
31 ter, the assets of the public charter school remaining after all debts of the
32 public charter school have been satisfied must be returned to the authorized
33 chartering entity for distribution in accordance with applicable law.

34 SECTION 4. That Section 33-5207, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of
37 trustees, acting in its capacity as an authorized chartering entity, ap-
38 proves a petition for the conversion of an existing traditional public
39 school within the school district over the objection of thirty (30) or more
40 persons or employees of the district, or if an authorized chartering entity
41 denies a petition for the establishment of a new public charter school for
42 any reason including, but not limited to, failure by the petitioner to fol-
43 low procedures or for failure to provide required information, then such
44 decisions may be appealed to the state superintendent of public instruction
45 within thirty (30) days of the date of the written decision, at the request of
46 persons opposing the conversion of an existing traditional public school, or
47 at the request of the petitioner whose request 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; (ii) remand the matter back to the authorized chartering entity,
46 which shall have authority to further review and act on such matter as
47 directed by the state board of education; or (iii) redirect the matter
48 to another authorized chartering entity for further review as directed
49 by the state board of education. Such public hearing shall be conducted
50 pursuant to procedures as set by the state board of education.

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

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

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

18 SECTION 5. That Section 33-5208, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided
21 in subsection (8) of this section, from the state educational support pro-
22 gram the state department of education shall make the following apportion-
23 ment to each public charter school for each fiscal year based on attendance
24 figures submitted in a manner and time as required by the department of edu-
25 cation:

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

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

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

1 (4) Transportation support. Support shall be paid to the public char-
2 ter school as provided in chapter 15, title 33, Idaho Code, and section
3 33-1006, Idaho Code. Each public charter school shall furnish the depart-
4 ment with an enrollment count as of the first Friday in November, of public
5 charter school students who are eligible for reimbursement of transporta-
6 tion costs under the provisions of this subsection and who reside more than
7 one and one-half (1 1/2) miles from the school. ~~For charter schools in the~~
8 ~~initial year of operation, the petition shall include a proposal for trans-~~
9 ~~portation services with an estimated first year cost.~~ The state department
10 of education is authorized to include in the annual appropriation to the
11 charter school sixty percent (60%) of the estimated transportation cost.
12 The final appropriation payment in July shall reflect reimbursements of
13 actual costs pursuant to section 33-1006, Idaho Code. To be eligible for
14 state reimbursement under the provisions of section 33-1006, Idaho Code,
15 the student to be transported must reside within the public charter school's
16 primary attendance zone area, and must meet at least one (1) of the following
17 two (2) criteria:

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

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

22 The limitations placed by this subsection on the reimbursement of
23 transportation costs for certain students shall not apply to public virtual
24 schools.

25 (5) Payment schedule. The state department of education is authorized
26 to make an advance payment of twenty-five percent (25%) of a public charter
27 school's estimated annual apportionment for its first year of operation, and
28 each year thereafter, provided the public charter school has an increase of
29 student population in any given year of twenty (20) students or more, to as-
30 sist the school with initial start-up costs or payroll obligations.

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

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

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

43 A public charter school shall comply with all applicable fiscal requirements
44 of law, except that the following provisions shall not be applicable to
45 public charter schools: ~~section 33-1003B, Idaho Code, relating to guaran-~~
46 ~~teed minimum support;~~ that portion of section 33-1004, Idaho Code, relating
47 to reduction of the administrative and instructional staff allowance when
48 there is a discrepancy between the number allowed and the number actually em-
49 ployed; and section 33-1004E, Idaho Code, for calculation of district staff
50 indices.

1 (6) Nothing in this chapter shall be construed to prohibit any private
2 person or organization from providing funding or other financial assistance
3 to the establishment or operation of a public charter school.

4 (7) Nothing in this chapter shall prevent a public charter school from
5 applying for federal grant moneys.

6 (8) (a) ~~For the period July 1, 2003, through June 30, 2005, all pub-~~
7 ~~lic virtual schools shall be assigned divisors, pursuant to section~~
8 ~~33-1002, Idaho Code, that are no higher than the median divisor shown~~
9 ~~for each respective category of pupils, among the possible divisors~~
10 ~~listed, for each respective category of pupils that contains more than~~
11 ~~one (1) divisor. If there is an even number of possible divisors listed~~
12 ~~for a particular category of pupils, then the lesser of the two (2) me-~~
13 ~~edian divisors shall be used. For the period July 1, 2005, through June~~
14 ~~30, 2007, all public virtual schools shall be assigned divisors, pur-~~
15 ~~suant to section 33-1002, Idaho Code, that are no higher than the second~~
16 ~~highest divisor shown, among the possible divisors listed, for each~~
17 ~~respective category of pupils that contains more than one (1) divisor.~~
18 ~~The divisor provisions contained herein shall only be applicable to~~
19 ~~the number of pupils in average daily attendance in such public virtual~~
20 ~~schools for the period July 1, 2003, through June 30, 2004. If the num-~~
21 ~~ber of pupils in average daily attendance in any particular category~~
22 ~~of pupils increases, during the period July 1, 2004, through June 30,~~
23 ~~2005, to a number above that which existed in the prior fiscal year, then~~
24 ~~those additional pupils in average daily attendance shall be assigned~~
25 ~~the divisor, pursuant to section 33-1002, Idaho Code, that would have~~
26 ~~otherwise been assigned to the school district or public charter school~~
27 ~~had this section not been in force.~~

28 (b) Each student in attendance at a public virtual school shall be
29 funded based upon either the actual hours of attendance in the public
30 virtual school on a flexible schedule, or the percentage of coursework
31 completed, whichever is more advantageous to the school, up to the maxi-
32 mum of one (1) full-time equivalent student.

33 (e) All federal educational funds shall be administered and dis-
34 tributed to public charter schools, including public virtual schools,
35 that have been designated by the state board of education as a local edu-
36 cation agency (LEA), as provided in section 33-5203(7), Idaho Code.

37 (9) Nothing in this section prohibits separate face-to-face learning
38 activities or services.

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

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

43 33-5209. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized char-
44 tering entity shall ensure that all public charter schools for which it
45 approved petitions, or for which it has responsibility, operate in accor-
46 dance with the approved charter. ~~A public charter school or the authorized~~
47 ~~chartering entity may enter into negotiations to revise its charter at any~~
48 ~~time. A public charter school may petition to revise its charter at any time.~~
49 ~~The authorized chartering entity's review of the revised petition shall be~~

1 ~~limited in scope solely to the proposed revisions. In those instances where~~
2 ~~a non-virtual public charter school submits a proposed charter revision to~~
3 ~~the public charter school commission and such revision includes a proposal~~
4 ~~to increase such public charter school's approved student enrollment cap by~~
5 ~~ten percent (10%) or more, the commission shall hold a public hearing on such~~
6 ~~petition. The public charter school commission shall provide the board of~~
7 ~~the local school district in which the public charter school is physically~~
8 ~~located, notice in writing of such hearing, no later than thirty (30) days~~
9 ~~prior to the hearing. The public hearing shall include any oral or written~~
10 ~~comments that an authorized representative of the school district in which~~
11 ~~the public charter school is physically located may provide regarding the~~
12 ~~impact of the proposed charter revision upon the school district. Such~~
13 ~~public hearing shall also include any oral or written comments that any pe-~~
14 ~~titioner may provide regarding the impact of the proposed charter revision~~
15 ~~upon such school district.~~

16 (2) If the authorized chartering entity has reason to believe that the
17 public charter school has done any of the following, it shall provide the
18 public charter school written notice of the defect and provide a reasonable
19 opportunity to cure the defect:

20 (a) Committed a material violation of any condition, standard or proce-
21 dure set forth in the approved charter;

22 (b) Failed to substantially meet any of the student educational stan-
23 dards identified in the approved charter;

24 (c) Failed to meet generally accepted accounting standards of fiscal
25 management;

26 (d) Failed to demonstrate fiscal soundness. In order to be fiscally
27 sound, the public charter school must be:

28 (i) Fiscally stable on a short-term basis, that is, able to ser-
29 vice all upcoming obligations; and

30 (ii) Fiscally sustainable as a going concern, that is, able to
31 reasonably demonstrate its ability to service any debt and meet
32 its financial obligations for the next fiscal year;

33 (e) Failed to submit required reports to the authorized chartering en-
34 tity governing the charter; or

35 (f) Violated any provision of law.

36 (3) A charter may be revoked by the authorized chartering entity if the
37 public charter school has failed to cure a defect after receiving reasonable
38 notice and having had a reasonable opportunity to cure the defect. Revoca-
39 tion may not occur until the public charter school has been afforded a public
40 hearing and a reasonable opportunity to cure the defect, unless the autho-
41 rized chartering entity reasonably determines that the continued operation
42 of the public charter school presents an imminent public safety issue, in
43 which case the charter may be revoked immediately. Public hearings shall be
44 conducted by the governing authorized chartering entity, or such other per-
45 son or persons appointed by the authorized chartering entity to conduct pub-
46 lic hearings and receive evidence as a contested case in accordance with sec-
47 tion 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall
48 include, at a minimum, written notice setting out the basis for considera-
49 tion of revocation, a period of not less than thirty (30) days within which

1 the public charter school can reply in writing, and a public hearing within
2 thirty (30) days of the receipt of the written reply.

3 (4) A decision to revoke a charter or to deny a revision of a charter
4 may be appealed directly to the state board of education. With respect to
5 such appeal, the state board of education shall substantially follow the
6 procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the
7 state board of education reverses a decision of revocation, the public char-
8 ter school subject to such action shall then be placed under the chartering
9 authority of the commission.

10 SECTION 7. That Section 33-5210, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION
13 FROM STATE RULES. (1) All public charter schools are under the general super-
14 vision of the state board of education.

15 (2) Every authorized chartering entity that approves a charter shall
16 be responsible for ensuring that each public charter school program approved
17 by that authorized chartering entity meets the terms of the charter, com-
18 plies with the general education laws of the state unless specifically di-
19 rected otherwise in this chapter 52, title 33, Idaho Code, and operates in
20 accordance with the state educational standards of thoroughness as defined
21 in section 33-1612, Idaho Code.

22 (3) Each charter school shall comply with the financial reporting re-
23 quirements of section 33-701, subsections 5. through 10., Idaho Code, in the
24 same manner as those requirements are imposed upon school districts.

25 (4) Each public charter school is otherwise exempt from rules govern-
26 ing school districts which have been promulgated by the state board of educa-
27 tion, with the exception of state rules relating to:

28 (a) Waiver of teacher certification as necessitated by the provisions
29 of section 33-5205(3)(g), Idaho Code;

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

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

34 (d) The requirement that all employees of the school undergo a criminal
35 history check as required by section 33-130, Idaho Code; and

36 (e) All rules which specifically pertain to public charter schools pro-
37 mulgated by the state board of education. Public charter schools autho-
38 riized by the public charter school commission are also subject to rules
39 promulgated by the public charter school commission.

40 SECTION 8. That Section 33-5211, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 33-5211. ~~ASSISTANCE WITH PETITIONS~~ TECHNICAL SUPPORT AND INFORMA-
43 TION. (1) The state department of education shall provide technical assis-
44 tance to persons or groups preparing or revising charter petitions and to ex-
45 isting public charter schools in the same manner as such assistance is pro-
46 vided to traditional public schools and school districts.

1 (2) Upon request, the state department of education shall provide the
2 following information concerning a public charter school whose petition has
3 been approved:

4 (a) The public charter school's petition.

5 (b) The annual audit performed at the public charter school pursuant to
6 the public charter school petition.

7 (c) Any written report by the state board of education to the leg-
8 islature reviewing the educational effectiveness of public charter
9 schools.

10 (3) At least one (1) person among a group of petitioners of a prospec-
11 tive public charter school shall attend a public charter school workshop
12 offered by the state department of education. The state department of ed-
13 ucation shall provide notice of dates and locations when workshops will be
14 held and shall provide proof of attendance to workshop attendees. Such proof
15 shall be submitted by the petitioners to an authorized chartering entity
16 along with the charter petition.

17 (4) Prior to submission of a petition for a new or conversion public
18 charter school to an authorized chartering entity, the state department of
19 education must conduct a sufficiency review of the petition and provide to
20 the petitioners, in writing, the findings of such review.

21 SECTION 9. That Section 33-5213, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby
24 created an independent public charter school commission, referred to here-
25 inafter as the commission, to be located in the office of the state board of
26 education, pursuant to section 33-105, Idaho Code. It shall be the respon-
27 sibility and duty of the executive director of the state board of education
28 acting at the direction of the commission to administer and enforce the pro-
29 visions of this chapter, and the director or his designee, shall serve as
30 secretary to the commission.

31 (2) The public charter school commission shall adopt rules, subject to
32 law, regarding the governance and administration of the commission.

33 (3) The commission shall be composed of seven (7) members:

34 (a) Three (3) members shall be current or former members of boards of
35 directors of Idaho public charter schools, and shall be appointed by the
36 governor, subject to the advice and consent of the senate; provided how-
37 ever, that no current board member of a public charter school authorized
38 by the commission shall be eligible for appointment;

39 (b) Three (3) members shall be current or former trustees of an Idaho
40 school district, and shall be appointed by the governor, subject to the
41 advice and consent of the senate; and

42 (c) One (1) member shall be a member of the public at large not di-
43 rectly associated with the Idaho public education system, and shall
44 be appointed by the governor, subject to the advice and consent of the
45 senate.

46 ~~For the purpose of establishing staggered terms of office, the initial~~ The
47 ~~term of office for three (3) commission members shall be four (4) years and~~
48 ~~thereafter shall be four (4) years; the initial term of office for two (2)-~~
49 ~~members shall be three (3) years and thereafter shall be four (4) years; and~~

1 ~~the initial term of office for two (2) members shall be two (2) years and~~
2 ~~thereafter shall be four (4) years.~~ In making such appointments, the gov-
3 ernor shall consider regional balance. Members of the commission shall hold
4 office until the expiration of the term to which the member was appointed and
5 until a successor has been duly appointed, unless sooner removed for cause by
6 the appointing authority. Whenever a vacancy occurs, the appointing author-
7 ity shall appoint a qualified person to fill the vacancy for the unexpired
8 portion of the term.

9 (4) All members of the commission shall be citizens of the United States
10 and residents of the state of Idaho for not less than two (2) years.

11 (5) The members of the commission shall, at their first regular meet-
12 ing following the effective date of this act, and every two (2) years there-
13 after, elect, by a majority vote of the members of the commission, a chairman
14 and a vice-chairman. The chairman shall preside at meetings of the commis-
15 sion, and the vice-chairman shall preside at such meetings in the absence of
16 the chairman. A majority of the members of the commission shall constitute a
17 quorum. The commission shall meet at such times and places as determined to
18 be necessary and convenient, or at the call of the chair.

19 (6) Each member of the commission not otherwise compensated by public
20 moneys shall be compensated as provided in section 59-509 (h), Idaho Code.

21 SECTION 10. That Section 33-1619, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 33-1619. VIRTUAL EDUCATION PROGRAMS. School districts may offer in-
24 struction in the manner described for a virtual school in section 33-5202A,
25 Idaho Code. For programs meeting such definition, the school district may
26 count and report the average daily attendance of the program's students in
27 the manner prescribed in section 33-5208(8) ~~(b)~~, Idaho Code. School dis-
28 tricts may also offer instruction that is a blend of virtual and traditional
29 instruction. For such blended programs, the school district may count and
30 report the average daily attendance of the program's students in the manner
31 prescribed in section 33-5208(8) ~~(b)~~, Idaho Code. Alternatively, the school
32 district may count and report the average daily attendance of the blended
33 program's students in the same manner as provided for traditional programs
34 of instruction, for the days or portions of days in which such students at-
35 tend a physical public school. For the balance of days or portions of days,
36 average daily attendance may be counted in the manner prescribed in section
37 33-5208(8) ~~(b)~~, Idaho Code.

38 SECTION 11. That Section 33-5202A, Idaho Code, be, and the same is
39 hereby amended to read as follows:

40 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-
41 quires otherwise:

42 (1) "Authorized chartering entity" means either the local board of
43 trustees of a school district in this state, or the public charter school
44 commission pursuant to the provisions of this chapter.

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

1 (3) "Founder" means a person, including employees or staff of a pub-
2 lic charter school, who makes a material contribution toward the establish-
3 ment of a public charter school in accordance with criteria determined by
4 the board of directors of the public charter school, and who is designated
5 as such at the time the board of directors acknowledges and accepts such con-
6 tribution. The criteria for determining when a person is a founder shall not
7 discriminate against any person on any basis prohibited by the federal or
8 state constitutions or any federal, state or local law. The designation of a
9 person as a founder, and the admission preferences available to the children
10 of a founder, shall not constitute pecuniary benefits.

11 (4) "Petition" means the document submitted by a person or persons to
12 the authorized chartering entity to request the creation of a public charter
13 school.

14 (5) "Professional-technical regional public charter school" means a
15 public charter secondary school authorized under this chapter to provide
16 programs in professional-technical education which meet the standards and
17 qualifications established by the division of professional-technical ed-
18 ucation. A professional-technical regional public charter school may be
19 approved by an authorized chartering entity and, by the terms of its char-
20 ter, shall operate in association with at least two (2) school districts.
21 Notwithstanding the provisions of section ~~33-5206(1)~~ 33-5205(3)(j), Idaho
22 Code, participating school districts need not be contiguous.

23 (6) "Public charter school" means a school that is authorized under
24 this chapter to deliver public education in Idaho.

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

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