

SENATE FILE NO. SF0174

Wyoming charter school authorizing board.

Sponsored by: Senator(s) Driskill, Biteman, Boner, Brennan, Dockstader, Ellis, Hutchings, Jones, Kolb, Laursen, D, Salazar and Scott and Representative(s) Allemand, Andrew, Angelos, Banks, Bear, Burkhart, Byron, Conrad, Davis, Eklund, Haroldson, Heiner, Henderson, Hornok, Jennings, Knapp, Lawley, Locke, Neiman, Niemiec, O'Hearn, Oakley, Olsen, Ottman, Pendergraft, Penn, Rodriguez-Williams, Singh, Slagle, Smith, Stith, Strock, Styvar, Tarver, Trujillo, Ward, Washut, Winter and Wylie

A BILL

for

1 AN ACT relating to charter schools; creating the Wyoming
2 charter school authorizing board; modifying the duties of
3 the state superintendent of public instruction; defining
4 terms; revising the process for approval and renewal of
5 charter schools; modifying the requirements for the
6 operation of converted charter schools; modifying funding
7 of charter schools; making conforming amendments; repealing
8 provisions; authorizing full-time positions; and providing
9 for an effective date.

10

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3 **Section 1.** W.S. 21-3-302.2 is created to read:

4

5 **21-3-302.2. Wyoming charter school authorizing board.**

6

7 (a) There is created the Wyoming charter school
8 authorizing board. The mission of the board is to authorize
9 high quality public charter schools throughout the state
10 that provide more options for students to attain a thorough
11 and efficient education.

12

13 (b) The Wyoming charter school authorizing board
14 shall consist of the following five (5) members:

15

16 (i) The superintendent of public instruction, or
17 his designee;

18

19 (ii) One (1) member appointed by the president
20 of the senate;

21

22 (iii) One (1) member appointed by the speaker of
23 the house of representatives;

1

2 (iv) Two (2) members appointed by the governor,
3 one (1) of whom, at the time of appointment, serves on a
4 governing board of a charter school or has previously
5 served on a governing board of a charter school.

6

7 (c) Each member appointed shall represent the public
8 interest and satisfy all of the following requirements:

9

10 (i) Be a resident of the state;

11

12 (ii) Possess experience and expertise in public
13 or nonprofit governance, management and finance, public
14 school leadership, assessment, curriculum or instruction or
15 public education law; and

16

17 (iii) Demonstrate commitment to advancing
18 charter schools pursuant to W.S. 21-3-301.

19

20 (d) No person shall be appointed who receives any
21 pecuniary benefit from or has any financial interest in the
22 operation of charter schools.

23

1 (e) Of the initial members appointed to the board,
2 the two (2) members appointed under paragraphs (b)(ii) and
3 (iii) of this section shall serve two (2) year terms and
4 the two (2) members appointed under paragraph (b)(iv) of
5 this section shall serve four (4) year terms. Thereafter,
6 all appointments shall be for four (4) year terms. The
7 initial appointments shall be made not later than July 1,
8 2023.

9

10 (f) Members appointed to the board by the governor
11 under paragraph (b)(iv) of this section may be removed in
12 accordance with W.S. 9-1-202. Members appointed to the
13 board under paragraphs (b)(ii) and (iii) of this section
14 may be removed by the respective appointing authority.

15

16 (g) Vacancies shall be appointed pursuant to
17 subsection (b) of this section.

18

19 (h) Except in the case of gross negligence or
20 reckless disregard of the safety and well-being of another
21 person, the board and its members are immune from civil
22 liability with respect to all activities related to a
23 charter approved by the board.

1

2 (j) The board shall meet not less than two (2) times
3 each year.

4

5 (k) All appointed members of the board shall receive
6 compensation, per diem and mileage for actual time spent in
7 performance of their duties and traveling expenses while in
8 attendance and going to and from board meetings in the same
9 manner and amount as members of the Wyoming legislature.

10

11 **Section 2.** W.S. 21-2-202 by creating a new subsection
12 (h), 21-3-301(a)(intro), 21-3-302(a)(vii) and by creating
13 new paragraphs (xii) and (xiii), 21-3-302.1(a)(iii), by
14 creating new paragraphs (iv) through (viii), (b) and by
15 creating a new subsection (d), 21-3-304(b) through (d),
16 (g)(intro), (h) through (k) and by creating new subsections
17 (q) through (s), 21-3-305(a)(intro), (i) through (iii),
18 (vi), (x)(intro), by creating new paragraphs (xvii) through
19 (xx), (f) and by creating new subsections (h) and (j),
20 21-3-306(a) and by creating new subsections (e) through
21 (g), 21-3-307(a)(ii) through (v), (xviii), (xix),
22 (xxiii)(G), by creating new paragraphs (xxvi) and (xvii)
23 and (e), 21-3-309(a) and by creating a new subsection (g)

1 and 21-3-314(c)(i), by creating a new paragraph (iv),
2 (f)(intro) and by creating new paragraphs (iv) and (v) are
3 amended to read:

4

5 **21-2-202. Duties of the state superintendent.**

6

7 (h) The state superintendent shall designate an
8 employee of the department of education to serve as the
9 liaison to the Wyoming charter school authorizing board
10 through which requests for staff assistance shall be
11 directed. The state department of education shall act as
12 the local education agency for charter schools authorized
13 to operate pursuant to W.S. 21-3-301 et seq., to apply for,
14 receive or administer a grant through a grant program
15 created by a federal or state statute or program.

16

17 **21-3-301. Purpose.**

18

19 (a) It is the purpose of this article to provide
20 opportunities for teachers, parents, pupils and community
21 members to establish and maintain public schools that
22 operate independently from existing school districts as a
23 method to:

1

2 **21-3-302. Definitions.**

3

4 (a) As used in this article:

5

6 (vii) "Authorizer" means a school district board
7 or the ~~state loan and investment~~ Wyoming charter school
8 authorizing board as created by W.S. 21-3-302.2(a);

9

10 (xii) "Full-time virtual charter school" means a
11 charter school that offers educational services primarily
12 or completely through an online program;

13

14 (xiii) "Governing board" means the independent
15 board of a charter school that is a party to a charter
16 contract with the authorizer and whose members have been
17 selected pursuant to the charter application.

18

19 **21-3-302.1. Charter school authorizers; powers and**
20 **duties.**

21

22 (a) Authorizers shall:

23

1 (iii) ~~Make~~Base decisions on the renewal,
2 nonrenewal and revocation of charters ~~granted by the~~
3 ~~authorizer~~using documented evidence collected through the
4 charter application review process;

5
6 (iv) Follow policies that are transparent, based
7 on merit and avoid conflict of interests;

8
9 (v) Demonstrate public accountability and
10 transparency in all matters concerning its
11 charter-authorizing practices, decisions and expenditures;

12
13 (vi) Negotiate and execute in good faith a
14 charter contract with each charter school authorized;

15
16 (vii) Establish and maintain policies and
17 practices consistent with the principles and professional
18 standards for authorizers of charter schools related to all
19 of the following:

20
21 (A) Requirements for organizational
22 capacity and infrastructure of the charter school;

23

1 (B) Soliciting and evaluating charter
2 applications;

3
4 (C) Ongoing charter school oversight and
5 evaluation;

6
7 (D) Charter application approval, renewal
8 and revocation decision making.

9
10 (viii) In determining whether to approve a
11 charter application, the authorizer shall:

12
13 (A) Grant charters to applicants that
14 possess competence in all elements of the charter
15 application requirements identified in this article; and

16
17 (B) Base decisions on documented evidence
18 collected through the charter application review process.

19
20 (b) Funding for authorizers shall consist of
21 administrative fees collected from the charter school. Fees
22 shall not exceed three percent (3%) of the charter school's
23 annual state funding. An authorizer shall restrict the

1 expenditure of funds received under this subsection to the
2 purpose of fulfilling duties under this article and shall
3 annually publish, and submit to the state superintendent of
4 public instruction, a report detailing how the authorizer
5 expended funds to serve and support charter schools.

6
7 (d) In the event that a charter school's performance
8 or legal compliance under this article is unsatisfactory,
9 the authorizer shall promptly notify the charter school in
10 writing of the perceived problem and provide a reasonable
11 opportunity for the school to remedy the problem, unless
12 the problem warrants revocation under this article.

13
14 **21-3-304. Charter school; requirements; authority.**

15
16 (b) If a charter is granted by a school district, the
17 charter school shall be a public school within the school
18 district that grants its charter. If a charter is granted
19 by ~~the state loan and investment~~ the Wyoming charter school
20 authorizing board, the charter school shall be an
21 independent public school within the district where the
22 charter school is located. The charter school shall be
23 accountable to its authorizer for purposes of ensuring

1 compliance with applicable laws and charter provisions and
2 the requirements of the state constitution.

3

4 (c) A charter school shall be subject to all federal
5 and state laws and constitutional provisions prohibiting
6 discrimination on the basis of disability, race, creed,
7 color, gender, national origin, religion, ancestry or need
8 for special education services. Enrollment decisions shall
9 be made in a nondiscriminatory manner specified by the
10 charter school applicant in the charter school application.
11 Enrollment decisions shall not discriminate against at-risk
12 students or students with special ~~program~~ ~~students.~~ A
13 ~~charter school specializing in at-risk or special education~~
14 ~~students may give a preference in enrollment to those~~
15 ~~students~~ education needs. A charter school sponsored
16 jointly or separately by the Eastern Shoshone or the
17 Northern Arapaho Indian Tribes may give preference to a
18 student who is a member or eligible for membership in an
19 Indian tribe.

20

21 (d) A charter school shall be administered and
22 governed by a governing body in a manner agreed to by the
23 charter ~~school applicant and the authorizer~~ contract. A

1 charter school may organize as a nonprofit corporation
2 pursuant to the Wyoming Nonprofit Corporation Act, which
3 shall not affect its status as a public school for any
4 purposes under Wyoming law. A charter school organized by a
5 school district may include school board members or school
6 district employees on its governing board.

7
8 (g) ~~A charter school may operate free from specified~~
9 ~~school district policies and state regulations. Pursuant to~~
10 ~~contract, a school district may waive locally imposed~~
11 ~~school district requirements, without seeking approval of~~
12 ~~the state board. The state board may waive state statutory~~
13 ~~requirements or rules promulgated by the state board,~~
14 ~~except that~~ Pursuant to the terms of the charter contract
15 and except as otherwise provided in this article, a charter
16 school shall be part of the state's system of public
17 education. Except as provided in this article, a charter
18 school shall not be subject to the state's education
19 statutes or any state or local rule, regulation, policy or
20 procedure relating to public schools within an applicable
21 school district regardless of whether such rule,
22 regulation, policy or procedure is established by the
23 school board, the state board of education, the state

1 department of education or the state superintendent of
2 public instruction. The state board shall not waive any
3 statute or rule relating to the assessments or standards
4 required to be administered. ~~Upon request of the charter~~
5 ~~applicant, the state board shall provide summaries of such~~
6 ~~regulations and policies to use in preparing a charter~~
7 ~~school application. The department of education shall~~
8 ~~prepare the summary of state regulations within existing~~
9 ~~appropriations. Any waiver of state or local school~~
10 ~~district regulations made pursuant to this subsection shall~~
11 ~~be for the term of the charter for which the waiver is~~
12 ~~made, except that a waiver of state statutes or regulations~~
13 ~~by the state board shall be subject to review every two (2)~~
14 ~~years and may be revoked if the waiver is deemed no longer~~
15 ~~necessary by the state board.~~ Nothing in this subsection
16 shall be deemed to exempt the charter school from:

17

18 (h) A charter school shall have all the powers
19 necessary to carry out the terms of its charter contract
20 and shall be responsible for its own operation including,
21 but not limited to, preparation of a budget, contracting
22 for services, hiring employees and personnel matters.

23

1 (j) A charter school may negotiate and contract with
2 a school district, the governing body of a community
3 college or the university of Wyoming, or any third party
4 for the use of a school building and grounds, the operation
5 and maintenance thereof, and the provision of any service,
6 activity or undertaking that the charter school is required
7 to perform in order to carry out the educational program
8 described in its charter. Any services for which a charter
9 school contracts with a school district shall be provided
10 by the district at the incremental cost and shall be
11 negotiated as an agreement separate from a charter contract
12 between the charter school and the authorizer. For school
13 district capital facilities that are rented at the time of
14 the charter school application and had been rented for the
15 immediately preceding six (6) months by a third party, the
16 net loss of rental income shall be considered an
17 incremental cost. The charter school shall have standing to
18 sue and be sued in its own name for the enforcement of any
19 contract created pursuant to this subsection.

20

21 (k) Except as provided in subsection (j) of this
22 section, a charter school shall not be required to pay rent
23 for space which is deemed available, as negotiated by

1 contract, in school district facilities. All other costs
2 for the improvement, modification, operation and
3 maintenance of school district facilities used by the
4 charter school shall be subject to negotiation between the
5 charter school and the district board separate from any
6 negotiations between the school and the authorizer
7 regarding a charter contract.

8
9 (q) Each governing board of a charter school shall be
10 required to adopt a conflict of interest policy, a code of
11 ethics and a policy regarding the hiring of family members
12 to avoid any potential nepotism in hiring and supervision.
13 The policy shall at a minimum require disclosure to the
14 governing board of any potential nepotism in hiring and
15 supervision. Any party with such a conflict shall not be
16 involved in the hiring decision or supervision of a
17 potential employee.

18
19 (r) Individuals compensated by an education service
20 provider shall be prohibited from serving as a voting
21 member on the governing board of any charter school that
22 contracts with the education service provider unless waived
23 by the authorizer.

1

2 (s) A charter school governing board shall have
3 access to education service provider records as necessary
4 to oversee the education service provider contract.

5

6 **21-3-305. Charter schools; contract contents;**
7 **renewal; revocation; closure; appeal; regulations.**

8

9 (a) An approved charter application shall serve as
10 the basis for a contract between the charter school and the
11 authorizer. Within seventy-five (75) days of the final
12 approval of a charter application, the governing board and
13 the authorizer shall enter into a charter contract that
14 establishes the academic and operational performance
15 expectations and measures by which the charter school will
16 be evaluated. The charter contract shall:

17

18 (i) Be a written instrument which is a separate
19 document from the charter application and shall be the
20 final authorizing document for the charter school;

21

22 (ii) Be executed by an authorizer and a charter
23 school and describe the rights and duties of each party and

1 the administrative relationship between the authorizer and
2 the charter school;

3

4 (iii) Confer certain rights, privileges and
5 obligations on the charter school pursuant to this article;

6

7 (vi) Provide for a review by the authorizer of
8 the charter school's performance, including the progress of
9 the charter school in achieving the academic goals set
10 forth in the charter, at least one (1) time ~~in each five~~
11 ~~(5) year period that the charter is in effect~~ per year;

12

13 (x) Describe the method to be used to monitor
14 and evaluate the charter school's:

15

16 (xvii) Allow for the inclusion of additional
17 rigorous, valid and reliable indicators proposed by a
18 charter school to augment external evaluations of its
19 performance;

20

21 (xviii) Include any other terms and conditions
22 agreed to by the authorizer and the charter school's
23 governing board, including pre-opening conditions.

1 Pre-opening conditions shall not include enrollment caps or
2 operational requirements that place undue constraints on a
3 charter school or that are contradictory to this article;

4
5 (xix) Be signed by the chair of the authorizing
6 board and the chair of the governing board of the charter
7 school. An approved charter school application shall serve
8 as a charter contract for a charter school. No charter
9 school may commence operations without a charter contract
10 executed according to this section and approved in an open
11 meeting of the governing board of the charter school and
12 the authorizer;

13
14 (xx) Be submitted by the authorizer to the state
15 superintendent of public instruction within five (5) days
16 after execution of the contract.

17
18 (f) The authorizer shall make a final ruling on the
19 renewal application not later than April 1 following the
20 filing of the renewal application under this subsection.
21 ~~The April 1 deadline does not apply to any review or appeal~~
22 ~~of a final ruling. If a school district denies renewal of a~~
23 ~~charter, the charter school board may appeal to the state~~

1 ~~loan and investment board for a de novo consideration of~~
2 ~~the renewal. The state loan and investment board shall~~
3 ~~consider the renewal and if the renewal is approved shall~~
4 ~~be the authorizer of the charter school.~~

5
6 (h) The authorizer, in conjunction with the charter
7 school, shall develop a charter school closure protocol to
8 ensure timely notification of parents, orderly transition
9 of students and student records to new schools and proper
10 disposition of school funds, property and assets if the
11 charter school is required to close permanently. The
12 closure protocol shall specify tasks, timelines and
13 responsible parties, including delineating the respective
14 duties of the school and the authorizer related to closure
15 of the school. If a charter school closes for any reason,
16 the authorizer shall oversee and work with the closing
17 school to ensure a smooth and orderly closure and
18 transition for students and parents as provided by the
19 closure protocol.

20
21 (j) Charter schools authorized by the state loan and
22 investment board shall migrate to the Wyoming charter
23 school authorizing board.

1

2 **21-3-306. Application for establishing charter**
3 **schools; conversion of existing schools.**

4

5 (a) Any person may apply to an authorizer for the
6 establishment of a new charter school. The applicant shall
7 have the right to determine which authorizer to apply to
8 and may apply to a different authorizer for renewal of a
9 charter. The ~~state loan and investment~~ Wyoming charter
10 school authorizing board may reject a renewal application
11 from an existing charter school if the renewal is to avoid
12 necessary corrective measures, including closure of the
13 charter school, identified by the authorizer.

14

15 (e) A converted charter school shall continue to
16 comply with all state and federal requirements concerning
17 the educational treatment and obligations for students with
18 special education needs and accept all students with
19 special education needs who attended the school prior to
20 its conversion who wish to attend.

21

22 (f) A converted charter school shall hire its own
23 employees and an employee who works in a converted charter

1 school shall be an employee of the converted charter
2 school.

3
4 (g) For converted charter schools, students who
5 attended the converted charter school the previous school
6 year shall be given an enrollment preference. If the number
7 of students enrolled in the converted charter school does
8 not exceed the capacity of the school, secondary preference
9 shall be given to students who reside within the district
10 boundary in which the charter school is located.

11
12 **21-3-307. Charter application; contents; phased-in**
13 **application process.**

14
15 (a) The charter school application shall be on a form
16 prescribed by the state superintendent pursuant to
17 subsection (d) of this section, and shall include:

18
19 (ii) The measurable pupil outcomes identified
20 for use by the charter school. "Pupil outcomes" for
21 purposes of this paragraph means the extent to which all
22 pupils, including those with special education needs, of
23 the school demonstrate they have attained the skills and

1 knowledge specified as goals in the school's educational
2 program. "Pupil outcomes" shall include state assessments
3 and standards;

4

5 (iii) The ~~method~~ school's plan for using
6 internal and external assessments by which pupil progress
7 in meeting those pupil outcomes is to be measured;

8

9 (iv) The ~~governance structure of the school~~
10 bylaws and organizational chart that clearly presents the
11 school's organizational structure, including ~~but not~~
12 limited to lines of authority and reporting between the
13 governing board, staff and any related bodies and a clear
14 description of the roles and responsibilities for the
15 governing board, the school's leadership and management
16 team and the process to be followed by the school to ensure
17 parental, teacher and community involvement;

18

19 (v) The qualifications to be met by all
20 individuals to be employed by the school;

21

22 (xviii) The employment policies and student
23 handbook of the proposed charter school;

1

2 (xix) An agreement between the ~~parties~~charter
3 school and authorizer regarding their respective legal
4 liability and applicable insurance coverage;

5

6 (xxiii) In the case of a proposed charter school
7 that plans to establish a full-time virtual charter school,
8 the application shall additionally require the applicant to
9 provide a description regarding the methods by which the
10 charter school will:

11

12 (G) Provide that no more than twenty
13 percent (20%) of its enrollment shall be from outside of
14 the school district where the charter school is located
15 without prior approval of the ~~state loan and investment~~
16 ~~board~~authorizer.

17

18 (xxvi) The school's plans for identifying and
19 successfully serving students with special education needs,
20 students who are English language learners, students who
21 are academically behind and gifted students, including but
22 not limited to compliance with applicable laws and
23 regulations;

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(xxvii) A detailed school start-up plan identifying tasks, timelines and responsible individuals.

(e) The ~~state loan and investment~~ Wyoming charter school authorizing board shall submit all applications received under this section to the department of education for review of compliance with the accreditation requirements. The department of education shall submit a report of this review to the ~~state loan and investment~~ Wyoming charter school authorizing board.

21-3-309. Length of operation under charter; renewal; revocation.

(a) A charter contract may be granted pursuant to this article for a period of five (5) years. A charter contract may be renewed for successive five (5) year terms, provided that the authorizer may vary the duration of the term based on the performance, demonstrated capacities and particular circumstances of the charter school. An authorizer may grant renewal of the charter contract with specific conditions for necessary improvements to the

1 charter school, provided that the conditions shall not
2 include enrollment caps or conditions that are contrary to
3 the provisions of this article or unduly infringe on the
4 charter school's autonomy and authority.

5

6 (g) The charter school may appeal the authorizer's
7 decision to revoke or not renew a charter application first
8 to the superintendent of public instruction, then to the
9 district court where the charter school is located.

10

11 **21-3-314. Students counted among district ADM;**
12 **determination of charter school funding.**

13

14 (c) As part of the charter school contract, the
15 charter school and the school district shall agree on
16 funding and any services to be provided by the school
17 district to the charter school. The charter school and the
18 school district shall begin discussions on the contract
19 using the following revenue assumptions:

20

21 (i) The charter school shall be entitled to the
22 benefit of one hundred percent (100%) of the foundation
23 program amount computed under W.S. 21-13-309(m) based upon

1 the average daily membership of the charter school, less
2 any district level amounts generated by the charter
3 school's membership under W.S. 21-13-309(m) and less
4 amounts specified under W.S. ~~21-13-309(m)(v)(E)~~
5 21-13-309(m)(v)(E)(III) through (V).

6
7 (iv) The charter school shall be entitled to one
8 hundred percent (100%) of the amount expended by the
9 charter school that is eligible for reimbursement under
10 W.S. 21-13-320 and 21-13-321 as computed under W.S.
11 21-13-309(m).

12
13 (f) If a charter school or full-time virtual charter
14 school authorized by the ~~state loan and investment~~ Wyoming
15 charter school authorizing board and the school district
16 where the charter school is located do not agree on funding
17 pursuant to subsections (a) through (e) of this section
18 then, notwithstanding subsection (c) of this section or any
19 other provision of law, funding for the charter school
20 shall be calculated as provided in this subsection. Nothing
21 in this subsection shall be deemed to prohibit a charter
22 school and the school district from negotiating an
23 agreement for charter school students to receive services

1 from the district. Funding for the charter school shall be
2 calculated as follows:

3

4 (iv) The charter school or full-time virtual
5 charter school shall be entitled to one hundred percent
6 (100%) of the amount expended by the charter school that is
7 eligible for reimbursement under W.S. 21-13-320 and
8 21-13-321 as computed under W.S. 21-13-309(m);

9

10 (v) The state department of education shall
11 retain five percent (5%) of all the funding for the school
12 district under W.S. 21-13-309(m) that is attributable to
13 the charter school.

14

15 **Section 3.** W.S. 21-3-302.1(c), 21-3-304(p),
16 21-3-305(g), 21-3-306(d) and 21-3-314(a)(i)(C), (iii) and
17 (c)(iii) are repealed.

18

19 **Section 4.** There is authorized two (2) new full-time
20 positions through June 30, 2024 for the department of
21 education for purposes of carrying out the duties required
22 under W.S. 21-2-202(h), as created by section 2 of this
23 act.

1

2 **Section 5.** This act is effective July 1, 2023.

3

4

(END)