

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; and providing for an effective date.

9

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

1

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

3

4 **21-3-302.2. Wyoming charter school authorizing board.**

5

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

11

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

14

15 (i) Two (2) members appointed by the
16 superintendent of public instruction;

17

18 (ii) One (1) member appointed by the chairman of
19 the state board of education;

20

21 (iii) Two (2) members appointed by the governor
22 and confirmed by the senate.

23

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

3
4 (i) Be a resident of the state;

5
6 (ii) Possess experience and expertise in public
7 or nonprofit governance, management and finance, public
8 school leadership, assessment, curriculum or instruction or
9 public education law; and

10
11 (iii) Demonstrate commitment to advancing
12 charter schools pursuant to W.S. 21-3-301.

13
14 (d) No person shall be appointed who receives any
15 pecuniary benefit from or has any financial interest in the
16 operation of charter schools.

17
18 (e) Of the initial members appointed to the board,
19 the three (3) members appointed under paragraphs (b)(i) and
20 (ii) of this section shall serve two (2) year terms and the
21 two (2) members appointed under paragraph (b)(iii) of this
22 section shall serve four (4) year terms. Thereafter, all

1 appointments shall be for four (4) year terms. The initial
2 appointments shall be made not later than July 1, 2023.

3

4 (f) Members appointed to the board by the governor
5 under paragraph (b)(iii) of this section may be removed in
6 accordance with W.S. 9-1-202. Members appointed to the
7 board under paragraphs (b)(i) and (ii) of this section may
8 be removed by the respective appointing authority.

9

10 (g) Vacancies shall be appointed pursuant to
11 subsection (b) of this section.

12

13 (h) The board shall meet not less than two (2) times
14 each year.

15

16 (j) All appointed members of the board shall receive
17 compensation, per diem and mileage for actual time spent in
18 performance of their duties and traveling expenses while in
19 attendance and going to and from board meetings in the same
20 manner and amount as members of the Wyoming legislature.

21

22 **Section 2.** W.S. 21-2-202 by creating a new subsection
23 (h), 21-3-301(a)(intro), 21-3-302(a)(vii) and by creating

1 new paragraphs (xii) and (xiii), 21-3-302.1(a)(iii), by
2 creating new paragraphs (iv) through (ix), (b) and by
3 creating a new subsection (d), 21-3-304(b) through (d),
4 (g)(intro), (h) through (k) and by creating new subsections
5 (q) through (s), 21-3-305(a)(intro), (i) through (iii),
6 (vi), (x)(intro), by creating new paragraphs (xvii) through
7 (xx), (f) and by creating new subsections (h) and (j),
8 21-3-306(a) and by creating new subsections (e) through
9 (g), 21-3-307(a)(ii) through (v), (xviii), (xix),
10 (xxiii)(G), by creating new paragraphs (xxvi) and (xvii)
11 and (e), 21-3-308(h), 21-3-309(a) and by creating a new
12 subsection (g) and 21-3-314(c)(intro), (i), (ii), by
13 creating a new paragraph (iv) and (e) are amended to read:

14

15 **21-2-202. Duties of the state superintendent.**

16

17 (h) The state superintendent shall designate an
18 employee of the department of education to serve as the
19 liaison to the Wyoming charter school authorizing board
20 through which requests for staff assistance shall be
21 directed.

22

23 **21-3-301. Purpose.**

1

2 (a) It is the purpose of this article to provide
3 opportunities for teachers, parents, pupils and community
4 members to establish and maintain public schools that
5 operate independently from existing school districts as a
6 method to:

7

8 **21-3-302. Definitions.**

9

10 (a) As used in this article:

11

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

15

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

19

20 (xiii) "Governing board" means the independent
21 board of a charter school that is a party to a charter
22 contract with the authorizer and whose members have been
23 selected pursuant to the charter application.

1

2 **21-3-302.1. Charter school authorizers; powers and**
3 **duties.**

4

5 (a) Authorizers shall:

6

7 (iii) ~~Make~~Base decisions on the renewal,
8 nonrenewal and revocation of charters ~~granted by the~~
9 ~~authorizer~~using any interviews, presentations and
10 documented evidence collected through the charter
11 application review process;

12

13 (iv) Follow policies that are transparent, based
14 on merit and require members to disclose any conflicts and
15 abstain from voting on matters where a conflict exists or
16 may exist;

17

18 (v) Demonstrate public accountability and
19 transparency in all matters concerning its
20 charter-authorizing practices, decisions and expenditures;

21

22 (vi) Negotiate and execute in good faith a
23 charter contract with each charter school authorized;

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

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

(B) Soliciting and evaluating charter applications;

(C) Ongoing charter school oversight and evaluation;

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

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

1 (A) Grant charters to applicants that
2 possess competence in the elements of the charter
3 application requirements identified in this article; and

4
5 (B) Base decisions on documented evidence
6 collected through the charter application review process.

7
8 (ix) Act as the local education agency for
9 charter schools authorized to operate under this article to
10 apply for, receive or administer grants through a grant
11 program created by a federal or state statute or program
12 which requires local education agency status.

13
14 (b) Funding for authorizers shall consist of
15 administrative fees collected from the charter school. Fees
16 shall not exceed three percent (3%) of the charter school's
17 annual state funding. An authorizer shall restrict the
18 expenditure of funds received under this subsection to the
19 purpose of fulfilling duties under this article and shall
20 annually publish, and submit to the state superintendent of
21 public instruction, a report detailing how the authorizer
22 expended funds to serve and support charter schools.

23

1 (d) In the event that a charter school's performance
2 or legal compliance is unsatisfactory, the authorizer shall
3 promptly notify the charter school in writing of the
4 perceived problem and provide a reasonable opportunity for
5 the school to remedy the problem, unless the problem
6 warrants revocation under this article.

7
8 **21-3-304. Charter school; requirements; authority.**

9
10 (b) If a charter is granted by a school district, the
11 charter school shall be a public school within the school
12 district that grants its charter. If a charter is granted
13 by ~~the state loan and investment~~ the Wyoming charter school
14 authorizing board, the charter school shall be an
15 independent public school within the district where the
16 charter school is located. The charter school shall be
17 accountable to its authorizer for purposes of ensuring
18 compliance with applicable laws and charter provisions and
19 the requirements of the state constitution.

20
21 (c) A charter school shall be subject to all federal
22 and state laws and constitutional provisions prohibiting
23 discrimination on the basis of disability, race, creed,

1 color, gender, national origin, religion, ancestry or need
2 for special education services. Enrollment decisions shall
3 be made in a nondiscriminatory manner specified by the
4 charter school applicant in the charter school application.
5 Enrollment decisions shall not discriminate against at-risk
6 students or students with special ~~program~~ ~~students.~~ ~~A~~
7 ~~charter school specializing in at-risk or special education~~
8 ~~students may give a preference in enrollment to those~~
9 ~~students~~ education needs. A charter school sponsored
10 jointly or separately by the Eastern Shoshone or the
11 Northern Arapaho Indian Tribes may give preference to a
12 student who is a member or eligible for membership in an
13 Indian tribe.

14

15 (d) A charter school shall be administered and
16 governed by a governing body in a manner agreed to by the
17 charter ~~school applicant and the authorizer~~ contract. A
18 charter school may organize as a nonprofit corporation
19 pursuant to the Wyoming Nonprofit Corporation Act, which
20 shall not affect its status as a public school for any
21 purposes under Wyoming law. A charter school organized by a
22 school district may include school board members or school
23 district employees on its governing board.

1

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

1 ~~department of education shall prepare the summary of state~~
2 ~~regulations within existing appropriations. Any waiver of~~
3 ~~state or local school district regulations made pursuant to~~
4 ~~this subsection shall be for the term of the charter for~~
5 ~~which the waiver is made, except that a waiver of state~~
6 ~~statutes or regulations by the state board shall be subject~~
7 ~~to review every two (2) years and may be revoked if the~~
8 ~~waiver is deemed no longer necessary by the state board.~~
9 Nothing in this subsection shall be deemed to exempt the
10 charter school from all state and federal laws pertaining
11 to the health, life and safety of students and to the
12 administration of school finances. Nothing in this
13 subsection shall be deemed to exempt the charter school
14 from:

15
16 (h) A charter school shall have all the powers
17 necessary to carry out the terms of its charter contract
18 and shall be responsible for its own operation including,
19 but not limited to, preparation of a budget, contracting
20 for services, hiring employees and personnel matters.

21
22 (j) A charter school may negotiate and contract with
23 a school district, the governing body of a community

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

18

19 (k) Except as provided in subsection (j) of this
20 section, a charter school shall not be required to pay rent
21 for space which is deemed available, as negotiated by
22 contract, in school district facilities. All other costs
23 for the improvement, modification, operation and

1 maintenance of school district facilities used by the
2 charter school shall be subject to negotiation between the
3 charter school and the district board separate from any
4 negotiations between the school and the authorizer
5 regarding a charter contract.

6
7 (q) Each governing board of a charter school shall be
8 required to adopt a conflict of interest policy, a code of
9 ethics and a policy regarding the hiring of family members
10 to avoid any potential nepotism in hiring and supervision.
11 The policy shall at a minimum require disclosure to the
12 governing board of any potential nepotism in hiring and
13 supervision. Any party with such a conflict shall not be
14 involved in the hiring decision or supervision of a
15 potential employee.

16
17 (r) Individuals compensated by an education service
18 provider shall be prohibited from serving as a voting
19 member on the governing board of any charter school that
20 contracts with the education service provider unless waived
21 by the authorizer.

22

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

4
5 **21-3-305. Charter schools; contract contents;**
6 **renewal; revocation; closure; appeal; regulations.**

7
8 (a) An approved charter application shall serve as
9 the basis for a contract between the charter school and the
10 authorizer. Within seventy-five (75) days of the final
11 approval of a charter application, the governing board and
12 the authorizer shall enter into a charter contract that
13 establishes the academic and operational performance
14 expectations and measures by which the charter school will
15 be evaluated. The charter contract shall:

16
17 (i) Be a written instrument which is a separate
18 document from the charter application and shall be the
19 final authorizing document for the charter school;

20
21 (ii) Be executed by an authorizer and a charter
22 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~~ thirty
20 (30) days after the filing of the renewal application under
21 this subsection. ~~The April 1 deadline does not apply to any~~
22 ~~review or appeal of a final ruling. If a school district~~
23 ~~denies renewal of a charter, the charter school board may~~

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

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

21

1 (j) Charter schools authorized by the state loan and
2 investment board shall migrate to the Wyoming charter
3 school authorizing board immediately upon authorization.

4
5 **21-3-306. Application for establishing charter**
6 **schools; conversion of existing schools.**

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

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

1

2 (f) A converted charter school shall hire its own
3 employees and an employee who works in a converted charter
4 school shall be an employee of the converted charter
5 school.

6

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

14

15 **21-3-307. Charter application; contents; phased-in**
16 **application process.**

17

18 (a) The charter school application shall be on a form
19 prescribed by the state superintendent pursuant to
20 subsection (d) of this section, and shall include:

21

22 (ii) The measurable pupil outcomes identified
23 for use by the charter school. "Pupil outcomes" for

1 purposes of this paragraph means the extent to which all
2 pupils, including those with special education needs, of
3 the school demonstrate they have attained the skills and
4 knowledge specified as goals in the school's educational
5 program. "Pupil outcomes" shall include state assessments
6 and standards;

7

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

11

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

21

22 (v) The qualifications to be met by all
23 individuals to be employed by the school;

1

2 (xviii) The employment policies and student
3 handbook of the proposed charter school;

4

5 (xix) ~~An~~ A proposed agreement or summary of a
6 proposed agreement between the ~~parties~~ charter school
7 governing board and the authorizer and, if applicable, the
8 district regarding their respective legal liability and
9 applicable insurance coverage;

10

11 (xxiii) In the case of a proposed charter school
12 that plans to establish a full-time virtual charter school,
13 the application shall additionally require the applicant to
14 provide a description regarding the methods by which the
15 charter school will:

16

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

22

1 (xxvi) The school's plans for identifying and
2 successfully serving students with special education needs,
3 students who are English language learners, students who
4 are academically behind and gifted students, including but
5 not limited to compliance with applicable laws and
6 regulations;

7
8 (xxvii) A detailed school start-up plan
9 identifying tasks, timelines and responsible individuals.

10
11 (e) The ~~state loan and investment~~ Wyoming charter
12 school authorizing board shall submit all applications
13 received under this section to the department of education
14 for review of compliance with the accreditation
15 requirements. The department of education shall submit a
16 report of this review to the ~~state loan and investment~~
17 Wyoming charter school authorizing board.

18
19 **21-3-308. Hearing by authorizer; prohibited actions**
20 **by authorizer; criteria; compliance with state standards;**
21 **contractual authority.**

22

1 (h) Those teachers employed on a full-time basis in
2 the charter school system shall be subject to the same
3 requirements with respect to certification by the Wyoming
4 professional teaching standards board under W.S. 21-2-802
5 and other qualifications as any other teachers authorized
6 to teach in Wyoming public schools. The performance of each
7 teacher employed by a charter school shall be evaluated one
8 (1) time per year against the charter school's standards
9 for performance, as submitted and approved pursuant to W.S.
10 21-2-304(b)(xv). The evaluation shall be in writing and an
11 opportunity for feedback to improve performance shall be
12 provided. The teacher shall receive a copy of each
13 evaluation of his performance.

14

15 **21-3-309. Length of operation under charter; renewal;**
16 **revocation.**

17

18 (a) A charter contract may be granted pursuant to
19 this article for a period of five (5) years. A charter
20 contract may be renewed for successive five (5) year terms,
21 provided that the authorizer may vary the duration of the
22 term based on the performance, demonstrated capacities and
23 particular circumstances of the charter school. An

1 authorizer may grant renewal of the charter contract with
2 specific conditions for necessary improvements to the
3 charter school, provided that the conditions shall not
4 include enrollment caps or conditions that are contrary to
5 the provisions of this article or unduly infringe on the
6 charter school's autonomy and authority.

7
8 (g) The charter school may appeal the authorizer's
9 decision to revoke or not renew a charter application first
10 to the office of administrative hearings, then to the
11 district court where the charter school is located.

12
13 **21-3-314. Students counted among district ADM;**
14 **determination of charter school funding.**

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

23

1 ~~(i) benefit of~~ One hundred percent (100%) of the
2 foundation program amount computed under W.S. 21-13-309(m)
3 based upon the average daily membership of the charter
4 school, ~~less-including~~ any district level amounts generated
5 by the charter school's membership under W.S. 21-13-309(m);
6 ~~and less amounts specified under W.S. 21-13-309(m)(v)(E).~~

7
8 ~~(ii) The charter school shall be entitled to the~~
9 ~~benefit of~~ One hundred percent (100%) of the amount to be
10 contributed to the school district under major maintenance
11 payments pursuant to W.S. 21-15-109 based upon the
12 proportion that the charter school educational building
13 gross square footage contributes to the district
14 educational building gross square footage;

15
16 ~~(iv) One hundred percent (100%) of the amount~~
17 ~~expended by the charter school that is eligible for~~
18 ~~reimbursement under W.S. 21-13-320 and 21-13-321 as~~
19 ~~computed under W.S. 21-13-309(m).~~

20
21 ~~(e) In lieu of paragraph (a)(iv) and subsections (c)~~
22 ~~and (d) of this section,~~ The district and the charter

1 school applicant may by mutual agreement fund the charter
2 school through a specific budget for the charter school.

3

4 **Section 3.** W.S. 21-3-302.1(c), 21-3-305(g),
5 21-3-306(d) and 21-3-314(a)(i)(C), (iii) and (c)(iii) and
6 (f) are repealed.

7

8 **Section 4.** This act is effective July 1, 2023.

9

10

(END)