

SUBJECT

Staff Update: Legislative Update

APPLICABLE STATUTE, RULE, OR POLICY

I.C. § 33-52

BACKGROUND

Over the past year, representatives of various charter school stakeholder groups met to discuss and develop proposed legislation to modify Idaho's charter school statute based on the National Alliance for Public Charter Schools' Model Law. As a result of this work, two bills were introduced during the 2013 legislative session: House Bill 206 and House Bill 221.

DISCUSSION

PCSC staff will update the PCSC on the status of policy discussions relevant to public charter schools and authorizers. Both H206 and H221 were amended in the Senate.

H206 was amended as follows:

- To ensure that the average amount of facilities funding received by any public charter school would not exceed the average amount of funding received by any school district;
- To permit a fund balance to be carried with regard to the appropriation for the Public Charter School Commission; and
- To give authorizers the opportunity to decline the authorizer fee.

H221 was amended as follows:

- To eliminate the provision that would have allowed certain 501(c)(3) corporations to authorize public charter schools;
- To change references to "charter contracts" to "performance certificates," without changing the nature or intent of the documents.

Having passed the Senate and House as amended in the Senate, both bills now await the Governor's signature and are anticipated to become law effective July 1, 2013.

IMPACT

Information item only.

STAFF COMMENTS AND RECOMMENDATIONS

Staff has no comments or recommendations.

COMMISSION ACTION

Any action would be at the discretion of the PCSC.

April 11, 2013

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April 11, 2013

LEGISLATURE OF THE STATE OF IDAHO
Sixty-second Legislature First Regular Session - 2013

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 206, As Amended in the Senate, As Amended in the Senate

BY EDUCATION COMMITTEE

1 AN ACT
2 RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-1002, IDAHO CODE, TO
3 REVISE PROVISIONS RELATING TO STATE SUPPORT OF SPECIAL PROGRAMS; AMEND-
4 ING SECTION 33-5208, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO
5 ESTABLISH PROVISIONS RELATING TO THE DISTRIBUTION OF FACILITIES FUNDS
6 TO PUBLIC CHARTER SCHOOLS, TO PROVIDE FOR THE USE OF FUNDS, TO PROVIDE
7 FOR A CALCULATION, TO PROVIDE FOR A REIMBURSEMENT CLAIM, TO DEFINE A
8 TERM AND TO ESTABLISH PROVISIONS RELATING TO AN AUTHORIZER FEE; AMEND-
9 ING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
10 33-5214, IDAHO CODE, TO ESTABLISH THE PUBLIC CHARTER SCHOOL AUTHORIZERS
11 FUND, TO PROVIDE FOR THE DEPOSIT OF CERTAIN MONEYS AND TO PROVIDE FOR THE
12 USE OF SUCH MONEYS; AND AMENDING SECTION 33-1619, IDAHO CODE, TO PROVIDE
13 CORRECT CODE REFERENCES.

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

15 SECTION 1. That Section 33-1002, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support pro-
18 gram is calculated as follows:

19 (1) State Educational Support Funds. Add the state appropriation, in-
20 cluding the moneys available in the public school income fund, together with
21 all miscellaneous revenues to determine the total state funds.

22 (2) From the total state funds subtract the following amounts needed
23 for state support of special programs provided by a school district:

24 (a) Pupil tuition-equivalency allowances as provided in section
25 33-1002B, Idaho Code;

26 (b) Transportation support program as provided in section 33-1006,
27 Idaho Code;

28 (c) Feasibility studies allowance as provided in section 33-1007A,
29 Idaho Code;

30 (d) The approved costs for border district allowance, provided in sec-
31 tion 33-1403, Idaho Code, as determined by the state superintendent of
32 public instruction;

33 (e) The approved costs for exceptional child approved contract al-
34 lowance, provided in subsection 2. of section 33-2004, Idaho Code, as
35 determined by the state superintendent of public instruction;

36 (f) Certain expectant and delivered mothers allowance as provided in
37 section 33-2006, Idaho Code;

38 (g) Salary-based apportionment calculated as provided in sections
39 33-1004 through 33-1004F, Idaho Code;

40 (h) Unemployment insurance benefit payments according to the provi-
41 sions of section 72-1349A, Idaho Code;

- 1 (i) For expenditure as provided by the public school technology pro-
- 2 gram;
- 3 (j) For employee severance payments as provided in section 33-521,
- 4 Idaho Code;
- 5 (k) For distributions to the Idaho digital learning academy as provided
- 6 in section 33-1020, Idaho Code;
- 7 (l) For charter school facilities funds and reimbursements paid pur-
- 8 suant to section 33-5208 (5), Idaho Code;
- 9 (m) For the support of provisions that provide a safe environment con-
- 10 ductive to student learning and maintain classroom discipline, an allo-
- 11 cation of \$300 per support unit; and
- 12 (nn) Any additional amounts as required by statute to effect adminis-
- 13 trative adjustments or as specifically required by the provisions of
- 14 any bill of appropriation;

15 to secure the total educational support distribution funds.

16 (3) Average Daily Attendance. The total state average daily attendance
 17 shall be the sum of the average daily attendance of all of the school dis-
 18 tricts of the state. The state board of education shall establish rules set-
 19 ting forth the procedure to determine average daily attendance and the time
 20 for, and method of, submission of such report. Average daily attendance cal-
 21 culation shall be carried out to the nearest hundredth. Computation of av-
 22 erage daily attendance shall also be governed by the provisions of section
 23 33-1003A, Idaho Code.

24 (4) Support Units. The total state support units shall be determined
 25 by using the tables set out hereafter called computation of kindergarten
 26 support units, computation of elementary support units, computation of sec-
 27 ondary support units, computation of exceptional education support units,
 28 and computation of alternative school secondary support units. The sum of
 29 all of the total support units of all school districts of the state shall be
 30 the total state support units.

31 COMPUTATION OF KINDERGARTEN SUPPORT UNITS

32 Average Daily		
33 Attendance	Attendance Divisor	Units Allowed
34 41 or more	40.....	1 or more as computed
35 31 - 40.99 ADA....	-.....	1
36 26 - 30.99 ADA....	-.....	.85
37 21 - 25.99 ADA....	-.....	.75
38 16 - 20.99 ADA....	-.....	.6
39 8 - 15.99 ADA....	-.....	.5
40 1 - 7.99 ADA....	-.....	count as elementary

1 COMPUTATION OF ELEMENTARY SUPPORT UNITS

2 Average Daily		Minimum Units
3 Attendance	Attendance Divisor	Allowed
4 300 or more ADA.....	.....	.. 15
5	..23...grades 4,5 & 6....	
6	..22...grades 1,2 & 3....1994-95	
7	..21...grades 1,2 & 3....1995-96	
8	..20...grades 1,2 & 3....1996-97	
9	and each year thereafter.	
10 160 to 299.99 ADA...	20.....	8.4
11 110 to 159.99 ADA...	19.....	6.8
12 71.1 to 109.99 ADA...	16.....	4.7
13 51.7 to 71.0 ADA...	15.....	4.0
14 33.6 to 51.6 ADA...	13.....	2.8
15 16.6 to 33.5 ADA...	12.....	1.4
16 1.0 to 16.5 ADA...	n/a.....	1.0

17 COMPUTATION OF SECONDARY SUPPORT UNITS

18 Average Daily		Minimum Units
19 Attendance	Attendance Divisor	Allowed
20 750 or more	18.5.....	47
21 400 - 749.99 ADA....	16.....	28
22 300 - 399.99 ADA....	14.5.....	22
23 200 - 299.99 ADA....	13.5.....	17
24 100 - 199.99 ADA....	12.....	9
25 99.99 or fewer	Units allowed as follows:	
26 Grades 7-12	.....	8
27 Grades 9-12	.....	6
28 Grades 7- 9	.....	1 per 14 ADA
29 Grades 7- 8	.....	1 per 16 ADA

30 COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

31 Average Daily		Minimum Units
32 Attendance	Attendance Divisor	Allowed
33 14 or more	14.5.....	1 or more as computed
34		
35 12 - 13.99....	-.....	1
36 8 - 11.99....	-.....	.75

1	4 - 7.99....	- .....	.5
2	1 - 3.99....	- .....	.25

3 COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

4	Pupils in Attendance	Attendance Divisor	Minimum Units
5			Allowed
6	12 or more.....	12	1 or more as
7			computed

8 In applying these tables to any given separate attendance unit, no
9 school district shall receive less total money than it would receive if it
10 had a lesser average daily attendance in such separate attendance unit.
11 In applying the kindergarten table to a kindergarten program of less days
12 than a full school year, the support unit allowance shall be in ratio to
13 the number of days of a full school year. The tables for exceptional edu-
14 cation and alternative school secondary support units shall be applicable
15 only for programs approved by the state department of education following
16 rules established by the state board of education. Moneys generated from
17 computation of support units for alternative schools shall be utilized for
18 alternative school programs. School district administrative and facility
19 costs may be included as part of the alternative school expenditures.

20 (5) State Distribution Factor per Support Unit. Divide educational
21 support program distribution funds, after subtracting the amounts necessary
22 to pay the obligations specified in subsection (2) of this section, by the
23 total state support units to secure the state distribution factor per sup-
24 port unit.

25 (6) District Support Units. The number of support units for each school
26 district in the state shall be determined as follows:

27 (a) (i) Divide the actual average daily attendance, excluding stu-
28 dents approved for inclusion in the exceptional child educational
29 program, for the administrative schools and each of the separate
30 schools and attendance units by the appropriate divisor from the
31 tables of support units in this section, then add the quotients
32 to obtain the district's support units allowance for regular stu-
33 dents, kindergarten through grade 12 including alternative school
34 secondary students. Calculations in application of this subsec-
35 tion shall be carried out to the nearest tenth.

36 (ii) Divide the combined totals of the average daily attendance
37 of all preschool, kindergarten, elementary, secondary, juvenile
38 detention center students and students with disabilities approved
39 for inclusion in the exceptional child program of the district by
40 the appropriate divisor from the table for computation of excep-
41 tional education support units to obtain the number of support
42 units allowed for the district's approved exceptional child pro-
43 gram. Calculations for this subsection shall be carried out to the
44 nearest tenth when more than one (1) unit is allowed.

45 (iii) The total number of support units of the district shall be
46 the sum of the total support units for regular students, subsec-

1 tion (6) (a) (i) of this section, and the support units allowance
2 for the approved exceptional child program, subsection (6) (a) (ii)
3 of this section.

4 (b) Total District Allowance Educational Program. Multiply the dis-
5 trict's total number of support units, carried out to the nearest tenth,
6 by the state distribution factor per support unit and to this product
7 add the approved amount of programs of the district provided in subsec-
8 tion (2) of this section to secure the district's total allowance for
9 the educational support program.

10 (c) District Share. The district's share of state apportionment is the
11 amount of the total district allowance, subsection (6) (b) of this sec-
12 tion.

13 (d) Adjustment of District Share. The contract salary of every noncer-
14 tified teacher shall be subtracted from the district's share as cal-
15 culated from the provisions of subsection (6) (c) of this section.

16 (7) Property Tax Computation Ratio. In order to receive state funds
17 pursuant to this section a charter district shall utilize a school mainte-
18 nance and operation property tax computation ratio for the purpose of cal-
19 culating its maintenance and operation levy, that is no greater than that
20 which it utilized in tax year 1994, less four-tenths of one percent (.4%). As
21 used herein, the term "property tax computation ratio" shall mean a ratio de-
22 termined by dividing the district's certified property tax maintenance and
23 operation budget by the actual or adjusted market value for assessment pur-
24 poses as such values existed on December 31, 1993. Such maintenance and op-
25 eration levy shall be based on the property tax computation ratio multiplied
26 by the actual or adjusted market value for assessment purposes as such values
27 existed on December 31 of the prior calendar year.

28 SECTION 2. That Section 33-5208, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided
31 in subsection (§10) of this section, from the state educational support pro-
32 gram the state department of education shall make the following apportion-
33 ment to each public charter school for each fiscal year based on attendance
34 figures submitted in a manner and time as required by the department of edu-
35 cation:

36 (1) Per student support. Computation of support units for each public
37 charter school shall be calculated as if it were a separate school accord-
38 ing to the schedules in section 33-1002(4), Idaho Code, except that public
39 charter schools with fewer than one hundred (100) secondary ADA shall use a
40 divisor of twelve (12) and the minimum units shall not apply, and no public
41 charter school shall receive an increase in support units that exceeds the
42 support units it received in the prior year by more than thirty (30). Funding
43 from the state educational support program shall be equal to the total dis-
44 tribution factor, plus the salary-based apportionment provided in chapter
45 10, title 33, Idaho Code. Provided however, any public charter school that
46 is formed by the conversion of an existing traditional public school shall
47 be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no
48 lower than the divisors of the school district in which the traditional pub-
49 lic school is located, for each category of pupils listed.

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

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

11 (4) Transportation support. Support shall be paid to the public char-
12 ter school as provided in chapter 15, title 33, Idaho Code, and section
13 33-1006, Idaho Code. Each public charter school shall furnish the depart-
14 ment with an enrollment count as of the first Friday in November, of public
15 charter school students who are eligible for reimbursement of transporta-
16 tion costs under the provisions of this subsection and who reside more than
17 one and one-half (1 1/2) miles from the school. The state department of edu-
18 cation is authorized to include in the annual appropriation to the charter
19 school sixty percent (60%) of the estimated transportation cost. The final
20 appropriation payment in July shall reflect reimbursements of actual costs
21 pursuant to section 33-1006, Idaho Code. To be eligible for state reimburse-
22 ment under the provisions of section 33-1006, Idaho Code, the student to be
23 transported must reside within the public charter school's primary atten-
24 dance area, and must meet at least one (1) of the following two (2) criteria:

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

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

29 The limitations placed by this subsection on the reimbursement of
30 transportation costs for certain students shall not apply to public virtual
31 schools.

32 (5) Facilities funds. The state department of education shall distrib-
33 ute facilities funds to public charter schools for each enrolled student in
34 which a majority of the student's instruction is received at a facility that
35 is owned or leased by the public charter school. Such funds shall be used to
36 defray the purchase, fee, loan or lease costs associated with payments for
37 real property used by the students or employees of the public charter school
38 for educational or administrative purposes. Such funds shall be distributed
39 from the moneys appropriated to the educational support program, and shall
40 be calculated as a percentage of the statewide average amount of bond and
41 plant facility funds levied per student by Idaho school districts, as fol-
42 lows:

43 Fiscal Year 2014 Twenty Percent (20%)

44 Fiscal Year 2015 Thirty Percent (30%)

45 For fiscal year 2016 and each fiscal year thereafter, this percentage
46 shall increase by ten percent (10%) each time the total appropriation of
47 state funds for the educational support program increases by three percent
48 (3%) or more over the prior fiscal year, and shall decrease by ten percent
49 (10%) each time the total appropriation of state funds for the educational

1 support program decreases as compared to the prior fiscal year. Provided
2 however, that the percentage shall be no less than twenty percent (20%) and
3 no greater than fifty percent (50%), and that the average amount of funding
4 received per public charter school shall not exceed the average amount of
5 funding received by each school district pursuant to the provisions of sec-
6 tion 33-906, Idaho Code.

7 For those public charter schools that do not receive facilities funds
8 for all enrolled students, the school may submit to the state department of
9 education a reimbursement claim for any costs for which facilities funds may
10 be used. The state department of education shall reduce such claim by the
11 greater of fifty percent (50%) or the percentage of the school's enrolled
12 students for which the school receives facilities funds, and shall pay the
13 balance. Provided however, that the total reimbursements paid to a public
14 charter school, in combination with any facilities stipend received by the
15 school, shall not exceed the amount of facilities funds that would have been
16 received by the school had the school received facilities funds for all en-
17 rolled students. For the purposes of this subsection, the term "real prop-
18 erty" shall be used as defined in section 63-201, Idaho Code.

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

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

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

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

37 A public charter school shall comply with all applicable fiscal requirements
38 of law, except that the following provisions shall not be applicable to pub-
39 lic charter schools: that portion of section 33-1004, Idaho Code, relating
40 to reduction of the administrative and instructional staff allowance when
41 there is a discrepancy between the number allowed and the number actually em-
42 ployed; and section 33-1004E, Idaho Code, for calculation of district staff
43 indices.

44 (67) Nothing in this chapter shall be construed to prohibit any private
45 person or organization from providing funding or other financial assistance
46 to the establishment or operation of a public charter school.

47 (8) Each public charter school shall pay an authorizer fee to its autho-
48 riized chartering entity, to defray the actual documented cost of monitoring,
49 evaluation and oversight, which, in the case of public charter schools
50 authorized by the public charter school commission, shall include each

1 school's proportional fee share of all moneys appropriated to the public
2 charter school commission, plus fifteen percent (15%). Provided however,
3 that each public charter school's board of directors may direct up to ten
4 percent (10%) of the calculated fee to pay membership fees to an organization
5 or association that provides technical assistance, training and advocacy
6 for Idaho public charter schools. Unless the authorized chartering entity
7 declines payment, such fee shall be paid by February 15 of each fiscal year
8 and shall not exceed the greater of:

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

13 (b) The lesser of:

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

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

20 (79) Nothing in this chapter shall prevent a public charter school from
21 applying for federal grant moneys.

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

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

31 (911) Nothing in this section prohibits separate face-to-face learning
32 activities or services.

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

35 SECTION 3. That Chapter 52, Title 33, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 33-5214, Idaho Code, and to read as follows:

38 33-5214. PUBLIC CHARTER SCHOOL AUTHORIZERS FUND. There is hereby cre-
39 ated in the state treasury a fund to be known as the "Public Charter School
40 Authorizers Fund," hereinafter referred to as "the fund." All authorizer
41 fees paid pursuant to section 33-5208 (8), Idaho Code, for public charter
42 schools under the governance of the public charter school commission shall
43 be deposited in the fund. Moneys in the fund shall be appropriated to defray
44 the commission's cost of operations and the state department of education's
45 cost of reviewing, approving and overseeing any charter school authorizers
46 requiring department approval.

47 SECTION 4. That Section 33-1619, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 33-1619. VIRTUAL EDUCATION PROGRAMS. School districts may offer in-
2 struction in the manner described for a virtual school in section 33-5202A,
3 Idaho Code. For programs meeting such definition, the school district may
4 count and report the average daily attendance of the program's students in
5 the manner prescribed in section 33-5208(~~§10~~), Idaho Code. School districts
6 may also offer instruction that is a blend of virtual and traditional in-
7 struction. For such blended programs, the school district may count and re-
8 port the average daily attendance of the program's students in the manner
9 prescribed in section 33-5208(~~§10~~), Idaho Code. Alternatively, the school
10 district may count and report the average daily attendance of the blended
11 program's students in the same manner as provided for traditional programs
12 of instruction, for the days or portions of days in which such students at-
13 tend a physical public school. For the balance of days or portions of days,
14 average daily attendance may be counted in the manner prescribed in section
15 33-5208(~~§10~~), Idaho Code.

April 11, 2013

LEGISLATURE OF THE STATE OF IDAHO
Sixty-second Legislature First Regular Session - 2013

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 221, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

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RELATING TO EDUCATION; AMENDING SECTION 33-1009, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-5202A, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIMITATIONS ON THE APPROVAL OF A PUBLIC CHARTER SCHOOL BY A BOARD OF TRUSTEES, TO REVISE PROVISIONS RELATING TO A PUBLIC VIRTUAL SCHOOL CHARTER, TO REVISE PROVISIONS RELATING TO THE DESIGNATION OF A PUBLIC CHARTER SCHOOL AS A LOCAL EDUCATION AGENCY; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PETITION TO ESTABLISH A PUBLIC CHARTER SCHOOL AND A NEW PUBLIC VIRTUAL SCHOOL, TO REMOVE LANGUAGE RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION, TO REVISE PROVISIONS RELATING TO A PUBLIC HEARING, TO REVISE PROVISIONS RELATING TO A DECISION ON A PETITION, TO REVISE PROVISIONS RELATING TO CERTAIN ADDITIONAL STATEMENTS, TO ESTABLISH PROVISIONS RELATING TO AN INITIAL CHARTER AND TERM OF OPERATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5205A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TRANSFER OF A CHARTER, TO REMOVE LANGUAGE RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION AND TO ESTABLISH LANGUAGE RELATING TO AUTHORIZED CHARTERING ENTITIES; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5205B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PERFORMANCE CERTIFICATES, TO ESTABLISH PROVISIONS RELATING TO PERFORMANCE EXPECTATIONS AND MEASURES, TO ESTABLISH PROVISIONS RELATING TO THE EXECUTION OF SUCH CERTIFICATES AND TO PROVIDE THAT CERTAIN PUBLIC CHARTER SCHOOLS SHALL EXECUTE CERTIFICATES NO LATER THAN A CERTAIN DATE; AMENDING SECTION 33-5206, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN REQUIREMENTS, TO REVISE PROVISIONS RELATING TO THE SUBMISSION OF AN AUDIT, TO REVISE PROVISIONS RELATING TO THE REVISION OF A CHARTER OR CERTIFICATE AND TO REVISE PROVISIONS RELATING TO A NONRENEWED CHARTER; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RECONSIDERATION OF A DECISION TO DENY A PETITION; AMENDING SECTION 33-5208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PAYMENT SCHEDULE AND TO REMOVE A REFERENCE TO THE STATE BOARD; REPEALING SECTION 33-5209, IDAHO CODE, RELATING TO ENFORCEMENT, REVOCATION AND APPEAL; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5209A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO ACCOUNTABILITY OF EACH PUBLIC CHARTER SCHOOL AND CERTAIN PERFORMANCE INDICATORS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5209B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CHARTER RENEWALS, RENEWAL APPLICATIONS, CHARTER RENEWAL DECISIONS, REVOCATION AND NONRENEWAL PROCESSES AND ESTABLISHING PROVISIONS RELATING TO AN AUTHORIZED CHARTERING ENTITY RENEWING OR NONRENEWING ANY CHARTER; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5209C, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN AUTHORIZED CHARTERING ENTITY MONITORING PERFORMANCE, TO ESTABLISH

1 PROVISIONS RELATING TO A PERFORMANCE REPORT, TO ESTABLISH PROVISIONS
2 RELATING TO CERTAIN FISCAL SOUNDNESS, TO ESTABLISH PROVISIONS RELATING
3 TO NOTIFICATION REGARDING VIOLATION OF LAW, TO ESTABLISH PROVISIONS
4 RELATING TO REVOCATION OR NONRENEWAL OF A CHARTER, TO PROVIDE FOR A
5 REPORT, TO ESTABLISH PROVISIONS RELATING TO A PUBLIC HEARING AND TO PRO-
6 VIDE FOR AN APPEAL; AMENDING SECTION 33-5211, IDAHO CODE, TO REMOVE A
7 REFERENCE TO A PETITION, TO PROVIDE A REFERENCE TO A CHARTER AND PERFOR-
8 MANCE CERTIFICATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER
9 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5212, IDAHO
10 CODE, TO ESTABLISH PROVISIONS RELATING TO PUBLIC CHARTER SCHOOL CLOSURE
11 DECISIONS AND THE DISTRIBUTION OF ASSETS; AMENDING SECTION 33-5213,
12 IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE MEMBERSHIP AND TERMS OF
13 THE PUBLIC CHARTER SCHOOL COMMISSION AND TO REVISE PROVISIONS RELATING
14 TO THE REQUIREMENTS OF MEMBERSHIP; AND PROVIDING EFFECTIVE DATES.

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

16 SECTION 1. That Section 33-1009, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 33-1009. PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND.

19 1. a. Payments of the state general account appropriation for public
20 school support shall be made each year by the state board of education
21 to the public school districts of the state in five (5) payments. Pay-
22 ments to the districts shall be made not later than the fifteenth day
23 of August, the first day of October, the fifteenth day of November, the
24 fifteenth day of February, and the fifteenth day of May each year. The
25 first two (2) payments by the state board of education shall be approx-
26 imately thirty percent (30%) of the total general account appropriation
27 for the fiscal year, while the third, fourth and fifth payments shall
28 be approximately twenty percent (20%), ten percent (10%) and ten per-
29 cent (10%), respectively, except as provided for in section 33-5209C,
30 Idaho Code. Amounts apportioned due to a special transfer to the public
31 school income fund to restore or reduce a deficiency in the prior year's
32 transfer pursuant to subsection 4. of this section shall not be subject
33 to this limitation.

34 b. Payments of moneys, other than the state general account appropri-
35 ation, that accrue to the public school income fund shall be made by
36 the state board of education to the school districts of the state on the
37 fifteenth day of November, February, May and July each year. The total
38 amount of such payments shall be determined by the state department of
39 education and shall not exceed the amount of moneys available and on de-
40 posit in the public school income fund at the time such payment is made.

41 c. Amounts apportioned due to a special transfer to the public school
42 income fund to restore or reduce a deficiency in the prior year's trans-
43 fer pursuant to subsection 4. of this section shall not be subject to
44 the limitation imposed by paragraphs a. and b. of this subsection.

45 2. Payments made to the school districts in August, October and Novem-
46 ber are advance payments for the current year and may be based upon payments
47 from the public school income fund for the preceding school year. Each
48 school district may receive its proportionate share of the advance payments

1 in the same ratio that its total payment for the preceding year was to the
2 total payments to all school districts for the preceding year.

3 3. No later than the fifteenth day of February in each year, the state
4 department of education shall compute the state distribution factor based on
5 the total average daily attendance through the first Friday in November. The
6 factor will be used in payments of state funds in February and May. Atten-
7 dance shall be reported in a format and at a time specified by the state de-
8 partment of education.

9 As of the thirtieth day of June of each year the state department of edu-
10 cation shall determine final payments to be made on July fifteenth next suc-
11 ceeding to the several school districts from the public school income fund
12 for the school year ended June 30. The July payments shall take into consid-
13 eration:

14 a. ~~t~~The average daily attendance of the several school districts for
15 the twenty-eight (28) best weeks of the school year completed not later
16 than the thirtieth of June~~;~~i

17 b. ~~a~~All funds available in the public school income fund for the fiscal
18 year ending on the thirtieth of June~~;~~i

19 c. ~~a~~All payments distributed for the current fiscal year to the several
20 school districts~~;~~i

21 d. ~~t~~The adjustment based on the actual amount of discretionary funds
22 per support unit required by the provisions of section 33-1018, Idaho
23 Code~~;~~i

24 e. ~~p~~Payments made or due for the transportation support program and the
25 exceptional education support program. The state department of educa-
26 tion shall apportion and direct the payment to the several school dis-
27 tricts the moneys in the public school income fund in each year, taking
28 into account the advance made under subsection 2. of this section, in
29 such amounts as will provide in full for each district its support pro-
30 gram, and not more than therefor required, and no school district shall
31 receive less than fifty dollars (\$50.00).

32 4. If the full amount appropriated to the public school income fund
33 from the general account by the legislature is not transferred to the public
34 school income fund by the end of the fiscal year, the deficiency resulting
35 therefrom shall either be restored or reduced through a special trans-
36 fer from the general account in the first sixty (60) days of the following
37 fiscal year, or shall be calculated in computing district levies, and any
38 additional levy shall be certified by the state superintendent of public
39 instruction to the board of county commissioners and added to the district's
40 maintenance and operation levy. If the deficiency is restored or reduced
41 by special transfer, the amount so transferred shall be in addition to the
42 amount appropriated to be transferred in such following fiscal year and
43 shall be apportioned to each school district in the same amount as each would
44 have received had the transfer been made in the year the deficiency occurred.
45 The state department of education shall distribute to the school district
46 the full amount of the special transfer as soon as practical after such
47 transfer is made. In making the levy computations required by this subsec-
48 tion the state department of education shall take into account and consider
49 the full amount of money receipted into the public school income fund from
50 all sources for the given fiscal year. Deficits in the transfer of the ap-

1 appropriated amount of general account revenue to the public school income
2 fund shall be reduced by the amount, if any, that the total amount receipted
3 from other sources into the public school income fund exceeds the official
4 estimated amount from those sources. The official estimate of receipts from
5 other sources shall be the total amount stated by the legislature in the ap-
6 propriation bill. The provisions of this subsection shall not apply to any
7 transfers to or from the public education stabilization fund.

8 5. Any apportionments in any year, made to any school district, which
9 may within the succeeding three (3) year period be found to have been in error
10 either of computation or transmittal, may be corrected during the three (3)
11 year period by reduction of apportionments to any school district to which
12 over-apportionments may have been made or received, and corresponding ad-
13 ditions to apportionments to any school district to which under-apportion-
14 ments may have been made or received.

15 SECTION 2. That Section 33-5202A, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-
18 quires otherwise:

19 (1) "Authorized chartering entity" means ~~either~~ any of the following:

20 (a) A local board of trustees of a school district in this state, or;

21 (b) The public charter school commission created pursuant to the pro-
22 visions of this chapter;

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

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

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

29 (3) "Founder" means a person, including employees or staff of a pub-
30 lic charter school, who makes a material contribution toward the establish-
31 ment of a public charter school in accordance with criteria determined by
32 the board of directors of the public charter school, and who is designated
33 as such at the time the board of directors acknowledges and accepts such con-
34 tribution. The criteria for determining when a person is a founder shall not
35 discriminate against any person on any basis prohibited by the federal or
36 state constitutions or any federal, state or local law. The designation of a
37 person as a founder, and the admission preferences available to the children
38 of a founder, shall not constitute pecuniary benefits.

39 (4) "Performance certificate" means a fixed-term, renewable certifi-
40 cate between a public charter school and an authorized chartering entity
41 that outlines the roles, powers, responsibilities and performance expecta-
42 tions for each party to the certificate.

43 (5) "Petition" means the document submitted by a person or persons to
44 the authorized chartering entity to request the creation of a public charter
45 school.

46 (56) "Professional-technical regional public charter school" means a
47 public charter secondary school authorized under this chapter to provide
48 programs in professional-technical education which meet the standards and
49 qualifications established by the division of professional-technical ed-

1 ucation. A professional-technical regional public charter school may be
2 approved by an authorized chartering entity and, by the terms of its char-
3 ter, shall operate in association with at least two (2) school districts.
4 Notwithstanding the provisions of section 33-5205(3) (j), Idaho Code, par-
5 ticipating school districts need not be contiguous.

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

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

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

15 SECTION 3. That Section 33-5203, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public
18 charter schools is hereby authorized. Public charter schools shall be part
19 of the state's program of public education.

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

22 (a) No whole school district may be converted to a charter district or
23 any configuration which includes all schools as public charter schools;
24 and

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

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

30 (3) A public charter school may be formed either by creating a new pub-
31 lic charter school, which charter may be approved by any authorized char-
32 tering entity, or by converting an existing traditional public school to a
33 public charter school, which charter may only be approved by the board of
34 trustees of the school district in which the existing public school is lo-
35 cated.

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

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

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

44 (c) By the board of trustees of a school district if the public charter
45 school's physical location is outside the boundaries of the authoriz-
46 ing school district. ~~The limitation provided in this subsection (4) (c)~~
47 ~~does not apply to a home-based public virtual school.~~

48 (5) A public virtual school charter may be approved by ~~the public char-~~
49 ~~ter school commission~~ any authorized chartering entity except a local school

1 district board of trustees. In addition, a charter may also be approved by
2 the state board of education pursuant to section 33-5207(5) (b), Idaho Code.

3 (6) The state board of education shall adopt rules, subject to law, to
4 establish a consistent application and review process for the approval and
5 maintenance of all public charter schools.

6 ~~(7) The state board of education shall be responsible to designate~~
7 ~~those public charter schools that will be identified~~ Each public charter
8 school authorized by an authorized chartering entity other than a local
9 school district board of trustees is hereby designated as a local education
10 agency (LEA) as such term is defined in 34 CFR 300.287. however, only pPublic
11 charter schools chartered by the board of trustees of a school district may
12 also be designated by the board of trustees as an LEA, with the concurrence of
13 the public charter school board of directors. Otherwise, the public charter
14 school shall be included in that district's LEA.

15 SECTION 4. That Section 33-5205, Idaho Code, be, and the same is hereby
16 amended to read as follows:

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

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

43 (b) A petition to establish a new public virtual school ~~must~~ shall not
44 be submitted directly to the public charter school commission a local
45 school district board of trustees. Except as provided in paragraph
46 (a) of this subsection, aA petition to establish a new public charter
47 school, other than a new public virtual school, shall first be submitted
48 to the local board of trustees in which the public charter school will be
49 located. A petition shall be considered to be received by an authorized

1 chartering entity as of the next regularly scheduled meeting of the au-
2 thorized chartering entity after submission of the petition.

3 (c) The board of trustees may either: (i) consider the petition and
4 approve the charter; or (ii) consider the petition and deny the charter;
5 or (iii) refer the petition to the public charter school commission, but
6 such referral shall not be made until the local board has documented its
7 due diligence in considering the petition. Such documentation shall be
8 submitted with the petition to the public charter school commission. If
9 the petitioners and the local board of trustees have not reached mutual
10 agreement on the provisions of the charter, after a reasonable and good
11 faith effort, within seventy-five (75) days from the date the charter
12 petition is received, the petitioners may withdraw their petition from
13 the local board of trustees and may submit their charter petition to
14 the public charter school commission. Documentation of the reason-
15 able and good faith effort between the petitioners and the local board
16 of trustees must be submitted with the petition to the public charter
17 school commission.

18 ~~(d) The public charter school commission may either: (i) consider the~~
19 ~~petition and approve the charter; or (ii) consider the petition and deny~~
20 ~~the charter.~~

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

32 (2) Not later than seventy-five (75) days after receiving a petition,
33 the authorized chartering entity shall hold a public hearing for the purpose
34 of discussing the provisions of the charter, at which time the authorized
35 chartering entity shall consider the merits of the petition and the level of
36 employee and parental support for the petition. In the case of a petition
37 submitted to the public charter school commission, such public hearing must
38 be not later than seventy-five (75) days after receipt of the petition, which
39 may be extended for an additional specified period of time if both parties
40 agree to an extension. Such agreement shall be established in writing and
41 signed by representatives of both parties.

42 In the case of a petition for a public virtual charter school, if the
43 primary attendance area described in the petition of a proposed public
44 virtual charter school extends within the boundaries of five (5) or fewer
45 local school districts, the ~~public charter school commission~~ prospective
46 authorizer shall provide notice in writing of the public hearing no less
47 than thirty (30) days prior to such public hearing to those local school
48 districts. Such public hearing shall include any oral or written comments
49 that an authorized representative of the local school districts may provide

1 regarding the merits of the petition and any potential impacts on the school
2 districts.

3 In the case of a petition for a non-virtual public charter school sub-
4 mitted to the public charter school commission, the board of the district in
5 which the proposed public charter school will be physically located, shall
6 be notified of the hearing in writing, by the public charter school commis-
7 sion, no less than thirty (30) days prior to the public hearing. Such pub-
8 lic hearing shall include any oral or written comments that an authorized
9 representative of the school district in which the proposed public charter
10 school would be physically located may provide regarding the merits of the
11 petition and any potential impacts on the school district. The hearing shall
12 include any oral or written comments that petitioners may provide regard-
13 ing any potential impacts on such school district. If the school district
14 chooses not to provide any oral or written comments as provided for in this
15 subsection ~~(2)~~, such school district shall notify the public charter school
16 commission of such decision. This public hearing shall be an opportunity
17 for public participation and oral presentation by the public. This hearing
18 is not a contested case hearing as described in chapter 52, title 67, Idaho
19 Code. Following review of any petition and any public hearing provided for
20 in this section, the authorized chartering entity shall within seventy-five
21 (75) days either approve or deny the charter within seventy-five (75) days
22 after the date of the public hearing, provided however, that the date may be
23 extended by an additional specified period of time if the petition fails to
24 contain all of the information required in this section, or if both parties
25 agree to the extension. Such agreement shall be established in writing and
26 signed by representatives of both parties. This public hearing shall be an
27 opportunity for public participation and oral presentation by the public.
28 This hearing is not a contested case hearing as described in chapter 52, ti-
29 tle 67, Idaho Code:

- 30 (a) Approve the charter;
- 31 (b) Deny the charter; or
- 32 (c) Provide a written response identifying the specific deficiencies
33 in the petition.

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

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

- 48 (a) The proposed educational program of the public charter school, de-
49 signed among other things, to identify what it means to be an "educated
50 person" in the twenty-first century, and how learning best occurs. The

1 goals identified in the program shall include how all educational thor-
2 oughness standards as defined in section 33-1612, Idaho Code, shall be
3 fulfilled.

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

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

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

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

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

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

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

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

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

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

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

23 (i) The children of full-time employees of the public charter
24 school;

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

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

31 (l) The manner in which annual audits of the financial and programmatic
32 operations of the public charter school are to be conducted.

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

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

41 (o) If the public charter school is a conversion of an existing tra-
42 ditional public school, tThe public school attendance alternative for
43 students residing within the school district who choose not to attend
44 the public charter school.

45 (p) A description of the transfer rights of any employee choosing to
46 work in a public charter school that is approved by the board of trustees
47 of a school district, and the rights of such employees to return to any
48 noncharter school in the same school district after employment at such
49 charter school.

- 1 (q) A provision which ensures that the staff of the public charter
2 school shall be considered a separate unit for purposes of collective
3 bargaining.
- 4 (r) The manner by which special education services will be provided to
5 students with disabilities who are eligible pursuant to the federal in-
6 dividuals with disabilities education act, including disciplinary pro-
7 cedures for these students.
- 8 (s) A plan for working with parents who have students who are dually en-
9 rolled pursuant to section 33-203, Idaho Code.
- 10 (t) The process by which the citizens in the primary attendance area
11 shall be made aware of the enrollment opportunities of the public char-
12 ter school.
- 13 (u) A proposal for transportation services including estimated first
14 year costs.
- 15 (v) A plan for termination of the charter by the board of directors, to
16 include:
- 17 (i) Identification of who is responsible for dissolution of the
18 charter school;
- 19 (ii) A description of how payment to creditors will be handled;
- 20 (iii) A procedure for transferring all records of students with
21 notice to parents of how to request a transfer of student records
22 to a specific school; and
- 23 (iv) A plan for the disposal of the public charter school's as-
24 sets.
- 25 (4) ~~The public charter school commission~~ An authorized chartering en-
26 tity, except for a school district board of trustees, may approve a charter
27 for a public virtual school under the provisions of this chapter only if it
28 determines that the petition contains the requirements of subsections (3)
29 and (5) of this section and the additional statements describing the follow-
30 ing:
- 31 (a) The learning management system by which courses will be delivered;
- 32 (b) The role of the online teacher, including the consistent availabil-
33 ity of the teacher to provide guidance around course material, methods
34 of individualized learning in the online course and the means by which
35 student work will be assessed;
- 36 (c) A plan for the provision of professional development specific to
37 the public virtual school environment;
- 38 (d) The means by which public virtual school students will receive
39 appropriate teacher-to-student interaction, including timely and fre-
40 quent feedback about student progress;
- 41 (e) The means by which the public virtual school will verify student at-
42 tendance and award course credit. Attendance at public virtual schools
43 shall focus primarily on coursework and activities that are correlated
44 to the Idaho state thoroughness standards;
- 45 (f) A plan for the provision of technical support relevant to the deliv-
46 ery of online courses;
- 47 (g) The means by which the public virtual school will provide opportu-
48 nity for student-to-student interaction; and

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

4 (5) The petitioner shall provide information regarding the proposed
5 operation and potential effects of the public charter school including, but
6 not limited to, the facilities to be utilized by the public charter school,
7 the manner in which administrative services of the public charter school
8 are to be provided and the potential civil liability effects upon the public
9 charter school and upon the authorized chartering entity.

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

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

15 33-5205A. TRANSFER OF CHARTER. (1) A charter and performance certifi-
16 cate for a public charter school approved by the board of trustees of a local
17 school district may be transferred to, and placed under the chartering au-
18 thority of, the public charter school commission any authorized chartering
19 entity if the board of trustees of such local school district current autho-
20 rizer, the public charter school commission receiving authorizer, and the
21 board of directors of the public charter school all agree to such transfer,
22 including any revision to the charter and performance certificate that may
23 be required in connection with such transfer. A charter for a public charter
24 school approved by the public charter school commission may be transferred
25 to, and placed under the chartering authority of, the board of trustees of
26 the local school district in which the public charter school is located if
27 the public charter school commission, the board of trustees of such local
28 school district, and the board of directors of the public charter school all
29 agree to such transfer, including any revisions to the charter that may be
30 required in connection with such transfer. Provided however, that a char-
31 ter and performance certificate shall not be transferred to a school dis-
32 trict board of trustees in which the public charter school is not physically
33 located. A request to transfer a charter may be initiated by the board of
34 directors of a public charter school or by the authorized chartering entity
35 with chartering authority over the charter of such public charter school.

36 (2) A public charter school, authorized by ~~the public charter school~~
37 ~~commission~~ any authorized chartering entity except a school district board
38 of trustees, which has a primary attendance area located within more than
39 one (1) school district, may transfer the physical location of its public
40 charter school within its primary attendance area to locate the facilities
41 within the boundaries of another school district within the primary atten-
42 dance area if the public charter school commission authorized chartering
43 entity, the board of trustees of each of the relevant school districts and
44 the board of directors of the public charter school all approve of such
45 transfer of facilities location, and if the public charter school commission
46 authorized chartering entity approves any revisions to the charter that may
47 be required in connection with such transfer.

48 (3) If all parties fail to reach agreement in regard to the request to
49 transfer a charter and performance certificate, as required herein, then the

1 matter may be appealed directly to the state board of education. With re-
2 spect to such appeal, the state board of education shall substantially fol-
3 low the procedure as provided in section 33-5207(5) (b), Idaho Code. A trans-
4 ferred charter school shall not be considered a new public charter school and
5 shall not be subject to the limitations of section 33-5203(2), Idaho Code.

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

9 33-5205B. PERFORMANCE CERTIFICATES. (1) Within seventy-five (75)
10 days of approval of a charter application, the authorized chartering entity
11 and the governing board of the approved public charter school shall execute
12 a performance certificate that clearly sets forth the academic and opera-
13 tional performance expectations and measures by which the public charter
14 school will be judged and the administrative relationship between the autho-
15 rized chartering entity and public charter school, including each party's
16 rights and duties. The performance expectations and measures set forth in
17 the performance certificate shall include, but need not be limited to, ap-
18 plicable federal and state accountability requirements. The performance
19 provisions may be refined or amended by mutual agreement after the public
20 charter school is operating and has collected baseline achievement data for
21 its enrolled students.

22 (2) The performance certificate shall be signed by the president of the
23 authorized chartering entity's governing board and the president of the pub-
24 lic charter school's governing body. Within fourteen (14) days of executing
25 a performance certificate, the authorized chartering entity shall submit to
26 the state board of education written notification of the performance cer-
27 tificate execution, including a copy of the performance certificate.

28 (3) No public charter school may commence operations without a perfor-
29 mance certificate executed in accordance with this provision and approved in
30 an open meeting of the authorized chartering entity's governing board.

31 (4) All public charter schools approved prior to July 1, 2013, shall
32 execute performance certificates with their authorizers no later than July
33 1, 2014. Such certificates shall ensure that each public charter school ap-
34 proved prior to July 1, 2014, is evaluated for renewal or nonrenewal between
35 March 1, 2016, and March 1, 2019.

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

38 33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC
39 CHARTER SCHOOL. (1) In addition to any other requirements imposed in this
40 chapter, a public charter school shall be nonsectarian in its programs,
41 affiliations, admission policies, employment practices, and all other op-
42 erations, shall not charge tuition, levy taxes or issue bonds, and shall
43 not discriminate against any student on any basis prohibited by the federal
44 or state constitutions or any federal, state or local law. Admission to
45 a public charter school shall not be determined according to the place of
46 residence of the student, or of the student's parent or guardian within the
47 district, except that a new or conversion public charter school established

1 under the provisions of this chapter shall adopt and maintain a policy giving
2 admission preference to students who reside within the primary attendance
3 area of that public charter school.

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

6 (3) Certified teachers in a public charter school shall be considered
7 public school teachers. Educational experience shall accrue for service in
8 a public charter school and such experience shall be counted by any school
9 district for any teacher who has been employed in a public charter school.

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

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

16 (6) ~~Upon approval of the petition by the authorized chartering entity,~~
17 ~~the petitioner shall provide written notice of that approval, including a~~
18 ~~copy of the approved petition, to the state board of education. For the pur-~~
19 ~~pose of implementing the provisions of section 33-5203(2), Idaho Code, the~~
20 ~~state board of education shall assign a number to each petition it receives.~~
21 ~~Petitions shall be numbered based on the chronological order in which no-~~
22 ~~tice of the approved petition is received by the state board of education~~
23 Authorized chartering entities may establish reasonable pre-opening re-
24 quirements or conditions to monitor the start-up progress of newly approved
25 public charter schools and ensure that they are prepared to open smoothly on
26 the date agreed, and to ensure that each school meets all building, health,
27 safety, insurance and other legal requirements for school opening.

28 (7) ~~Each public charter school shall annually submit a report to the~~
29 ~~authorized chartering entity which approved its charter. The report shall~~
30 ~~contain the audit of the fiscal and programmatic operations as required in~~
31 ~~section 33-5205(3)(1), Idaho Code, a report on student progress based on the~~
32 ~~public charter school's measurable student educational standards identi-~~
33 ~~fied in section 33-5205(3)(b), Idaho Code, and a copy of the public charter~~
34 ~~school's accreditation report to the authorized chartering entity that ap-~~
35 ~~proved its charter.~~

36 (8) A public charter school or the authorized chartering entity may
37 enter into negotiations to revise its a charter or performance certifi-
38 cate at any time. ~~A~~ If a public charter school may petitions to revise its
39 charter or performance certificate, at any time. ~~The the~~ authorized char-
40 tering entity's review of the revised petition shall be limited in scope
41 solely to the proposed revisions. In those instances where Except for public
42 charter schools authorized by a school district board of trustees, when a
43 non-virtual public charter school submits a proposed charter revision to
44 the public charter school commission its authorized chartering entity and
45 such revision includes a proposal to increase such public charter school's
46 approved student enrollment cap by ten percent (10%) or more, the commission
47 authorized chartering entity shall hold a public hearing on such petition.
48 The public charter school commission authorized chartering entity shall
49 provide the board of the local school district in which the public charter
50 school is physically located, notice in writing of such hearing, no later

1 than thirty (30) days prior to the hearing. The public hearing shall include
2 any oral or written comments that an authorized representative of the school
3 district in which the public charter school is physically located may pro-
4 vide regarding the impact of the proposed charter revision upon the school
5 district. Such public hearing shall also include any oral or written com-
6 ments that any petitioner may provide regarding the impact of the proposed
7 charter revision upon such school district.

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

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

16 33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of
17 trustees, acting in its capacity as an authorized chartering entity, ap-
18 proves a petition for the conversion of an existing traditional public
19 school within the school district over the objection of thirty (30) or more
20 persons or employees of the district, or if an authorized chartering entity
21 denies a petition for the establishment of a new public charter school for
22 any reason including, but not limited to, failure by the petitioner to fol-
23 low procedures or for failure to provide required information, then such
24 decisions may be appealed to the state superintendent of public instruction
25 within thirty (30) days of the date of the written decision, at the request of
26 persons opposing the conversion of an existing traditional public school, or
27 at the request of the petitioner whose request for a new charter was denied.

28 (2) The state superintendent of public instruction shall select a
29 hearing officer to review the action of the authorized chartering entity,
30 pursuant to section 67-5242, Idaho Code. The hearing officer shall, within
31 thirty (30) days of receipt of the request, review the full record regard-
32 ing the charter petition and convene a public hearing regarding the charter
33 petition. Within ten (10) days of the public hearing, the hearing officer
34 shall submit a written recommendation to the authorized chartering en-
35 tity and to the persons requesting the review. The recommendation by the
36 hearing officer either to affirm or reverse the decision of the authorized
37 chartering entity shall be based upon the full record regarding the charter
38 petition, including the standards and criteria contained in this chapter and
39 upon any public charter school rules adopted by the state board of education.
40 The recommendation shall be in writing and accompanied by a reasoned state-
41 ment that explains the criteria and standards considered relevant, states
42 the relevant contested facts relied upon, and explains the rationale for the
43 recommendations based on the applicable statutory provisions and factual
44 information contained in the record.

45 (3) Within thirty (30) days following receipt of the hearing officer's
46 written recommendation, the authorized chartering entity shall hold a meet-
47 ing open to the public for the purpose of reviewing the hearing officer's
48 written recommendation. Within ten (10) days of such meeting, the autho-
49 rized chartering entity shall either affirm or reverse its initial decision.

1 The authorized chartering entity's decision shall be in writing and contain
2 findings which explain the reasons for its decision.

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

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

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

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

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

14 (b) Affirms its initial decision denying the public charter school pe-
15 tition, the board of directors of the nonprofit corporation identified
16 in the petition may appeal to the state board of education. The state
17 board of education shall hold a public hearing within a reasonable time
18 after receiving notice of such appeal but no later than sixty (60) cal-
19 endar days after receiving such notice, and after the public hearing,
20 shall take any of the following actions: (i) approve or deny the pe-
21 tition for the public charter school, provided that the state board of
22 education shall only approve the petition if it determines that the au-
23 thorized chartering entity failed to appropriately consider the char-
24 ter petition, or if it acted in an arbitrary manner in denying the pe-
25 tition; ~~or (ii) remand the matter back to the authorized chartering en-~~
26 ~~entity, which shall have authority to further review and act on such mat-~~
27 ~~ter as directed by the state board of education; or (iii) in the case of~~
28 a denial by the board of a local school district, redirect the matter
29 to another authorized chartering entity the public charter school com-
30 mission for further review as directed by the state board of education.
31 Such public hearing shall be conducted pursuant to procedures as set by
32 the state board of education.

33 (6) A public charter school for which a charter is approved by the state
34 board of education shall qualify fully as a public charter school for all
35 funding and other purposes of this chapter. The public charter school com-
36 mission shall assume the role of the authorized chartering entity for any
37 charter approved by the state board of education as provided in subsection
38 (5) (b) of this section. Employees of a public charter school approved by
39 the state board of education shall not be considered employees of the local
40 school district in which the public charter school is located, nor of the
41 state board of education, nor of the commission.

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

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

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

3 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided
4 in subsection (8) of this section, from the state educational support pro-
5 gram the state department of education shall make the following apportion-
6 ment to each public charter school for each fiscal year based on attendance
7 figures submitted in a manner and time as required by the department of edu-
8 cation:

9 (1) Per student support. Computation of support units for each public
10 charter school shall be calculated as if it were a separate school accord-
11 ing to the schedules in section 33-1002(4), Idaho Code, except that public
12 charter schools with fewer than one hundred (100) secondary ADA shall use a
13 divisor of twelve (12) and the minimum units shall not apply, and no public
14 charter school shall receive an increase in support units that exceeds the
15 support units it received in the prior year by more than thirty (30). Funding
16 from the state educational support program shall be equal to the total dis-
17 tribution factor, plus the salary-based apportionment provided in chapter
18 10, title 33, Idaho Code. Provided however, any public charter school that
19 is formed by the conversion of an existing traditional public school shall
20 be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no
21 lower than the divisors of the school district in which the traditional pub-
22 lic school is located, for each category of pupils listed.

23 (2) Special education. For each student enrolled in the public charter
24 school who is entitled to special education services, the state and federal
25 funds from the exceptional child education program for that student that
26 would have been apportioned for that student to the school district in which
27 the public charter school is located.

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

33 (4) Transportation support. Support shall be paid to the public char-
34 ter school as provided in chapter 15, title 33, Idaho Code, and section
35 33-1006, Idaho Code. Each public charter school shall furnish the depart-
36 ment with an enrollment count as of the first Friday in November, of public
37 charter school students who are eligible for reimbursement of transporta-
38 tion costs under the provisions of this subsection and who reside more than
39 one and one-half (1 1/2) miles from the school. The state department of edu-
40 cation is authorized to include in the annual appropriation to the charter
41 school sixty percent (60%) of the estimated transportation cost. The final
42 appropriation payment in July shall reflect reimbursements of actual costs
43 pursuant to section 33-1006, Idaho Code. To be eligible for state reimburse-
44 ment under the provisions of section 33-1006, Idaho Code, the student to be
45 transported must reside within the public charter school's primary atten-
46 dance area, and must meet at least one (1) of the following two (2) criteria:

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

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

3 The limitations placed by this subsection on the reimbursement of
4 transportation costs for certain students shall not apply to public virtual
5 schools.

6 (5) Payment schedule. The state department of education is authorized
7 to make an advance payment of twenty-five percent (25%) of a public charter
8 school's estimated annual apportionment for its first year of operation, and
9 each year thereafter, provided the public charter school ~~has an increase of~~
10 ~~student population in any given year of twenty (20) students or more~~ is serv-
11 ing more grades or at least ten percent (10%) more classes than the previ-
12 ous year, to assist the school with initial start-up costs or payroll obli-
13 gations. For a public charter school entering its second or greater year of
14 operations, the state department of education may require documentation es-
15 tablishing the need for such an advance payment, including comparative class
16 schedules and proof of a commensurate increase in the number of employees.

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

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

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

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

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

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

41 (8) (a) Each student in attendance at a public virtual school shall be
42 funded based upon either the actual hours of attendance in the public
43 virtual school on a flexible schedule, or the percentage of coursework
44 completed, whichever is more advantageous to the school, up to the maxi-
45 mum of one (1) full-time equivalent student.

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

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

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

5 SECTION 10. That Section 33-5209, Idaho Code, be, and the same is hereby
6 repealed.

7 SECTION 11. That Chapter 52, Title 33, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 33-5209A, Idaho Code, and to read as follows:

10 33-5209A. ACCOUNTABILITY. (1) Performance framework. The perfor-
11 mance provisions within the performance certificate shall be based upon a
12 performance framework that clearly sets forth the academic and operational
13 performance indicators, measures and metrics that will guide the authorized
14 chartering entity's evaluations of each public charter school. The perfor-
15 mance framework shall include indicators, measures and metrics for, at a
16 minimum:

17 (a) Student academic proficiency;

18 (b) Student academic growth;

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

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

22 (2) Measurable performance targets shall be set by each public charter
23 school in conjunction with its authorized chartering entity and shall, at a
24 minimum, require that each school meet applicable federal, state and autho-
25 rized chartering entity goals for student achievement.

26 (3) The performance framework shall allow the inclusion of additional
27 rigorous, valid and reliable indicators proposed by a public charter school
28 to augment external evaluations of its performance, provided that the au-
29 thorized chartering entity approves the quality and rigor of such school-
30 proposed indicators, and that they are consistent with the purposes of this
31 chapter.

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

35 SECTION 12. That Chapter 52, Title 33, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 33-5209B, Idaho Code, and to read as follows:

38 33-5209B. CHARTER RENEWALS. (1) A charter may be renewed for succes-
39 sive five (5) year terms of duration. An authorized chartering entity may
40 grant renewal with specific, written conditions for necessary improvements
41 to a public charter school. Any such specific, written conditions shall
42 state the date by which the conditions must be met.

43 (2) Following the initial three (3) year term, an authorized chartering
44 entity may nonrenew or grant renewal for an additional five (5) years, based
45 upon the performance of the public charter school on the performance indica-

1 tors, measures and metrics contained in the performance certificate. Subse-
2 quent renewals shall be for a term of five (5) years.

3 (3) No later than November 15, the authorized chartering entity shall
4 issue a public charter school performance report and charter renewal appli-
5 cation guidance to any public charter school whose charter will expire the
6 following year. The performance report shall summarize the public char-
7 ter school's performance record to date, based upon the data required by
8 this chapter and the performance certificate, and shall provide notice of
9 any weaknesses or concerns determined by the authorized chartering entity
10 concerning the public charter school that may jeopardize its position in
11 seeking renewal, if not timely rectified. The public charter school shall
12 have thirty (30) days to respond to the performance report and submit any
13 corrections or clarifications for the report.

14 (4) The renewal application guidance shall, at a minimum, provide an
15 opportunity for the public charter school to:

- 16 (a) Present additional evidence, beyond the data contained in the per-
17 formance report, supporting its case for charter renewal; and
- 18 (b) Describe improvements undertaken or planned for the school.

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

23 (6) No later than December 15, the governing board of a public charter
24 school seeking renewal shall submit a renewal application to the authorized
25 chartering entity pursuant to the renewal application guidance issued by the
26 authorized chartering entity. The authorized chartering entity shall vote
27 on the renewal application no later than March 15.

28 (7) In making charter renewal decisions, every authorized chartering
29 entity shall:

- 30 (a) Ground its decisions in evidence of the school's performance over
31 the term of the performance certificate in accordance with the perfor-
32 mance framework set forth in the performance certificate;
- 33 (b) Ensure that data used in making renewal decisions are available to
34 the school and the public; and
- 35 (c) Provide a public report summarizing the evidence basis for each de-
36 cision.

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

- 39 (a) Provide the charter holders with a timely notification of the
40 prospect of revocation or nonrenewal and of the reasons for such possi-
41 ble closure, which shall be limited to failure to meet the terms of the
42 performance certificate or the written conditions established pursuant
43 to the provisions of subsection (1) of this section;
- 44 (b) Allow the charter holders a reasonable amount of time in which to
45 prepare a response;
- 46 (c) Provide the charter holders with an opportunity to submit documents
47 and give testimony challenging the rationale for closure and in support
48 of the continuation of the school at an orderly proceeding held for that
49 purpose;

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

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

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

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

11 SECTION 13. That Chapter 52, Title 33, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 33-5209C, Idaho Code, and to read as follows:

14 33-5209C. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized
15 chartering entity shall continually monitor the performance and legal com-
16 pliance of the public charter schools it oversees, including collecting and
17 analyzing data to support ongoing evaluation according to the performance
18 certificate. Every authorized chartering entity shall have the authority
19 to conduct or require oversight activities that enable the authorized char-
20 tering entity to fulfill its responsibilities pursuant to the provisions
21 of this chapter, including conducting appropriate inquiries and investi-
22 gations, so long as those activities are consistent with the intent of this
23 chapter, adhere to the terms of the performance certificate and do not unduly
24 inhibit the autonomy granted to public charter schools.

25 (2) Each authorized chartering entity shall annually publish and make
26 available to the public a performance report for each public charter school
27 it oversees, in accordance with the performance framework set forth in the
28 performance certificate and section 33-5209A, Idaho Code. The authorized
29 chartering entity may require each public charter school it oversees to sub-
30 mit an annual report to assist the authorized chartering entity in gather-
31 ing complete information about each school consistent with the performance
32 framework. Each public charter school shall publish its annual performance
33 report on the school's website.

34 (3) If an authorized chartering entity has reason to believe that a
35 public charter school cannot remain fiscally sound for the remainder of its
36 certificate term, it shall provide the state department of education with
37 written notification of such concern. Upon receiving such notification,
38 the state department of education shall have the authority to modify the
39 percentage of the total appropriation to be paid to the public charter school
40 pursuant to the provisions of section 33-1009(1), Idaho Code, such that
41 equal percentages are paid on each of the prescribed dates.

42 (4) If an authorized chartering entity has reason to believe that a pub-
43 lic charter school has violated any provision of law, it shall notify the
44 public charter school and the entity responsible for administering said law
45 of the possible violation.

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

1 (6) Within fourteen (14) days of taking action to renew, not renew or
2 revoke a charter, the authorized chartering entity shall report to the state
3 board of education the action taken and shall provide a copy of the report to
4 the public charter school at the same time that the report is submitted to the
5 state board of education. The report shall include a copy of the authorized
6 chartering entity's resolution setting forth the action taken and reasons
7 for the decision and assurances as to compliance with all of the requirements
8 set forth in this chapter.

9 (7) A charter may be revoked by the authorized chartering entity if the
10 public charter school has failed to meet any of the specific, written condi-
11 tions for necessary improvements established pursuant to the provisions of
12 section 33-5209B(1), Idaho Code, by the dates specified. Revocation may not
13 occur until the public charter school has been afforded a public hearing, un-
14 less the authorized chartering entity determines that the continued opera-
15 tion of the public charter school presents an imminent public safety issue,
16 in which case the charter may be revoked immediately. Public hearings shall
17 be conducted by the authorized chartering entity or such other person or per-
18 sons appointed by the authorized chartering entity to conduct public hear-
19 ings and receive evidence as a contested case in accordance with the provi-
20 sions of section 67-5242, Idaho Code. Notice and opportunity to reply shall
21 include, at a minimum, written notice setting out the basis for considera-
22 tion of revocation, a period of not less than thirty (30) days within which
23 the public charter school can reply in writing, and a public hearing within
24 thirty (30) days of the receipt of the written reply.

25 (8) A decision to revoke or nonrenew a charter or to deny a revision of
26 a charter may be appealed directly to the state board of education. With
27 respect to such appeal, the state board of education shall substantially
28 follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In
29 the event the state board of education reverses a decision of revocation or
30 nonrenewal, the public charter school subject to such action shall then be
31 placed under the chartering authority of the public charter school commis-
32 sion.

33 SECTION 14. That Section 33-5211, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 33-5211. TECHNICAL SUPPORT AND INFORMATION. (1) The state department
36 of education shall provide technical assistance to persons or groups prepar-
37 ing or revising charter petitions and to existing public charter schools in
38 the same manner as such assistance is provided to traditional public schools
39 and school districts.

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

43 (a) The public charter school's ~~petition~~. charter and performance cer-
44 tificate;

45 (b) The annual audit performed at the public charter school pursuant to
46 the public charter school petition; and

47 (c) Any written report by the state board of education to the leg-
48 islature reviewing the educational effectiveness of public charter
49 schools.

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

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

12 SECTION 15. That Chapter 52, Title 33, Idaho Code, be, and the same is
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
14 ignated as Section 33-5212, Idaho Code, and to read as follows:

15 33-5212. SCHOOL CLOSURE AND DISSOLUTION. (1) Prior to any public
16 charter school closure decision, an authorized chartering entity shall have
17 developed a public charter school closure protocol to ensure timely notifi-
18 cation to parents, orderly transition of students and student records to new
19 schools, and proper disposition of school funds, property and assets in ac-
20 cordance with the requirements of this chapter. The protocol shall specify
21 tasks, timelines and responsible parties, including delineating the respec-
22 tive duties of the school and the authorized chartering entity. In the event
23 of a public charter school closure for any reason, the authorized chartering
24 entity shall oversee and work with the closing school to ensure a smooth and
25 orderly closure and transition for students and parents, as guided by the
26 closure protocol. The closing school's board of directors shall be respon-
27 sible for executing the school's closure.

28 (2) In the event of a public charter school closure for any reason,
29 the assets of the school shall be distributed first to satisfy outstanding
30 payroll obligations for employees of the school, including any tax, public
31 employee retirement system and other employee benefit obligations, then to
32 creditors of the school, and then to the authorized chartering entity in the
33 case of a public charter school authorized by the board of a local school
34 district. In the case of a public charter school authorized by any other
35 authorized chartering entity, any remaining assets shall be distributed to
36 the public school income fund. Assets purchased using federal funds shall be
37 returned to the authorized chartering entity for redistribution among other
38 public charter schools. If the assets of the school are insufficient to pay
39 all parties to whom the school owes compensation, the prioritization of the
40 distribution of assets may be determined by decree of a court of law.

41 SECTION 16. That Section 33-5213, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby
44 created an independent public charter school commission, referred to here-
45 inafter as the commission, to be located in the office of the state board of
46 education, pursuant to section 33-105, Idaho Code. It shall be the respon-
47 sibility and duty of the executive director of the state board of education

1 acting at the direction of the commission to administer and enforce the
2 provisions of this chapter, and the director or his designee shall serve as
3 secretary to the commission.

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

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

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

12 (b) ~~Three (3) Two (2) members shall be current or former trustees of an~~
13 ~~Idaho school district and shall be appointed by the governor, subject to~~
14 ~~the advice and consent of the senate~~ speaker of the house of representa-
15 tives; and

16 (c) ~~One (1) Two (2) members shall be a member of the public at large not~~
17 ~~directly associated with the Idaho public education system and shall be~~
18 ~~appointed by the governor, subject to the advice and consent of the sen-~~
19 ~~ate president pro tempore of the senate.~~

20 Commissioner appointments made pursuant to this section prior to July 1,
21 2013, shall remain valid through the duration of the term to which each
22 commissioner was appointed. To establish a transition to the appointing au-
23 thority structure contained in this subsection, the first four (4) appoint-
24 ments available on or after July 1, 2013, shall be made in an alternating
25 sequence for each appointment by the speaker of the house of representatives
26 and the president pro tempore of the senate, followed by three (3) appoint-
27 ments by the governor. Subsequent appointments shall be made by the same
28 appointing authority that originally appointed the commissioner whose term
29 expired.

30 The term of office for commission members shall be four (4) years. In mak-
31 ing such appointments, the ~~governor~~ appointing authorities shall consider
32 regional balance. Members appointed to the commission shall collectively
33 possess strong experience and expertise in public and nonprofit governance,
34 management and finance, public school leadership, assessment, curriculum
35 and instruction and public education law. All members of the commission
36 shall have demonstrated understanding of and commitment to charter schools
37 as a strategy for strengthening public education. No commissioner shall
38 serve more than two (2) consecutive four (4) year terms. Members of the
39 commission shall hold office until the expiration of the term to which the
40 member was appointed and until a successor has been duly appointed, unless
41 sooner removed for cause by the appointing authority. Whenever a vacancy
42 occurs, the appointing authority shall appoint a qualified person to fill
43 the vacancy for the unexpired portion of the term.

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

46 (5) The members of the commission shall, at their first regular meet-
47 ing following the effective date of this act, and every two (2) years there-
48 after, elect, by a majority vote of the members of the commission, a chairman
49 and a vice-chairman. The chairman shall preside at meetings of the commis-

1 sion, and the vice-chairman shall preside at such meetings in the absence of
2 the chairman. A majority of the members of the commission shall constitute a
3 quorum. The commission shall meet at such times and places as determined to
4 be necessary and convenient, or at the call of the chair.

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

7 SECTION 17. Section 9 of this act shall be in full force and effect on
8 and after June 1, 2014. All other sections of this act shall be in full force
9 and effect on and after July 1, 2013.