

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 221, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-1009, IDAHO CODE, TO PROVIDE  
2 FOR AN EXCEPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
3 33-5202A, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 33-5203,  
4 IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIMITATIONS ON THE AP-  
5 PROVAL OF A PUBLIC CHARTER SCHOOL BY A BOARD OF TRUSTEES, TO REVISE  
6 PROVISIONS RELATING TO A PUBLIC VIRTUAL SCHOOL CHARTER, TO REVISE PRO-  
7 VISIONS RELATING TO THE DESIGNATION OF A PUBLIC CHARTER SCHOOL AS A  
8 LOCAL EDUCATION AGENCY; AMENDING SECTION 33-5205, IDAHO CODE, TO RE-  
9 VISE PROVISIONS RELATING TO A PETITION TO ESTABLISH A PUBLIC CHARTER  
10 SCHOOL AND A NEW PUBLIC VIRTUAL SCHOOL, TO REMOVE LANGUAGE RELATING TO  
11 THE PUBLIC CHARTER SCHOOL COMMISSION, TO REVISE PROVISIONS RELATING TO  
12 A PUBLIC HEARING, TO REVISE PROVISIONS RELATING TO A DECISION ON A PETI-  
13 TION, TO REVISE PROVISIONS RELATING TO CERTAIN ADDITIONAL STATEMENTS,  
14 TO ESTABLISH PROVISIONS RELATING TO AN INITIAL CHARTER AND TERM OF OP-  
15 ERATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5205A,  
16 IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TRANSFER OF A CHARTER,  
17 TO REMOVE LANGUAGE RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION  
18 AND TO ESTABLISH LANGUAGE RELATING TO AUTHORIZED CHARTERING ENTITIES;  
19 AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW  
20 SECTION 33-5205B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PER-  
21 FORMANCE CERTIFICATES, TO ESTABLISH PROVISIONS RELATING TO PERFORMANCE  
22 EXPECTATIONS AND MEASURES, TO ESTABLISH PROVISIONS RELATING TO THE EX-  
23 ECUTION OF SUCH CERTIFICATES AND TO PROVIDE THAT CERTAIN PUBLIC CHARTER  
24 SCHOOLS SHALL EXECUTE CERTIFICATES NO LATER THAN A CERTAIN DATE; AMEND-  
25 ING SECTION 33-5206, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO  
26 CERTAIN REQUIREMENTS, TO REVISE PROVISIONS RELATING TO THE SUBMISSION  
27 OF AN AUDIT, TO REVISE PROVISIONS RELATING TO THE REVISION OF A CHAR-  
28 TER OR CERTIFICATE AND TO REVISE PROVISIONS RELATING TO A NONRENEWED  
29 CHARTER; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS  
30 RELATING TO RECONSIDERATION OF A DECISION TO DENY A PETITION; AMENDING  
31 SECTION 33-5208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PAY-  
32 MENT SCHEDULE AND TO REMOVE A REFERENCE TO THE STATE BOARD; REPEALING  
33 SECTION 33-5209, IDAHO CODE, RELATING TO ENFORCEMENT, REVOCATION AND  
34 APPEAL; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A  
35 NEW SECTION 33-5209A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO  
36 ACCOUNTABILITY OF EACH PUBLIC CHARTER SCHOOL AND CERTAIN PERFORMANCE  
37 INDICATORS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION  
38 OF A NEW SECTION 33-5209B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING  
39 TO CHARTER RENEWALS, RENEWAL APPLICATIONS, CHARTER RENEWAL DECISIONS,  
40 REVOCATION AND NONRENEWAL PROCESSES AND ESTABLISHING PROVISIONS RE-  
41 LATING TO AN AUTHORIZED CHARTERING ENTITY RENEWING OR NONRENEWING ANY  
42 CHARTER; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF  
43 A NEW SECTION 33-5209C, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO  
44 AN AUTHORIZED CHARTERING ENTITY MONITORING PERFORMANCE, TO ESTABLISH  
45

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 ~~r~~i

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

19 c. ~~a~~All payments distributed for the current fiscal year to the several  
20 school districts ~~r~~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 ~~r~~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 (5) "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 ~~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 p~~Public  
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, a 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 tion 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, des-  
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 tity, 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.