

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 279

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO CHARTER SCHOOLS; AMENDING SECTION 33-5203, IDAHO CODE, TO PRO-  
2 VIDE THAT A CHARTERING ENTITY MAY AGREE TO ACCEPT A CHARTER SCHOOL  
3 PETITION AT A LATER DATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
4 SECTION 33-5205, IDAHO CODE, TO REVISE THE REQUIREMENTS FOR THE PROCESS  
5 OF STARTING OR CONVERTING A NEW PUBLIC CHARTER SCHOOL; AMENDING SECTION  
6 33-5206, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF FEDERAL LAW  
7 AND COLLECTIVE BARGAINING AND TO REVISE ADMISSION PROCEDURES; AMEND-  
8 ING SECTION 33-5210, IDAHO CODE, TO REVISE THE APPLICABILITY OF STATE  
9 LAW AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-5211, IDAHO  
10 CODE, TO AUTHORIZE CERTAIN TECHNICAL SUPPORT AND TO AUTHORIZE CERTAIN  
11 WORKSHOPS TO BE OFFERED ELECTRONICALLY; AND AMENDING SECTION 33-5202A,  
12 IDAHO CODE, TO REMOVE A CODE REFERENCE.  
13

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

15 SECTION 1. 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, l which may begin educational instruc-  
21 tion in any one (1) school year, l shall be subject to the following:

22 (a) No whole school district may be converted to a charter district or  
23 any configuration ~~which~~ that includes all schools as public charter  
24 schools; 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, unless  
28 the authorized chartering entity agrees to a later date; and

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

31 (3) A public charter school may be formed either by creating a new  
32 public charter school or by replicating an existing high-performing public  
33 charter school, which charter may be approved by any authorized chartering  
34 entity, or by converting an existing traditional public school to a public  
35 charter school, which charter may only be approved by the board of trustees  
36 of the school district in which the existing public school is located.

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

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

40 (b) To a for-profit entity or any school ~~which~~ that is operated by a for-  
41 profit entity, provided however, nothing herein shall prevent the board  
42 of directors of a public charter school from legally contracting with

1 for-profit entities for the provision of products or services that aid  
2 in the operation of the school.

3 (c) By the board of trustees of a school district if the public charter  
4 school's physical location is outside the boundaries of the authorizing  
5 school district.

6 (5) A public virtual school charter may be approved by any authorized  
7 chartering entity except a local school district board of trustees. In addi-  
8 tion, a charter may also be approved by the state board of education pursuant  
9 to section 33-5207(5) (b), Idaho Code.

10 (6) A charter holder may not operate enterprises other than the public  
11 charter schools for which it has been authorized.

12 (7) The state board of education shall adopt rules, subject to law, to  
13 establish a consistent application and review process for the approval and  
14 maintenance of all public charter schools.

15 (8) Each public charter school authorized by an authorized charter-  
16 ing entity other than a local school district board of trustees is hereby  
17 designated as a local education agency (LEA) as such term is defined in 34  
18 CFR 300.28. Public charter schools chartered by the board of trustees of a  
19 school district may also be designated by the board of trustees as an LEA,  
20 with the concurrence of the public charter school board of directors. Other-  
21 wise, the public charter school shall be included in that district's LEA.

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

24 33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Intent. Any  
25 group of persons, upon creating a nonprofit corporation pursuant to section  
26 33-5204, Idaho Code, may petition to establish a new public charter school,  
27 or to convert an existing traditional public school to a public charter  
28 school. The purpose of the charter petition is to present the proposed pub-  
29 lic charter school's academic and operational vision and plans, demonstrate  
30 the petitioner's capacities to execute the proposed vision and plans and  
31 provide the authorized chartering entity a clear basis for assessing the  
32 applicant's plans and capacities. An approved charter petition shall not  
33 serve as the school's performance certificate.

34 ~~(a) A petition to establish a new public charter school, including a~~  
35 ~~public virtual charter school, shall be signed by not fewer than thirty~~  
36 ~~(30) qualified electors of the attendance area designated in the peti-~~  
37 ~~tion, unless it is a petition for approval by an authorized chartering~~  
38 ~~entity permitted pursuant to section 33-5202A(1) (c) or (d), Idaho Code.~~  
39 ~~Proof of elector qualifications shall be provided with the petition. A~~  
40 ~~petition to establish a new public charter school may be submitted di-~~  
41 ~~rectly to an authorized chartering entity permitted pursuant to section~~  
42 ~~33-5202A(1) (c) or (d), Idaho Code; provided however, that no such indi-~~  
43 ~~vidual authorized chartering entity shall approve more than one (1) new~~  
44 ~~public charter school each year within the boundaries of a single school~~  
45 ~~district. Except as provided in paragraphs (a) and (c) of this sub-~~  
46 ~~section, authorized chartering entities permitted pursuant to section~~  
47 ~~33-5202A(1) (c) or (d), Idaho Code, shall be governed by the same laws~~  
48 ~~and rules in approving new public charter schools as the public charter~~  
49 ~~school commission.~~

1 ~~(b) Except as provided in paragraph (c) of this subsection, a petition~~  
2 ~~to establish a new public charter school, other than a new public vir-~~  
3 ~~tual school, shall first be submitted to the local board of trustees in~~  
4 ~~which the public charter school will be located. A petition shall be~~  
5 ~~considered to be received by an authorized chartering entity as of the~~  
6 ~~next regularly scheduled meeting of the authorized chartering entity~~  
7 ~~after submission of the petition.~~

8 ~~(c) Petitions meeting the following conditions may be submitted di-~~  
9 ~~rectly to the public charter school commission or Idaho university or~~  
10 ~~college pursuant to section 33-5202A, Idaho Code: (i) a petition to es-~~  
11 ~~tablish a new virtual public charter school; or (ii) a petition for a new~~  
12 ~~or replication public charter school from an existing charter holder~~  
13 ~~authorized by the public charter school commission or an Idaho univer-~~  
14 ~~sity or college pursuant to section 33-5202A, Idaho Code. An existing~~  
15 ~~charter holder authorized by the public charter school commission or an~~  
16 ~~Idaho university or college pursuant to section 33-5202A, Idaho Code,~~  
17 ~~may submit a petition for an additional new charter directly to its ex-~~  
18 ~~isting authorizer.~~

19 ~~(d) The board of trustees may either: (i) consider the petition and~~  
20 ~~approve the charter; or (ii) consider the petition and deny the charter;~~  
21 ~~or (iii) refer the petition to the public charter school commission, but~~  
22 ~~such referral shall not be made until the local board has documented its~~  
23 ~~due diligence in considering the petition. Such documentation shall be~~  
24 ~~submitted with the petition to the public charter school commission. If~~  
25 ~~the petitioners and the local board of trustees have not reached mutual~~  
26 ~~agreement on the provisions of the charter, after a reasonable and good~~  
27 ~~faith effort, within seventy-five (75) days from the date the charter~~  
28 ~~petition is received, the petitioners may withdraw their petition from~~  
29 ~~the local board of trustees and may submit their charter petition to~~  
30 ~~the public charter school commission. Documentation of the reason-~~  
31 ~~able and good faith effort between the petitioners and the local board~~  
32 ~~of trustees must be submitted with the petition to the public charter~~  
33 ~~school commission.~~

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

45 ~~(2) Not later than seventy-five (75) days after receiving a petition~~  
46 ~~for a new or replication public charter school, the authorized chartering~~  
47 ~~entity shall hold a public hearing for the purpose of discussing the provi-~~  
48 ~~sions of the charter, at which time the authorized chartering entity shall~~  
49 ~~consider the merits of the petition and the level of employee and parental~~  
50 ~~support for the petition. In the case of a petition submitted to the public~~

1 ~~charter school commission, such public hearing must be not later than sev-~~  
2 ~~enty-five (75) days after receipt of the petition, which may be extended for~~  
3 ~~an additional specified period of time if both parties agree to an extension.~~  
4 ~~Such agreement shall be established in writing and signed by representatives~~  
5 ~~of both parties.~~

6 ~~(a) In the case of a petition for a public virtual charter school, if~~  
7 ~~the primary attendance area described in the petition of a proposed pub-~~  
8 ~~lic virtual charter school extends within the boundaries of five (5) or~~  
9 ~~fewer local school districts, the prospective authorizer shall provide~~  
10 ~~notice in writing of the public hearing no less than thirty (30) days~~  
11 ~~prior to such public hearing to those local school districts. Such pub-~~  
12 ~~lic hearing shall include any oral or written comments that an autho-~~  
13 ~~rized representative of the local school districts may provide regard-~~  
14 ~~ing the merits of the petition and any potential impacts on the school~~  
15 ~~districts.~~

16 ~~(b) In the case of a petition for a non-virtual new or replication pub-~~  
17 ~~lic charter school submitted to the public charter school commission,~~  
18 ~~the board of the district in which the proposed public charter school~~  
19 ~~will be physically located shall be notified of the hearing in writing~~  
20 ~~by the public charter school commission, no less than thirty (30) days~~  
21 ~~prior to the public hearing. Such public hearing shall include any oral~~  
22 ~~or written comments that an authorized representative of the school~~  
23 ~~district in which the proposed public charter school would be physi-~~  
24 ~~cally located may provide regarding the merits of the petition and any~~  
25 ~~potential impacts on the school district. The hearing shall include~~  
26 ~~any oral or written comments that petitioners may provide regarding~~  
27 ~~any potential impacts on such school district. If the school district~~  
28 ~~chooses not to provide any oral or written comments as provided for in~~  
29 ~~this subsection, such school district shall notify the public charter~~  
30 ~~school commission of such decision. This public hearing shall be an op-~~  
31 ~~portunity for public participation and oral presentation by the public.~~  
32 ~~This hearing is not a contested case hearing as described in chapter 52,~~  
33 ~~title 67, Idaho Code. Following review of any petition and any public~~  
34 ~~hearing provided for in this section, the authorized chartering entity~~  
35 ~~shall within seventy-five (75) days either:~~

36 ~~(i) Approve the charter;~~

37 ~~(ii) Deny the charter; or~~

38 ~~(iii) Provide a written response identifying the specific defi-~~  
39 ~~ciencies in the petition.~~

40 ~~(c) If the authorized chartering entity exercises the option provided~~  
41 ~~for in paragraph (b) (iii) of this subsection, then the petitioners may~~  
42 ~~revise the petition and resubmit such within thirty (30) days. Within~~  
43 ~~forty-five (45) days of receiving a revised petition, the authorized~~  
44 ~~chartering entity shall review the revised petition and either approve~~  
45 ~~or deny the petition based upon whether the petitioners have adequately~~  
46 ~~addressed the specific deficiencies identified in the authorized char-~~  
47 ~~tering entity's written response, or based upon any other changes made~~  
48 ~~to the petition, and upon no other criteria.~~

49 ~~(3) An authorized chartering entity may approve a charter under the~~  
50 ~~provisions of this chapter only if it determines that the petition contains~~

1 the requisite signatures, the information required by subsections (4) and  
2 (5) of this section, and additional statements describing all of the follow-  
3 ing:

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

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

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

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

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

22 (f) The governance structure of the public charter school including,  
23 but not limited to, the person or entity who shall be legally account-  
24 able for the operation of the public charter school, and the process to  
25 be followed by the public charter school to ensure parental involve-  
26 ment.

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

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

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

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

45 (k) Admission procedures, including provision for overenrollment.  
46 Such admission procedures shall provide that the initial admission pro-  
47 cedures for a new public charter school or replication public charter  
48 school, including provision for overenrollment, will be determined by  
49 lottery or other random method, except as otherwise provided herein.  
50 If initial capacity is insufficient to enroll all pupils who submit

1 a timely application, then the admission procedures may provide that  
2 preference shall be given in the following order: first, to children  
3 of founders, provided that this admission preference shall be limited  
4 to not more than ten percent (10%) of the capacity of the public charter  
5 school; second, to siblings of pupils already selected by the lottery  
6 or other random method; third, to pupils seeking to transfer from an  
7 other Idaho public charter school at which they have been enrolled for  
8 at least one (1) year, provided that this admission preference shall be  
9 subject to an existing written agreement for such preference between  
10 the subject charter schools; fourth, to students residing within the  
11 primary attendance area of the public charter school; and fifth, by an  
12 equitable selection process such as a lottery or other random method.  
13 If so stated in its petition, a new public charter school or replication  
14 public charter school may include the children of full-time employees  
15 of the public charter school within the first priority group subject to  
16 the limitations therein. Otherwise, such children shall be included in  
17 the highest priority group for which they would otherwise be eligible.  
18 If capacity is insufficient to enroll all pupils who submit a timely  
19 application for subsequent school terms, then the admission procedures  
20 may provide that preference shall be given in the following order:  
21 first, to pupils returning to the public charter school in the second or  
22 any subsequent year of its operation; second, to children of founders,  
23 provided that this admission preference shall be limited to not more  
24 than ten percent (10%) of the capacity of the public charter school;  
25 third, to siblings of pupils already enrolled in the public charter  
26 school; fourth, to pupils seeking to transfer from another Idaho pub-  
27 lic charter school at which they have been enrolled for at least one  
28 (1) year, provided that this admission preference shall be subject to  
29 an existing written agreement for such preference between the subject  
30 charter schools; fifth, to students residing within the primary at-  
31 tendance area of the public charter school; and sixth, by an equitable  
32 selection process such as a lottery or other random method. There shall  
33 be no carryover from year to year of the list maintained to fill vacan-  
34 cies. A new lottery shall be conducted each year to fill vacancies which  
35 become available. If so stated in its petition, a public charter school  
36 may include the following children within the second priority group  
37 subject to the limitations therein:

38 (i) The children of full-time employees of the public charter  
39 school;

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

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

46 (l) The manner in which annual audits of the financial operations of the  
47 public charter school are to be conducted.

48 (m) The disciplinary procedures that the public charter school will  
49 utilize, including the procedure by which students may be suspended,

1 ~~expelled and reenrolled, and the procedures required by section 33-210,~~  
2 ~~Idaho Code.~~

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

7 ~~(o) If the public charter school is a conversion of an existing tradi-~~  
8 ~~tional public school, the public school attendance alternative for stu-~~  
9 ~~dents residing within the school district who choose not to attend the~~  
10 ~~public charter school.~~

11 ~~(p) A description of the transfer rights of any employee choosing to~~  
12 ~~work in a public charter school that is approved by the board of trustees~~  
13 ~~of a school district, and the rights of such employees to return to any~~  
14 ~~noncharter school in the same school district after employment at such~~  
15 ~~charter school.~~

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

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

23 ~~(s) A plan for working with parents who have students who are dually en-~~  
24 ~~rolled pursuant to section 33-203, Idaho Code.~~

25 ~~(t) The process by which the citizens in the primary attendance area~~  
26 ~~shall be made aware of the enrollment opportunities of the public char-~~  
27 ~~ter school.~~

28 ~~(u) A proposal for transportation services including estimated first~~  
29 ~~year costs.~~

30 ~~(v) A plan for termination of the charter by the board of directors, to~~  
31 ~~include:~~

32 ~~(i) Identification of who is responsible for dissolution of the~~  
33 ~~charter school;~~

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

35 ~~(iii) A procedure for transferring all records of students with~~  
36 ~~notice to parents of how to request a transfer of student records~~  
37 ~~to a specific school; and~~

38 ~~(iv) A plan for the disposal of the public charter school's as-~~  
39 ~~sets.~~

40 ~~(4) An authorized chartering entity, except for a school district board~~  
41 ~~of trustees, may approve a charter for a public virtual school under the pro-~~  
42 ~~visions of this chapter only if it determines that the petition contains the~~  
43 ~~requirements of subsections (3) and (5) of this section and the additional~~  
44 ~~statements describing the following:~~

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

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

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

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

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

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

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

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

17 ~~(5) The petitioner shall provide information regarding the proposed~~  
 18 ~~operation and potential effects of the public charter school including, but~~  
 19 ~~not limited to, the facilities to be utilized by the public charter school,~~  
 20 ~~the manner in which administrative services of the public charter school~~  
 21 ~~are to be provided and the potential civil liability effects upon the public~~  
 22 ~~charter school and upon the authorized chartering entity.~~

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

26 (2) New Public Charter School Petition. Except for a petition to estab-  
 27 lish a new virtual school, which shall follow subsection (6) of this section,  
 28 or to convert an existing traditional public school, which shall follow sub-  
 29 section (7) of this section, a petition to establish a new public charter  
 30 school shall follow the process set forth in subsections (3) through (5) of  
 31 this section.

32 (3) Application.

33 (a) The state board of education, by rule, shall develop an application  
 34 to establish a new public charter school which, when submitted by peti-  
 35 tioners, shall constitute the public charter school's completed peti-  
 36 tion. The application is not intended to be exhaustive, but shall re-  
 37 quire petitioners to provide descriptions of the following key features  
 38 of the prospective public charter school:

39 (i) Educational program, including student academic proficiency  
 40 and growth standards and measurement methods and any mission-spe-  
 41 cific standards that may be unique to the school;

42 (ii) Financial and facilities plan;

43 (iii) Board capacity and governance structure; and

44 (iv) Student demand and primary attendance area.

45 (b) Prior to submitting the completed petition to an authorized char-  
 46 tering entity described in section 33-5202A(1), Idaho Code, peti-  
 47 tioners shall send a letter and a copy of the completed petition to the su-  
 48 perintendent of each district that overlaps the proposed public charter  
 49 school's primary attendance area. The purpose of the letter is to in-  
 50 form the superintendent that petitioners are seeking an authorizer, and



1 to offer to attend a district board of trustees meeting, if the superin-  
2 tendent so requests.

3 (c) A minimum of four (4) weeks after sending the letter and copy of  
4 the completed petition pursuant to paragraph (b) of this subsection,  
5 or earlier if the superintendent of each district that overlaps the  
6 proposed public charter school's primary attendance area agrees, peti-  
7 tioners may submit the completed petition to an authorized chartering  
8 entity pursuant to section 33-5202A(1), Idaho Code. Upon receipt of  
9 the completed petition, which may be received electronically, repre-  
10 sentatives of the authorized chartering entity shall review, and may  
11 contract with a third party or other government agency to assist in re-  
12 viewing, the petition. If necessary, representatives of the authorized  
13 chartering entity may request from petitioners limited additional in-  
14 formation necessary to clarify the contents of the completed petition.  
15 Any subsequent change to the completed petition will comprise the re-  
16 vised petition.

17 (4) Hearing. If the authorized chartering entity is the public char-  
18 ter school commission, within ten (10) weeks of receiving a revised petition  
19 and not later than twelve (12) weeks after receiving the completed petition,  
20 commission staff shall provide commissioners with a written recommendation  
21 that the commission either approve, deny or grant conditional approval of  
22 the petition. Concurrently, the commission staff shall provide a copy of the  
23 recommendation to petitioners, along with a notice of a hearing date, and  
24 shall notify the district in which the proposed charter school will be phys-  
25 ically located of the opportunity to submit written comments or to testify  
26 at the hearing. Petitioners may testify to support or refute the recommen-  
27 dation. If the authorized chartering entity is other than the public charter  
28 school commission, it may develop its own hearing process.

29 (5) Petition Decision. If the authorized chartering entity approves  
30 the petition, the parties shall negotiate the terms of the performance  
31 certificate pursuant to section 33-5205B, Idaho Code. If the authorized  
32 chartering entity grants conditional approval, the conditions may be con-  
33 sidered reasonable pre-opening requirements or conditions pursuant to  
34 section 33-5206, Idaho Code, or may be added to the charter upon agreement of  
35 petitioners and the authorized chartering entity.

36 (6) Virtual Schools.

37 (a) In the case of a petition for a public virtual charter school, if  
38 the primary attendance area described in the petition of a proposed pub-  
39 lic virtual charter school extends within the boundaries of five (5) or  
40 fewer local school districts, the prospective authorizer shall provide  
41 notice in writing to those local school districts of the public hear-  
42 ing no less than thirty (30) days prior to the public hearing. The pub-  
43 lic hearing shall include any oral or written comments that an autho-  
44 rized representative of the local school districts may provide regard-  
45 ing the merits of the petition and any potential impacts on the school  
46 districts.

47 (b) An authorized chartering entity, except for a school district board  
48 of trustees, may approve a charter for a public virtual school under the  
49 provisions of this chapter only if it determines that the petition con-

1 tains the requirements of subsection (2) of this section and the addi-  
 2 tional statements describing the following:

3 (i) The learning management system by which courses will be de-  
 4 livered;

5 (ii) The role of the online teacher, including the consistent  
 6 availability of the teacher to provide guidance around course ma-  
 7 terial, methods of individualized learning in the online course  
 8 and the means by which student work will be assessed;

9 (iii) A plan for the provision of professional development spe-  
 10 cific to the public virtual school environment;

11 (iv) The means by which public virtual school students will  
 12 receive appropriate teacher-to-student interaction, including  
 13 timely and frequent feedback about student progress;

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

19 (vi) A plan for the provision of technical support relevant to the  
 20 delivery of online courses;

21 (vii) The means by which the public virtual school will provide  
 22 opportunity for student-to-student interaction; and

23 (viii) A plan for ensuring equal access for all students, includ-  
 24 ing the provision of necessary hardware, software and internet  
 25 connectivity required for participation in online coursework.

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

37 (8) Term. An initial charter, if approved, shall be granted for a term  
 38 of five (5) operating years. This term shall commence on July 1 preceding the  
 39 public charter school's first year of operation.

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

42 33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC  
 43 CHARTER SCHOOL. (1) In addition to any other requirements imposed in this  
 44 chapter, a public charter school shall be nonsectarian in its programs,  
 45 affiliations, admission policies, employment practices, and all other op-  
 46 erations, shall not charge tuition, levy taxes or issue bonds, and shall  
 47 not discriminate against any student on any basis prohibited by the federal  
 48 or state constitutions or any federal, state or local law. Public charter  
 49 schools shall comply with the federal individuals with disabilities edu-

1 cation act. Admission to a public charter school shall not be determined  
2 according to the place of residence of the student, or of the student's  
3 parent or guardian within the district, except that a new, replication or  
4 conversion public charter school established under the provisions of this  
5 chapter shall adopt and maintain a policy giving admission preference to  
6 students who reside within the contiguous and compact primary attendance  
7 area of that public charter school.

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

10 (3) Certified teachers in a public charter school shall be considered  
11 public school teachers. Educational experience shall accrue for service in  
12 a public charter school and such experience shall be counted by any school  
13 district for any teacher who has been employed in a public charter school.  
14 The staff of the public charter school shall be considered a separate unit  
15 for the purposes of collective bargaining.

16 (4) Employment of charter school teachers and administrators shall be  
17 on written contract conditioned upon a valid certificate being held by such  
18 professional personnel at the time of entering upon the duties thereunder.

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

21 (6) Authorized chartering entities may establish reasonable pre-open-  
22 ing requirements or conditions to monitor the start-up progress of newly  
23 approved public charter schools and ensure that they are prepared to open  
24 smoothly on the date agreed, and to ensure that each school meets all build-  
25 ing, health, safety, insurance and other legal requirements for school  
26 opening.

27 (7) Each public charter school shall annually submit the audit of ~~the~~  
28 ~~its fiscal operations as required in section 33-5205(3)(1), Idaho Code, and~~  
29 ~~a copy of the public charter school's accreditation report~~ to the authorized  
30 chartering entity ~~that approved its charter.~~

31 (8) A public charter school or the authorized chartering entity may  
32 enter into negotiations to revise a charter or performance certificate at  
33 any time. If a public charter school petitions to revise its charter or  
34 performance certificate, the authorized chartering entity's review of the  
35 revised petition shall be limited in scope solely to the proposed revisions.  
36 Except for public charter schools authorized by a school district board of  
37 trustees, when a non-virtual public charter school submits a proposed char-  
38 ter revision to its authorized chartering entity and such revision includes  
39 a proposal to increase such public charter school's approved student enroll-  
40 ment cap by ten percent (10%) or more, the authorized chartering entity shall  
41 hold a public hearing on such petition. The authorized chartering entity  
42 shall provide the board of the local school district in which the public  
43 charter school is physically located notice in writing of such hearing no  
44 later than thirty (30) days prior to the hearing. The public hearing shall  
45 include any oral or written comments that an authorized representative of  
46 the school district in which the public charter school is physically located  
47 may provide regarding the impact of the proposed charter revision upon the  
48 school district. Such public hearing shall also include any oral or written  
49 comments that any petitioner may provide regarding the impact of the pro-  
50 posed charter revision upon such school district.

1 (9) When a charter is nonrenewed pursuant to the provisions of section  
2 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code, or  
3 the board of directors of the public charter school terminates the charter,  
4 the assets of the public charter school remaining after all debts of the pub-  
5 lic charter school have been satisfied must be returned to the authorized  
6 chartering entity for distribution in accordance with applicable law.

7 (10) Public charter schools may contract with educational services  
8 providers subject to the following provisions:

9 (a) Educational services providers, whether for-profit or nonprofit,  
10 shall be third-party entities separate from the public charter schools  
11 with which they contract. Educational services providers shall not be  
12 considered governmental entities.

13 (b) No more than one-third (1/3) of the public charter school's board  
14 membership may be comprised of nonprofit educational services provider  
15 representatives. Nonprofit educational services provider repre-  
16 sentatives may not be employees of the public charter school or the  
17 educational services provider and may not hold office as president or  
18 treasurer on the public charter school's board. For-profit educational  
19 services providers may not have representatives on the public charter  
20 school's board of directors.

21 (c) Public charter school board of director members shall annually dis-  
22 close any existing and potential conflicts of interest, pecuniary or  
23 otherwise, with affiliated educational services providers.

24 (d) Charter holders shall retain responsibility for academic, fiscal  
25 and organizational operations and outcomes of the school and may not re-  
26 linquish this responsibility to any other entity.

27 (e) Contracts must ensure that school boards retain the right to termi-  
28 nate the contract for failure to meet defined performance standards.

29 (f) Contracts must ensure that assets purchased by educational ser-  
30 vices providers on behalf of the school, using public funds, shall  
31 remain assets of the school. The provisions of this paragraph shall  
32 not prevent educational services providers from acquiring assets using  
33 revenue acquired through management fees.

34 (g) Charter holders shall consult legal counsel independent of the  
35 party with whom they are contracting for purposes of reviewing the  
36 school's management contract and facility lease or purchase agreements  
37 to ensure compliance with applicable state and federal law, including  
38 requirements that state entities not enter into contracts that obligate  
39 them beyond the terms of any appropriation of funds by the state legis-  
40 lature.

41 (h) Charter holders must ensure that their facility contracts are sepa-  
42 rate from any and all management contracts.

43 (i) Prior to approval of the charter petition indicating the school  
44 board's intention to contract with an educational services provider,  
45 authorized chartering entities shall conduct a thorough evaluation of  
46 the academic, financial and organizational outcomes of other schools  
47 that have contracted with the educational services provider and evi-  
48 dence of the educational services provider's capacity to successfully  
49 grow the public charter school while maintaining quality management and  
50 instruction in existing schools.

1       (11) Admission procedures, including provision for overenrollment,  
2 shall provide that the initial admission procedures for a new public charter  
3 school or replication public charter school will be determined by lottery or  
4 other random method, except as otherwise provided herein.

5       (a) If initial capacity is insufficient to enroll all pupils who submit  
6 a timely application, then the admission procedures may provide that  
7 preference shall be given in the following order: first, to children  
8 of founders, provided that this admission preference shall be limited  
9 to not more than ten percent (10%) of the capacity of the public charter  
10 school; second, to siblings of pupils already selected by the lottery  
11 or other random method; third, to pupils seeking to transfer from an-  
12 other Idaho public charter school at which they have been enrolled for  
13 at least one (1) year, provided that this admission preference shall be  
14 subject to an existing written agreement for such preference between  
15 the subject charter schools; fourth, to students residing within the  
16 primary attendance area of the public charter school; and fifth, by an  
17 equitable selection process such as a lottery or other random method.  
18 If so stated in its petition, a new public charter school or replication  
19 public charter school may include the children of full-time employees  
20 of the public charter school within the first priority group subject to  
21 the limitations therein. Otherwise, such children shall be included in  
22 the highest priority group for which they would otherwise be eligible.

23       (b) If capacity is insufficient to enroll all pupils who submit a timely  
24 application for subsequent school terms, then the admission procedures  
25 may provide that preference shall be given in the following order:  
26 first, to pupils returning to the public charter school in the second or  
27 any subsequent year of its operation; second, to children of founders,  
28 provided that this admission preference shall be limited to not more  
29 than ten percent (10%) of the capacity of the public charter school;  
30 third, to siblings of pupils already enrolled in the public charter  
31 school; fourth, to pupils seeking to transfer from another Idaho pub-  
32 lic charter school at which they have been enrolled for at least one  
33 (1) year, provided that this admission preference shall be subject to  
34 an existing written agreement for such preference between the subject  
35 charter schools; fifth, to students residing within the primary at-  
36 tendance area of the public charter school; and sixth, by an equitable  
37 selection process such as a lottery or other random method. There shall  
38 be no carryover from year to year of the list maintained to fill vacan-  
39 cies. A new lottery shall be conducted each year to fill vacancies that  
40 become available. If so stated in its petition, a public charter school  
41 may include the following children within the second priority group  
42 subject to the limitations therein:

43       (i) The children of full-time employees of the public charter  
44 school; and

45       (ii) Children who attended the public charter school within the  
46 previous three (3) school years, but who withdrew as a result of  
47 the relocation of a parent or guardian due to an academic sabbati-  
48 cal, employer or military transfer or reassignment.

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

1 (12) Public charter schools shall comply with section 33-119, Idaho  
 2 Code, as it applies to secondary school accreditation.

3 (13) Public charter school students shall be tested with the same stan-  
 4 dardized tests as other Idaho public school students.

5 SECTION 4. That Section 33-5210, Idaho Code, be, and the same is hereby  
 6 amended to read as follows:

7 33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION  
 8 FROM STATE RULES. (1) All public charter schools are under the general super-  
 9 vision of the state board of education.

10 (2) Every authorized chartering entity that approves a charter shall be  
 11 responsible for ensuring that each public charter school program approved by  
 12 that authorized chartering entity meets the terms of the charter, complies  
 13 with the general education laws of the state unless specifically directed  
 14 otherwise in this chapter, and operates in accordance with the state educa-  
 15 tional standards of thoroughness pursuant to section 33-1612, Idaho Code.

16 (3) Each public charter school shall comply with the financial report-  
 17 ing requirements of section 33-701, subsections 5. through 10., Idaho Code,  
 18 in the same manner as those requirements are imposed upon school districts  
 19 and with laws governing safety including, but not limited to, sections  
 20 33-122 and 33-130, Idaho Code, and chapter 2, title 33, Idaho Code, and rules  
 21 promulgated thereunder.

22 (4) Other than as specified in this section, each public charter school  
 23 is exempt from rules governing school districts, which rules have been pro-  
 24 mulgated by the state board of education, with the exception of state rules  
 25 relating to:

26 (a) Teacher certification as necessitated by the provisions of section  
 27 33-5205(3)(g) 33-5206(3) and (4), Idaho Code;

28 (b) Accreditation of the school as necessitated by the provisions of  
 29 section 33-5205(3)(e) 33-5206(12), Idaho Code;

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

32 ~~(d) Requirements that all employees of the school undergo a criminal~~  
 33 ~~history check as required by section 33-130, Idaho Code;~~

34 ~~(e) Rules promulgated pursuant to section 33-1612, Idaho Code; and~~

35 ~~(f)e) All rules which that specifically pertain to public charter~~  
 36 ~~schools promulgated by the state board of education.~~

37 SECTION 5. That Section 33-5211, Idaho Code, be, and the same is hereby  
 38 amended to read as follows:

39 33-5211. TECHNICAL SUPPORT AND INFORMATION. (1) Upon request, the  
 40 state department of education shall provide technical assistance to persons  
 41 or groups authorized chartering entities preparing or revising reviewing  
 42 charter petitions or performance certificates, and to existing public char-  
 43 ter schools in the same manner as such assistance is provided to traditional  
 44 public schools and school districts.

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

- 1 (a) The public charter school's charter and performance certificate;  
 2 (b) The annual audit performed at the public charter school pursuant to  
 3 the public charter school petition; and  
 4 (c) Any written report by the state board of education to the leg-  
 5 islature reviewing the educational effectiveness of public charter  
 6 schools.

7 (3) At least one (1) person among a group of petitioners of a prospec-  
 8 tive public charter school shall attend, in person or electronically, a  
 9 public charter school workshop offered by the state department of educa-  
 10 tion. The state department of education shall provide notice of dates and  
 11 locations when workshops will be held, shall make earlier recorded workshops  
 12 available electronically and shall provide proof of attendance to workshop  
 13 attendees. ~~Such proof shall be submitted by the petitioners to an authorized~~  
 14 ~~chartering entity along with the charter petition.~~

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

19 SECTION 6. That Section 33-5202A, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-  
 22 quires otherwise:

23 (1) "Authorized chartering entity" means any of the following:

- 24 (a) A local board of trustees of a school district in this state;  
 25 (b) The public charter school commission created pursuant to the provi-  
 26 sions of this chapter;  
 27 (c) An Idaho public college, university or community college;  
 28 (d) A private, nonprofit Idaho-based, nonsectarian college or univer-  
 29 sity that is accredited by the same organization that accredits Idaho  
 30 public colleges and universities.

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

33 (3) "Charter holder" means the public charter school's board of direc-  
 34 tors to which a charter is granted pursuant chapter 52, title 33, Idaho Code.

35 (4) "Educational services provider" means a nonprofit or for-profit  
 36 entity that contracts with a public charter school to provide educational  
 37 services and resources including administrative support and educational  
 38 design, implementation or management.

39 (5) "Founder" means a person, including employees or staff of a pub-  
 40 lic charter school, who makes a material contribution toward the establish-  
 41 ment of a public charter school in accordance with criteria determined by  
 42 the board of directors of the public charter school, and who is designated  
 43 as such at the time the board of directors acknowledges and accepts such con-  
 44 tribution. The criteria for determining when a person is a founder shall not  
 45 discriminate against any person on any basis prohibited by the federal or  
 46 state constitutions or any federal, state or local law. The designation of a  
 47 person as a founder, and the admission preferences available to the children  
 48 of a founder, shall not constitute pecuniary benefits.

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

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

8 (8) "Career technical regional public charter school" means a public  
9 charter secondary school authorized under this chapter to provide programs  
10 in career technical education which meet the standards and qualifications  
11 established by the division of career technical education. A career tech-  
12 nical regional public charter school may be approved by an authorized char-  
13 tering entity and, by the terms of its charter, shall operate in association  
14 with at least two (2) school districts. ~~Notwithstanding the provisions of~~  
15 ~~section 33-5205(3)(j), Idaho Code,~~ Participating school districts need not  
16 be contiguous.

17 (9) "Public charter school" means a school that is authorized under  
18 this chapter to deliver public education in Idaho.

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

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