

ENROLLED ACT NO. 80, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2023 GENERAL SESSION

AN ACT relating to charter schools; creating the Wyoming charter school authorizing board; modifying the duties of the state superintendent of public instruction; defining terms; revising the process for approval and renewal of charter schools; modifying the requirements for the operation of converted charter schools; modifying funding of charter schools; making conforming amendments; repealing provisions; requiring reporting; and providing for an effective date.

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

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

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

(a) There is created the Wyoming charter school authorizing board. The mission of the board is to authorize high quality public charter schools.

(b) The Wyoming charter school authorizing board shall consist of the following eight (8) members:

(i) Three (3) members appointed by the superintendent of public instruction. Each member appointed under this paragraph shall have at minimum five (5) years of experience in Wyoming in education;

(ii) The chairman of the state board of education, or the chairman's designee;

(iii) Three (3) members appointed by the governor and confirmed by the senate;

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(iv) The dean of the University of Wyoming's college of education, or his designee.

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

(i) Be a resident of the state;

(ii) Possess experience and expertise in public or nonprofit governance, management and finance, public school leadership, assessment, curriculum or instruction or public education law.

(d) Of the initial members appointed to the board, the members appointed under paragraph (b)(i) of this section shall serve two (2) year terms and the members appointed under paragraph (b)(iii) of this section shall serve four (4) year terms. Thereafter, all appointments shall be for four (4) year terms. The initial appointments shall be made not later than July 1, 2023.

(e) Members appointed to the board under paragraph (b)(i) of this section may be removed by the superintendent of public instruction. Members appointed to the board by the governor under paragraph (b)(iii) of this section may be removed in accordance with W.S. 9-1-202.

(f) Vacancies shall be appointed pursuant to subsection (b) of this section.

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

(h) All appointed members of the board shall receive compensation, per diem and mileage for actual time spent in

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performance of their duties and traveling expenses while in attendance and going to and from board meetings in the same manner and amount as members of the Wyoming legislature.

(j) Members shall be subject to the Ethics and Disclosure Act, W.S. 9-13-101 through 9-13-109.

**Section 2.** W.S. 21-2-202 by creating a new subsection (h), 21-3-302(a)(vii) and by creating new paragraphs (xii) and (xiii), 21-3-302.1(a) by creating new paragraphs (iv) through (vi) and (b), 21-3-304(b) through (d), (j), (k) and by creating new subsections (q) and (r), 21-3-305(a)(intro), (i) through (iii), (vi), by creating a new paragraph (xvii) and (f), 21-3-306(a) and (b), 21-3-307(a)(vii), (xix), (xxiii)(G), by creating a new paragraph (xxvi), (d) and (e), 21-3-309 by creating a new subsection (g) and 21-3-314(c)(intro), (i)(intro), (ii), by creating a new paragraph (iv) and (v) and (e) are amended to read:

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

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

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

(a) As used in this article:

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

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

(xiii) "Governing board" means the independent board of a charter school that is a party to a charter contract with the authorizer, whose members have been selected pursuant to the charter application and who are subject to the Ethics and Disclosure Act, W.S. 9-13-101 through 9-13-109.

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

(a) Authorizers shall:

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

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

(B) Soliciting and evaluating charter applications;

(C) Ongoing charter school oversight and evaluation;

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

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

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

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

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

(b) Funding for authorizers shall consist of administrative fees collected from the charter school. Fees shall not exceed three percent (3%) of the charter school's annual state funding. Authorizers shall restrict the expenditure of funds received under this subsection for the purpose of fulfilling duties under this article and shall annually publish and submit to the state superintendent of public instruction a report detailing expenditure of funds.

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

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

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

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

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

(j) A charter school may negotiate and contract with a school district, the governing body of a community college or the University of Wyoming, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service,

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activity or undertaking that the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school district shall be provided by the district at the incremental cost and may be negotiated as an agreement separate from a charter contract between the charter school and the authorizer. For school district capital facilities that are rented at the time of the charter school application and had been rented for the immediately preceding six (6) months by a third party, the net loss of rental income shall be considered an incremental cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this subsection.

(k) Except as provided in subsection (j) of this section, a charter school shall not be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the improvement, modification, operation and maintenance of school district facilities used by the charter school shall be subject to negotiation between the charter school and the district board and may be negotiated as an agreement separate from a charter contract between the charter school and the authorizer.

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

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

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

(a) An approved charter application shall serve as the basis for a contract between the charter school and the authorizer. Within seventy-five (75) days of the final approval of a charter application, the governing board and the authorizer shall execute the charter contract. The charter contract shall:

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

(ii) Be executed by an authorizer and a charter school, with a copy submitted to the state superintendent of public instruction within five (5) days after the signature of both parties;

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

(vi) Provide for a review by the authorizer of the charter school's performance, including the progress of the charter school in achieving the academic goals set forth in the charter, at least one (1) time in the first year of operation and one (1) time in each five (5) year period that the charter is in effect thereafter;

(xvii) Specify closure protocols to ensure students receive educational services without interruption to the greatest extent reasonably possible in the event the charter school closes for any reason.



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(f) The authorizer shall make a final ~~ruling~~decision on the renewal application not later than ~~April 1 following~~thirty (30) days after the filing of the renewal application under this subsection. ~~The April 1 deadline does not apply to any review or appeal of a final ruling. If a school district denies renewal of a charter, the charter school board may appeal to the state loan and investment board for a de novo consideration of the renewal. The state loan and investment board shall consider the renewal and if the renewal is approved shall be the authorizer of the charter school.~~

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

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

(b) Administrators and teachers employed by the district, parents of students enrolled in the district and any special district advisory group comprised of district residents may apply to the district board to convert an existing public school operating within the school district to a charter school. An application filed under this subsection shall demonstrate the support of not less than fifty percent (50%) of the teachers employed by the school who teach at the school proposed to be converted, and the parents of fifty percent (50%) of all students attending

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the school proposed to be converted. A converted charter school operated under this subsection is a separate school and shall have the rights and obligations provided under this article, including but not limited to the ability to hire its own employees.

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

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

(vii) Admission requirements, if applicable, provided that enrollment shall be open to all to the extent seats are available within the applicable grade level, subject to W.S. 21-3-304(c). If the number of applicants for enrollment exceeds the available seats, the charter school shall, subject to W.S. 21-3-304(c), hold a blind lottery to determine enrollment. Students enrolled in the previous year shall be guaranteed a seat, and applicants with a sibling enrolled in the charter school shall receive a preference. For converted charter schools, students who attended the converted charter school the previous school year shall be given an enrollment preference. If the number of students enrolled in the converted charter school does not exceed the capacity of the school, secondary preference shall be given to students who reside within the district boundary in which the charter school is located;

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

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

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

(xxvi) The school's plans for identifying and providing an education to all students enrolled or to be enrolled in the charter school, including but not limited to students with special education needs, students who are English language learners and gifted and talented students.

(d) The state superintendent shall through rule and regulation prescribe a uniform charter school application and renewal application form to be used by each authorizer and charter school applicant for purposes of this article, and shall establish charter school application review procedures, including timelines for application components specified under subsection (a) of this section. The phased application process prescribed by state superintendent rule and regulation may provide a process for mediation of disputes concerning completeness of an application between the applicant and authorizer, which would be subject to W.S. 1-43-101 through 1-43-104, would allow either party to initiate mediation and would impose costs of mediation equally upon both parties. Any mediation process prescribed by rule shall specify professional requirements for the impartial third party facilitating mediation. If

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either party refuses to mediate, the dispute may be appealed to the state board. ~~as provided in W.S. 21-3-310.~~

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

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

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

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

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

(i) benefit of ~~One~~ one hundred percent (100%) of the foundation program amount computed under W.S. 21-13-309(m) based upon the average daily membership of the charter school, less ~~any district level~~ amounts generated by the charter school's membership under ~~W.S. 21-13-309(m)~~

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paragraphs (b)(xxix) and (xxx) of "Attachment A" as defined in W.S. 21-13-101(a)(xvii) and less amounts specified under W.S. ~~21-13-309(m)(v)(E)~~ 21-13-309(m)(v)(E)(III) through (V);

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

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

(v) One hundred percent (100%) of the amount expended by the charter school that is eligible for reimbursement by the department of education under W.S. 9-3-413.

(e) ~~In lieu of paragraph (a)(iv) and subsections (c) and (d) of this section,~~ The district and the charter school applicant may by mutual agreement fund the charter school through a specific budget for the charter school.

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

**Section 4.**

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(a) The Wyoming charter school authorizing board as created by section 1 of this act shall supervise and oversee the operation of any charter school authorized by the state loan and investment board. An amendment to the contracts executed by the state loan and investment board that approved the operation of three (3) charter schools shall be executed transferring oversight and supervision as the authorizer to the Wyoming charter school authorizing board.

(b) Notwithstanding any other provision of the law, not more than three (3) charter schools shall be authorized to operate by an entity other than a school district board, prior to July 1, 2026. The three (3) charter schools authorized by the state loan and investment board shall count towards the three (3) schools authorized to operate under this subsection. In the event a charter school previously authorized by the state loan and investment board closes for any reason, the Wyoming charter school authorizing board may approve a new charter school.

(c) Except as provided under subsection (b) of this section, but not prior to July 1, 2026, not more than one (1) charter school shall be authorized to operate by an entity other than a school district, prior to July 1, 2028.

(d) Not later than October 1, 2023, and each October 1 thereafter through October 1, 2028, the state superintendent, in consultation with the state construction department, shall provide to the joint education interim committee and the joint appropriations committee a report identifying the fiscal impact on the school foundation program account, the education resource block grant model as defined by W.S. 21-13-101(a)(xiv) and the school capital construction account as a result of the operation of the

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three (3) charter schools approved by the state loan and investment board and the one (1) charter school which may be approved by the Wyoming charter school authorizing board. The reports shall specify the fiscal impact at the district and the school level and shall at minimum identify the amounts generated under W.S. 21-3-314(c), as amended by this act, and amounts for facility needs, including but not limited to lease amounts, expenditure or requests for major building and facility repair and replacement under W.S. 21-15-109 and any other requests related to capital construction projects.

**Section 5.** This act is effective July 1, 2023.  
(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk