



December 2009

**Online Learning
Task Force**

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Online Learning Task Force Report

The Task Force approved this report on December 4, 2009.¹

¹ Ayes 15; Nays 1 – Huffman; Excused 1 – Morse.

Executive Summary

Senate Bill 767 (2009) established the Online Learning Task Force to craft a thoughtful policy for online learning in Oregon. The Task Force was required to prepare this report and recommendations for legislation no later than December 15, 2009.

The legislation recommended by the Online Learning Task Force² is designed to address the issues of governance, funding, accountability, quality, and equitable access to online education in Oregon. The recommended legislation also contains provisions to bring clarity to existing statutes as well as a plan for achieving a clearer scheme of regulation for online education generally.

Under the recommended legislation, the State Board of Education (Board) is directed to propose a **governance model** for public schools that provide online courses although not primarily at a physical location (virtual public schools). The governance model would account for public charter schools that offer online instruction (virtual charter schools). The Board's proposed governance model is to be presented to the appropriate legislative committees by September 1, 2010.

In addition to the Board's governance proposal, the Task Force recommends three steps to improve **clarity** in the overall **regulatory structure** of virtual schools. Most importantly, under the recommended legislation, the legislative education committees would be charged with evaluating whether public charter school law should apply to virtual charter schools. The committees are to make recommendations on the issue to the 2011 Legislative Assembly. The Task Force strongly recommends that separate statutes for these different types of schools be considered to provide clarity and ensure equitable access to online learning. Also, advertisements or promotional materials for virtual public schools should clearly state that each school is publicly-funded. Lastly, the recommended legislation would clarify that requirements from Section 8 of Senate Bill 767³ and from Legislative Concept (LC) 15 that are specific to virtual charter schools cannot be waived by the Board.

The recommended legislation focuses on **funding** by directing the Board to review appropriate levels and methods for funding virtual public schools including virtual charter schools. This will position the Legislative Assembly to thoughtfully and comprehensively set a course forward for online learning in Oregon. The Board is to report its preliminary findings to the appropriate legislative committees by September 1, 2010. Additional provisions requiring that virtual charter schools have the same

² Legislative Concept 15, see Appendix A.

³ See Appendix B.

standardized chart of accounts that all schools are required to have will also improve the understanding and analysis of the costs of online education.

With regard to **equitable access**, the recommended legislation requires the Board, in conjunction with the State Advisory Council for Special Education and other organizations that assist children with disabilities, to review the participation rates of students with special needs in virtual charter schools. Requiring the Board to develop this information will facilitate providing these students with appropriate educational options. Additionally, the recommended legislation permits the Board to determine whether to grant a waiver from the 50 percent residency requirement for certain existing virtual charter schools prior to July 1, 2011. This will enable existing virtual charter schools to plan for operations for the 2011-2012 academic year in a timely manner. As mentioned earlier, the Task Force also recommends considering separate statutes for public charter schools and virtual charter schools to ensure equitable access to online learning.

To assure **accountability** for virtual charter schools, the Task Force recommends that they comply with existing statutes and rules for all public schools to have a uniform budget and accounting system. Virtual charter schools would also be required to have business information systems that are compatible with their sponsoring district. To properly account for students' movement between schools, the Task Force recommends that virtual charter schools provide written notice to each student's resident and sponsoring school district upon enrollment and withdrawal from the school.

To ensure **quality** in virtual charter schools, the Task Force recommends requiring licensure of administrators and teachers and clarifying the required frequency of contacts between teachers and students in virtual charter schools.

Lastly, the Task Force recommends two **clarifications** to **Senate Bill 767**. First, it should be clarified that Senate Bill 767 requires an agreement between the virtual charter school and its sponsor to operate using an interactive, Internet-based technology platform that tracks progress and attendance. Second, the Task Force recommends that a central office of operations for maintaining student records be specified in the charter of virtual charter schools.

The following report gives a brief history of online education in Oregon and a summary of Senate Bill 767 including the charge to the Online Learning Task Force. The Task Force process is outlined and the legislative recommendations are then discussed in detail.

Online Education in Oregon

Online education is an evolving component of education that is available to and utilized by a growing number of students nationwide. Provision of online education can present conflicts between brick-and-mortar schools, between districts, and between differing views of access and equity. In many ways, the conflicts inherent in evaluation and oversight of online programs—including funding, quality, equity, and access—are the same topics that must be explored when looking to improve public education generally. The discussions of quality and accountability of online programs also are closely tied to broader educational reforms. School districts with few students need to be able to plan for each academic year based on funding for a predictable number of students. Online programs must be accountable to students, parents, and the institutions that accredit them. At the same time, oversight agencies must remain accountable to the wishes of students and parents who are seeking and benefiting from new and alternative modes of education.

In Oregon, public school students residing within their school district's borders attend those district's schools. If students want to attend a school outside their district, they either pay tuition or obtain the permission of both the sending and receiving school districts through an inter-district transfer. Oregon charter school law, created in 1999, allows students from other districts to attend public charter schools, if space is available, without the consent of the sending district. Until the advent of online education, geography and school capacity generally limited the number of out-of-district students in public charter schools.

In 2005, the Legislative Assembly passed Senate Bill 1071 that created the Oregon Virtual School District which currently acts as a clearinghouse for online course offerings. Senate Bill 1071 also added a limitation to public charter school law requiring that at least 50 percent of students enrolled in a virtual charter school reside in the district in which the school is located.⁴ At the time that Senate Bill 1071 was enacted, it was not contemplated that the 50 percent requirement could be waived. Since that time, however, several charter schools and private vendors have applied to the Board for a waiver of the requirement.⁵

The Board has granted four⁶ such waivers although guidelines for determining when to grant a waiver have not been standardized nor have common waiver conditions been

⁴ Codified as ORS 338.125(2)(b).

⁵ See page D-4 of the State Board of Education Policy and Procedure Manual for information on the waiver process. <http://www.ode.state.or.us/search/page/?id=181>

⁶ The three schools that have received waivers from the Board are the West Lane Technical Institute, the Oregon Virtual Academy, and the Oregon Connections Academy (ORCA). The Board has granted two waivers to West Lane. The first waiver expired at the end of the term of the school's charter on July 1, 2009. Prior to the expiration, the Board granted West Lane a second waiver and modified the conditions of the waiver. The Board granted ORCA a waiver with conditions but this waiver was revoked by Senate Bill 767.

established. The two waivers that have been granted and are currently in effect are for the Oregon Virtual Academy (ORVA) located in North Bend and for West Lane Technical Learning Center (West Lane) located in Elmira. Both waivers were granted with conditions. Conditions for ORVA include a restriction to serve only grades kindergarten through eight; an enrollment cap of 100 students per grade level and 600 students total; and a requirement that students whose enrollment causes the school to exceed the 50 percent requirement receive permission from their resident district to attend. Conditions for West Lane include an enrollment cap of 120 students and the requirement to offer a blended program of online learning and traditional classroom-based instruction.

Other schools in Oregon also provide full-time online learning. These are Insight, Oregon Connections Academy (ORCA), and six All Prep Academies. Insight operates as an alternative school, the others operate as public charter schools. ORCA, the largest virtual charter school in the state, operates under the terms of Senate Bill 767 and is permitted up to 2,574 students, 12 of whom are currently district residents.

Senate Bill 767 (2009)

A number of bills were introduced during the 2009 Legislative Session to address issues surrounding online education in Oregon's schools. The one that was ultimately adopted, Senate Bill 767, was sponsored by Senator Richard Devlin, Representative Peter Buckley; Senators Suzanne Bonamici, Jackie Dingfelder, and Bill Morrisette; and Representatives Michael Dembrow, Nick Kahl, and Brad Witt at the request of the Confederation of School Administrators, the American Federation of Teachers-Oregon, the Oregon School Employees Association, and the Oregon Education Association. It took effect July 14, 2009.

Under Senate Bill 767, virtual charter schools were defined as those that provide online courses. Charter schools that offer online courses but primarily serve students at a physical location were not considered virtual charter schools.

Senate Bill 767 prohibited virtual charter schools, with some exceptions, from increasing the number of students beyond the 50 percent requirement receiving online instruction as of May 1, 2009. The prohibition lasts until July 1, 2011. The measure also prohibited the Board from approving waivers of the 50 percent rule for virtual charter schools and revoked any waivers of that provision that were granted after April 27, 2009.

Senate Bill 767 also permitted the failure to maintain sound financial management systems for two consecutive years to be used as grounds to terminate a charter. Additional requirements of virtual charter schools under Senate Bill 767 included having:

an itemized budget on file including annual operating expenses and the profit margin of any third-party entity contracted with to provide educational services; a plan to address improving student learning and meeting academic content standards; performance criteria to measure progress in meeting academic performance goals; a plan to directly and significantly involve each school's parents and guardians of students as well as professional employees; a budget, business plan and governance plan; an agreement that the school will use an interactive Internet-based technology platform that monitors and tracks student progress and attendance; an agreement to employ only licensed teachers who are highly qualified under federal law; a plan for maintaining student and school records at a designated central office; a plan to provide equitable access that ensures each student has computer and printer equipment and is offered an Internet service cost reimbursement arrangement; a plan to conduct educational events at least six times each year; a plan to conduct bi-weekly meetings between teachers and students either in person or through other means; and a plan to provide face-to-face meetings between teachers and students at least six times a year.

Online Learning Task Force Charge

Senate Bill 767 established the Online Learning Task Force that will sunset upon convening of the next regular legislative session in January 2011. The measure specified the Task Force membership and required development of a work plan as well as at least four meeting dates between August 1, 2009 and November 30, 2009. The Task Force was required to prepare a report for the legislative education committees and recommendations for related legislation no later than December 15, 2009. The report must address:

- Grades and ages to be served by public online instruction through public charter schools;
- Curriculum descriptions and accreditation or certification standards of online instruction offered through public charter schools;
- Accessibility of online instruction and accommodations of students to public charter schools that offer online instruction;
- Methods of financing public charter schools that offer online instruction;
- Levels of funding for public charter schools that offer online instruction;
- Financial accountability of public charter schools that offer online instruction;
- Reporting of student outcomes and compliance with academic accountability standards at public charter schools that offer online instruction;
- The use of teachers licensed by the Teacher Standards and Practices Commission (TSPC), the teaching standards, and the frequency of teacher contact at public charter schools that offer online instruction;

- Examples of school policies at a public charter school that offers online instruction, including policies involving online harassment, intimidation, or bullying;
- The method of offering online instruction through school districts and education service districts;
- Class sizes of online courses, including the student-to-teacher ratio for the online courses;
- How to transition students currently enrolled in public charter schools that offer online instruction to alternative learning options, if necessary;
- Methods to determine whether a school district is an appropriate sponsor of a public charter school that provides online instruction;
- How to best serve students who are learning English as a second language; and
- Any other topic concerning the provision of high-quality online instruction to students in this state and the accessibility of online instruction by students attending public schools in this state.

Additional topics identified by the Task Force include the provision of special education services as well as whether there should be specific student attendance requirements for virtual charter schools.

Online Learning Task Force Process

The Task Force held five public meetings and received testimony from two national experts as well as a representative of the Board, a coalition of school superintendents, members of the statewide education community, and parents. Task Force members received curriculum descriptions as well as a demonstration of online programs and technology. Task Force members also reviewed numerous research papers on online learning, including previous and current copies of the nationally-known *Keeping Pace with K-12 Online Learning*⁷ and documentation of work done by a coalition of educators and the Oregon Department of Education (ODE) in 2005 to develop a design for a statewide e-Learning Distance Education Framework, as well as a large volume of public comment that was provided in writing.

Task Force members were individually asked to identify priorities, goals, and challenges for the Task Force. One challenge that Task Force members repeatedly referenced was the difficulty of discussing virtual charter schools within the context of public charter schools generally. Oftentimes, a statute would, or would not, apply to a virtual charter school because it was a public charter school. Members identified issues of quality, equitable access, accountability, funding, and governance as high priorities. When asked

⁷ http://www.kpk12.com/downloads/KeepingPace_2008.pdf.

to consider how and when these issues should be confronted, there was agreement within the Task Force that the following questions should be addressed first:

- What is the responsibility of virtual charter schools when students withdraw?
- Shall administrators at virtual charter schools be licensed by TSPC?
- How should the requirement that teachers have bi-weekly meetings with students at virtual charter schools be defined?
- How should virtual schools be offered (through school districts, education service districts, charter schools, the State Board)?
- What is the overall process for determining whether a school district should be the sponsor of a virtual charter school?
- How should appropriate levels of funding for virtual schools be determined now? In the future? By whom?

The Task Force chose to consider the licensure of virtual charter school administrators because, under Senate Bill 767, virtual charter schools were already required to have an agreement to employ only licensed teachers who are highly qualified under federal law. Additionally, Senate Bill 767 required bi-weekly meetings between teachers and students but failed to define that term. The Task Force recommendations to address these questions as well as suggested improvements are discussed in detail below.

With regard to some of the other Task Force charges, it was noted that several of them were already at least partially addressed within Senate Bill 767 and existing law. Senate Bill 767 contained several financial and academic accountability requirements that were referenced earlier and existing statute requires that schools have policies on online harassment, intimidation, and bullying.

With regard to accessibility of online instruction, Senate Bill 767 required that virtual charter schools have a plan to provide equitable access that ensures each student has computer and printer equipment and is offered an Internet service cost reimbursement arrangement. The Task Force, however, feels that there is more work to be done to improve the accessibility of online instruction, particularly for students who may not be able to have a learning coach at hand to supervise a remote, online learning experience. While the Task Force has made recommendations it believes will improve accessibility, concerns about equitable access remain.

The Task Force also received information on hybrid models that blend online and face-to-face learning. There was general consensus that, looking forward, Oregon will need to find a way to provide more of this type of learning in its brick-and-mortar schools. Additionally, the emphasis for online learning should be on ensuring that online curriculum and courses are available and readily accessible to students across Oregon.

Such availability would enhance each school district's capacity to meet the academic needs of individual students.

With regard to the remainder of the charges, the Task Force did not achieve unanimity on when or how the topics should be addressed. In general, the Task Force found that robust evidence for decision-making was often not available. With regard to the grades and ages of students to be served by virtual charter schools, most Task Force members felt that existing research was inconclusive and that, as best practices developed, this topic should be revisited. With regard to class sizes of online courses, Task Force members either thought that this was best left to the Board or that the issue should be set aside entirely in order to focus on the quality of instruction generally. There were also divergent opinions on how to best serve students learning English as a second language in virtual charter schools. Some members thought that the issue required additional research and study while others thought it should either be delegated to the Board or taken up during the 2011 Legislative Session. The Task Force recommends that additional studies, including well-crafted evaluations of current and upcoming efforts involving online education, occur. These evaluations could be designed to provide evidence for policymakers that is specific to Oregon while also revealing methods to promote student learning that can be broadly shared.

Legislative Recommendations

LC 15 is recommended by the Online Learning Task Force to address the issues identified as practical to address during the February 2010 Legislative Session. Overall, the legislation seeks to ensure that online education in Oregon will be of high quality and available to those who choose it. It also would provide accountability and develop information that will foster effective discussions of online education in Oregon. It also proposes a process to develop consistency and clarity in statutes governing virtual public schools including virtual charter schools.

Within LC 15, new language is in **boldface** type and deleted language is *italicized* and [bracketed].

Section 1(1)(d)

Section 1(1)(d) requires virtual charter schools to comply with existing statutes and rules for all public schools that require a uniform budget and accounting system. It also requires virtual charter schools to have business information systems that are compatible with their sponsoring district. This requirement will ensure that budget information is consistent between virtual charter schools, public charter schools, and public schools generally.

Section 1(1)(e)

Section 1(1)(e) clarifies a provision in Senate Bill 767 that requires an agreement that virtual charter schools will operate using an interactive, Internet-based technology platform that tracks progress and attendance in conjunction with performing other student assessment functions.⁸ It was not clear in Senate Bill 767 which parties were to reach the required agreement. The Task Force recommends making it clear that the agreement is between the sponsor and the virtual charter school by requiring it in the charter. The recommended language also separates the function of tracking attendance from student assessment functions.

Section 1(1)(f)

Section 1(1)(f) requires that administrators, as well as teachers, in virtual charter schools be licensed. Given the dynamic nature of virtual charter schools, the Task Force recommends that virtual charter school administrators be licensed. The TSPC has a provisional licensure process whereby current administrators who are not licensed will be given time to earn the credential. It would also behoove the TSPC to align licensure processes with the needs of virtual schools and to develop programs that offer licensure to show how programs meet the needs of virtual schools.

Section 1(1)(g)

Section 1(1)(g) provides a clarification to Senate Bill 767 which required that virtual charter schools maintain student and school records at a designated central office of operations.⁹ By designating that office as the one located within the sponsoring district and requiring specification in the charter, the Task Force believes it will be clearer to those seeking information where to find it.

Section 1(1)(k)

Section 1(1)(k) clarifies that the term “bi-weekly” in Senate Bill 767,¹⁰ referring to meetings between students and teachers, means twice a week. The Task Force was advised that bi-weekly could mean either twice a week or every other week. In order to address specific attendance requirements and ensure each student’s quality education, the Task Force recommends codifying the ODE’s existing regulation that bi-weekly, in this context, means twice a week. It should be noted that the meetings can be in-person or through the use of conference calls or other technology.

Sections 1(1)(m), (n), and (o)

Sections 1(1)(m) and (n) require that virtual charter schools provide written notice to each student’s resident and sponsoring school district upon enrollment and withdrawal. Section 1(1)(o) requires that such information be provided if requested by a student’s

⁸ SB 767, Sec. 8(1)(e).

⁹ SB 767, Sec. 8(1)(g).

¹⁰ See SB 767, Sec. 8(1)(k).

resident or sponsoring school district. The required notices will make sure that students are not inadvertently “lost” when they enroll in and withdraw from virtual charter schools.

Sections 1(3)(a) and (b)

In an effort to protect students’ personal information, Sections 1(3)(a) and (b) specify that documents provided under sections 1(1)(m), (n), and (o) will only be those that are public records.

Section 2

Section 2 specifies that the changes to Senate Bill 767 will first apply to the 2010-2011 school year.

Sections 3 and 4

Sections 3 and 4 contain language specifying that the requirements of Senate Bill 767, Section 8 as well as revisions to that section by LC 15, Section 1 cannot be waived by the Board.

Section 5(2)(B)

Section 5(2)(B)(i) and (ii) provides that a virtual charter school that has been granted an enrollment waiver from the Board and that complies with the waiver can increase to its maximum permissible enrollment through June 2011. This provision will allow ORVA to continue to operate under the terms of its waiver even though Senate Bill 767 would otherwise have prohibited it.

Section 5(4)

Section 5(4) allows the Board to determine, prior to July 1, 2011, whether to grant a waiver from the 50 percent requirement for virtual charter schools that were in existence prior to May 1, 2009. The Task Force recommends that existing schools be able to begin the waiver process so that they can plan for operations for the 2011-2012 academic year in a timely manner.

Section 6

Section 6 defines virtual public schools as those that provide online courses but do not primarily serve students in a physical location. It specifies that advertisements or promotional materials for virtual public schools must clearly state that the school is a publicly-funded school. The Task Force believes that this requirement will prevent confusion among those who are considering virtual schooling as an alternative to homeschooling or other educational options.

Sections 7 and 8

Sections 7 and 8 specify that the requirements for advertisements and promotional materials mentioned above apply to alternative education programs.

Section 9(2)(a)

Section 9(2)(a) charges the Board with proposing a governance model for virtual public schools including those that are virtual charter schools. The Board's proposed governance model is to be presented to the appropriate legislative committees by September 1, 2010. The Task Force believes that the Board has developed expertise in online education and that its thoughtful consideration of this subject will move Oregon forward in assuring clarity and fairness in providing online learning opportunities. The Task Force recommends that the governance model contain a mechanism to ensure high-quality online course offerings and curriculum.

Section 9(2)(b)

Section 9(2)(b) requires the Board to review the appropriate levels and methods for funding virtual public schools including those that are virtual charter schools and to report its preliminary findings to the appropriate legislative committees by September 1, 2010.

Section 9(2)(c)

Section 9(2)(c) requires the Board, in conjunction with the State Advisory Council for Special Education and other organizations that assist children with disabilities, to review the participation rates of students with special needs in virtual public schools and identify which school each student is actually attending. In considering students with special needs, the Task Force found that it was unclear whether they were proportionately represented in virtual schools. Requiring the Board to develop this information will facilitate providing these students with appropriate educational options.

Section 9(3)

Section 9(3) directs that school districts, public schools, public charter schools, alternative education programs, and other public entities that receive public funding to provide educational services assist the Board and ODE in carrying out the charges in LC 15.

Section 10

Section 10 repeals the charges to the Board as of the convening of the 2011 Legislative Session.

Section 11

Section 11 charges the appropriate legislative committees with evaluating whether public charter school law should apply to virtual charter schools. The committees are to make

recommendations on the issue to the 2011 Legislative Assembly. As mentioned earlier, Task Force members found that trying to treat virtual charter schools the same as brick and mortar public charter schools created confusion and difficulty. The Task Force strongly recommends that separate statutes for these different entities be considered.

Section 12

Under Section 12, an emergency is declared making the proposal effective immediately upon passage.

Conclusion

The Task Force recognizes that these legislative recommendations are another step in the evolving discussion of how best to provide online education in Oregon. If taken, the recommendations will move the state forward in understanding the developing area of online education and providing high quality online education options for students. It will also provide clarity and consistency in the statutory framework. By designing a thoughtful system of governance, funding, and accountability, Oregon will be positioned to ensure that its students receive an excellent education that prepares them to compete in the global society that awaits them.

APPENDIX A - LC 15, 12/3/09

DRAFT

SUMMARY

Imposes requirements on virtual public charter schools related to budget and accounting system, tracking of student progress, administrator and teacher qualifications, student and school records and notification of enrollment and withdrawal.

Prohibits State Board of Education from waiving certain requirements of virtual public charter schools.

Specifies that virtual public charter school may increase number of students to whom online instruction is provided if school was granted waiver by State Board of Education and school is in compliance with waiver, regardless of whether waiver expired.

Imposes requirements related to advertising on virtual public schools and private alternative education programs.

Directs State Board of Education to develop proposed governance model for virtual public schools, including virtual public charter schools, and to conduct reviews related to virtual public schools and virtual public charter schools.

Directs legislative committees to determine whether provisions related to public charter schools should apply to virtual public charter schools.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to virtual public schools; creating new provisions; amending ORS
3 336.631, 338.025 and 338.120 and section 17, chapter 691, Oregon Laws 2009;
4 and declaring an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 338.120 is amended to read:

7 338.120. (1) In addition to any other requirements of this chapter for a
8 public charter school, a virtual public charter school must have:

9 (a) A plan for academic achievement that addresses how the school will
10 improve student learning and meet academic content standards required by

1 ORS 329.045.

2 (b) Performance criteria the school will use to measure the progress of
3 the school in meeting the academic performance goals set by the school for
4 its first five years of operation.

5 (c) A plan for implementing the proposed education program of the school
6 by directly and significantly involving parents and guardians of students
7 enrolled in the school and involving the professional employees of the school.

8 (d) A budget, business plan and governance plan for the operation of the
9 school. **The budget and accounting system of the school must be com-**
10 **patible with the budget and accounting system of the sponsor of the**
11 **virtual public charter school and must comply with the requirements**
12 **of the uniform budget and accounting system adopted by rule of the**
13 **State Board of Education under ORS 327.511.**

14 *[(e) An agreement that the school will operate using an interactive*
15 *Internet-based technology platform that monitors and tracks student progress*
16 *and attendance in conjunction with performing other student assessment*
17 *functions.]*

18 **(e) In the charter of the school, a requirement that the school:**

19 **(A) Monitor and track student progress and attendance; and**

20 **(B) Provide student assessments in a manner that ensures that an**
21 **individual student is being assessed and that the assessment is valid.**

22 (f) Notwithstanding ORS 338.135 (7), *[an agreement to employ only licensed*
23 *teachers who are]* **a plan to ensure that:**

24 **(A) All superintendents, assistant superintendents and principals**
25 **of the school are licensed to administer by the Teacher Standards and**
26 **Practices Commission; and**

27 **(B) All teachers of the school are licensed to teach by the Teacher**
28 **Standards and Practices Commission and are highly qualified as de-**
29 **scribed in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115**
30 **Stat. 1425).**

31 (g) A plan for maintaining student records and school records, including

1 financial records, at a designated central office of operations[.] **that is lo-**
2 **cated:**

3 **(A) If the sponsor is a school district, within the school district that**
4 **is the sponsor and as specified in the charter of the school; or**

5 **(B) If the sponsor is the State Board of Education, at a central of-**
6 **vice located in Oregon and as specified in the charter of the school.**

7 (h) A plan to provide equitable access to the education program of the
8 school by ensuring that each student enrolled in the school:

9 (A) Has access to and use of computer and printer equipment as needed;

10 (B) Is offered an Internet service cost reimbursement arrangement under
11 which the school reimburses the parent or guardian of the student, at a rate
12 set by the school, for the costs of obtaining Internet service at the minimum
13 connection speed required to effectively access the education program pro-
14 vided by the school; or

15 (C) Has access to and use of computer and printer equipment and is of-
16 fered Internet service cost reimbursement.

17 (i) A plan to provide access to computer and printer equipment and the
18 Internet service cost reimbursement as described in paragraph (h) of this
19 subsection by students enrolled in the school who are from families that
20 qualify as low-income under Title I of the federal Elementary and Secondary
21 Education Act of 1965 (20 U.S.C. 6301 et seq.).

22 (j) A plan to conduct school-sponsored optional educational events at
23 least six times each school year at locations selected to provide convenient
24 access to all students enrolled in the school who want to participate.

25 (k) A plan to conduct [*biweekly*] meetings **at least twice a week** between
26 teachers and students enrolled in the school, either in person or through the
27 use of conference calls or other technology.

28 (L) A plan to provide opportunities for face-to-face meetings between
29 teachers and students enrolled in the school at least six times each school
30 year.

31 **(m) A plan to provide, at the time of a student's enrollment, writ-**

1 **ten notice to the student's resident school district and to the sponsor.**
2 **Notification must be provided within 10 days after enrollment and**
3 **must include:**

4 (A) **The name, age and address of the student; and**

5 (B) **The name of the school in which the student was formerly en-**
6 **rolled.**

7 (n) **A plan to provide, at the time of a student's withdrawal, written**
8 **notice to the student's resident school district and to the sponsor.**
9 **Notification must be provided within 10 days after withdrawal and**
10 **must include:**

11 (A) **The name, age and address of the student;**

12 (B) **The name of the school in which the student will enroll, if**
13 **known to the virtual public charter school; and**

14 (C) **The last day on which the student was enrolled at the virtual**
15 **public charter school.**

16 (o) **An agreement to provide a student's education records to the**
17 **student's resident school district or to the sponsor, upon request of the**
18 **resident school district or sponsor.**

19 (2) **If a virtual public charter school enters into a contract with a third-**
20 **party entity to provide educational services for the virtual public charter**
21 **school, the virtual public charter school must have on file the third-party**
22 **entity's budget for the provision of educational services and that budget must**
23 **itemize:**

24 (a) **The salaries of supervisory and management personnel and consultants**
25 **who are providing educational or related services for a public charter school**
26 **in this state; and**

27 (b) **The annual operating expenses and profit margin of the third-party**
28 **entity for providing educational services to a public charter school in this**
29 **state.**

30 (3)(a) **The sponsor [of a virtual public charter school] or a member of the**
31 **public may request access to any of the documents described in subsections**

1 (1) and (2) of this section **that are public records, as provided by ORS**
2 **192.410 to 192.505.**

3 (b) Upon request by a sponsor or a member of the public, a virtual public
4 charter school must provide reasonable access to the documents described in
5 subsections (1) and (2) of this section **that are public records, as provided**
6 **by ORS 192.410 to 192.505.** The documents may be provided electronically.

7 **SECTION 2. The amendments to ORS 338.120 by section 1 of this**
8 **2010 Act:**

9 **(1) Become operative July 1, 2010.**

10 **(2) First apply to the 2010-2011 school year.**

11 **SECTION 3.** ORS 338.025 is amended to read:

12 338.025. (1) The State Board of Education may adopt any rules necessary
13 for the implementation of this chapter. The rules shall follow the intent of
14 this chapter.

15 (2) Upon application by a public charter school, the State Board of Edu-
16 cation may grant a waiver of any provision of this chapter if the waiver
17 promotes the development of programs by providers, enhances the equitable
18 access by underserved families to the public education of their choice, ex-
19 tends the equitable access to public support by all students or permits high
20 quality programs of unusual cost. The State Board of Education may not
21 waive any appeal provision in this chapter or any provision under ORS
22 338.115 (1)(a) to (s) **or 338.120.**

23 **SECTION 4.** ORS 338.025, as amended by section 8, chapter 839, Oregon
24 Laws 2007, and section 14, chapter 50, Oregon Laws 2008, is amended to read:

25 338.025. (1) The State Board of Education may adopt any rules necessary
26 for the implementation of this chapter. The rules shall follow the intent of
27 this chapter.

28 (2) Upon application by a public charter school, the State Board of Edu-
29 cation may grant a waiver of any provision of this chapter if the waiver
30 promotes the development of programs by providers, enhances the equitable
31 access by underserved families to the public education of their choice, ex-

1 tends the equitable access to public support by all students or permits high
2 quality programs of unusual cost. The State Board of Education may not
3 waive any appeal provision in this chapter or any provision under ORS
4 338.115 (1)(a) to (t) **or 338.120.**

5 **SECTION 5.** Section 17, chapter 691, Oregon Laws 2009, is amended to
6 read:

7 **Sec. 17.** (1) As used in this section:

8 (a) "District student" means a student who resides in the school district
9 that is the sponsor of a virtual public charter school.

10 (b) "Nondistrict student" means a student who does not reside in the
11 school district that is the sponsor of a virtual public charter school.

12 (2)(a) Notwithstanding any other provision of this chapter, and based on
13 the number of students to whom online instruction was provided on May 1,
14 2009, a virtual public charter school may not increase the number of students
15 to whom online instruction is provided. This section applies to all virtual
16 public charter schools established in this state prior to, on or after [*the ef-*
17 *fective date of this 2009 Act*] **July 14, 2009**, unless:

18 (A) Fifty percent or more of the students who attend the virtual public
19 charter school are district students, in which case the number of students
20 receiving online instruction may increase until the number of nondistrict
21 students receiving online instruction is no greater than 50 percent of the
22 total number of students receiving online instruction; or

23 (B) The virtual public charter school:

24 (i) **Prior to April 27, 2009, was** [*has been*] granted a waiver by the State
25 Board of Education under ORS 338.025 of the provisions of ORS 338.125
26 (2)(b)[, *and the school complies*]; **and**

27 (ii) **Is in compliance** with the terms of the waiver, **regardless of**
28 **whether the waiver expired on or after April 27, 2009.**

29 (b)(A) Notwithstanding the restrictions of paragraph (a) of this sub-
30 section, a virtual public charter school may enroll a sibling of a student if
31 the student was enrolled in the virtual public charter school on May 1, 2009,

1 even if the virtual public charter school is restricted from increasing the
2 number of students to whom online instruction is provided and only if the
3 virtual public charter school is in compliance with subparagraphs (B) and
4 (C) of this paragraph.

5 (B) A student who is a sibling of a student who was enrolled in the vir-
6 tual public charter school on May 1, 2009, may enroll in the virtual public
7 charter school as provided in this paragraph only if the enrollment is for the
8 next academic term during which a student may begin receiving online in-
9 struction.

10 (C) A virtual public charter school that is restricted from increasing the
11 number of students to whom online instruction is provided but that is able
12 to enroll new students within the limits of that restriction must first enroll
13 students who are siblings of students who were enrolled in the virtual public
14 charter school on May 1, 2009.

15 (c) Notwithstanding the restrictions of paragraph (a) of this subsection,
16 a virtual public charter school that did not provide online instruction to any
17 students on May 1, 2009, may increase the number of students to whom on-
18 line instruction is provided until the number of nondistrict students receiv-
19 ing online instruction is no greater than 50 percent of the total number of
20 students receiving online instruction.

21 (d)(A) Notwithstanding the restrictions of paragraph (a) of this subsection
22 and notwithstanding subsection (3) of this section, a virtual public charter
23 school may increase the number of students to whom online instruction is
24 provided if:

25 (i) The virtual public charter school had students enrolled on May 1, 2009;

26 (ii) The enrollment of the virtual public charter school was 120 or fewer
27 students on May 1, 2009; and

28 (iii) The State Board of Education provides a waiver to the virtual public
29 charter school under ORS 338.025 of the restrictions imposed by paragraph
30 (a) of this subsection and the requirements of ORS 338.125 (2)(b).

31 (B) A waiver allowed under this paragraph may only allow a virtual

1 public charter school described in this paragraph to increase, before July 1,
2 2011, the number of students to whom online instruction is provided to 120
3 without violating the provisions of this section or ORS 338.125 (2)(b). After
4 the virtual public charter school has enrolled 120 students, enrollment of any
5 additional students must comply with the provisions of ORS 338.125 (2)(b).

6 (3) Notwithstanding ORS 338.025, the State Board of Education may not
7 approve a waiver of ORS 338.125 (2)(b) for a virtual public charter school
8 established in this state prior to, on or after [*the effective date of this 2009*
9 *Act*] **July 14, 2009**. This subsection applies to requests for waivers for a
10 virtual public charter school that:

11 (a) Are pending before the State Board of Education or first submitted to
12 the State Board of Education on or after [*the effective date of this 2009 Act*]
13 **July 14, 2009**; or

14 (b) Are granted on or after April 27, 2009, in which case the waiver is
15 immediately revoked.

16 **(4)(a) Nothing in subsection (3) of this section prohibits the State**
17 **Board of Education from determining prior to July 1, 2011, whether to**
18 **grant a waiver of ORS 338.125 (2)(b) for the 2011-2012 school year.**

19 **(b) A determination made by the State Board of Education as pro-**
20 **vided by this subsection may only apply to virtual public charter**
21 **schools that were established prior to May 1, 2009.**

22 **(c) If the State Board of Education determines to grant a waiver**
23 **as provided by this subsection, the waiver may only become effective**
24 **on or after July 1, 2011.**

25 ~~[(4)]~~ **(5) A virtual public charter school that is in violation of the pro-**
26 **visions of ORS 338.125 (2)(b) may continue to operate as long as the virtual**
27 **public charter school is in compliance with this section.**

28 **SECTION 6. (1) As used in this section, “virtual public school”**
29 **means a public school that:**

30 **(a) Provides online courses; and**

31 **(b) Does not primarily serve students in a physical location.**

1 **(2) In any advertising or other promotional materials of a virtual**
2 **public school, including a virtual public charter school as defined in**
3 **ORS 338.005, the school must clearly state that the school is a publicly**
4 **funded school.**

5 **SECTION 7.** ORS 336.631 is amended to read:

6 336.631. (1) Prior to contracting with or distributing any public funds to
7 a private alternative education program, a district school board shall:

8 (a) Annually approve the private alternative education program;
9 (b) Determine that the private alternative education program is registered
10 with the Department of Education; and

11 (c) Determine that the private alternative education program complies
12 with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).

13 (2) The following laws apply to private alternative education programs
14 that are registered with the Department of Education under ORS 336.635 in
15 the same manner as the laws apply to school districts and public schools:

16 (a) Federal law;

17 (b) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records
18 checks);

19 (c) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

20 (d) ORS 659.850, 659.855 and 659.860 (discrimination);

21 **(e) Section 6 of this 2010 Act (advertisement requirements);**

22 [(e)] **(f)** Health and safety statutes and rules; and

23 [(f)] **(g)** Any statute, rule or school district policy that is specified in a
24 contract between the school district board and the private alternative edu-
25 cation program.

26 (3) Prior to placement of a student in a private alternative education
27 program, the resident district shall determine whether the proposed place-
28 ment best serves the student's educational needs and interests and assists the
29 student in achieving the district and state academic standards.

30 (4) Contracts between a school district and a private alternative educa-
31 tion program shall be included in the assessment of effectiveness provided

1 for in ORS 329.085.

2 **SECTION 8.** ORS 336.631, as amended by section 6, chapter 839, Oregon
3 Laws 2007, is amended to read:

4 336.631. (1) Prior to contracting with or distributing any public funds to
5 a private alternative education program, a district school board shall:

6 (a) Annually approve the private alternative education program;

7 (b) Determine that the private alternative education program is registered
8 with the Department of Education; and

9 (c) Determine that the private alternative education program complies
10 with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).

11 (2) The following laws apply to private alternative education programs
12 that are registered with the Department of Education under ORS 336.635 in
13 the same manner as the laws apply to school districts and public schools:

14 (a) Federal law;

15 (b) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records
16 checks);

17 (c) ORS 329.496 (physical education);

18 (d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

19 (e) ORS 659.850, 659.855 and 659.860 (discrimination);

20 **(f) Section 6 of this 2010 Act (advertisement requirements);**

21 ~~[(f)]~~ **(g)** Health and safety statutes and rules; and

22 ~~[(g)]~~ **(h)** Any statute, rule or school district policy that is specified in a
23 contract between the school district board and the private alternative edu-
24 cation program.

25 (3) Prior to placement of a student in a private alternative education
26 program, the resident district shall determine whether the proposed place-
27 ment best serves the student's educational needs and interests and assists the
28 student in achieving the district and state academic standards.

29 (4) Contracts between a school district and a private alternative educa-
30 tion program shall be included in the assessment of effectiveness provided
31 for in ORS 329.085.

1 **SECTION 9. (1) As used in this section:**

2 **(a) “Virtual public charter school” has the meaning given that term**
3 **in ORS 338.005.**

4 **(b) “Virtual public school” means a public school that:**

5 **(A) Provides online courses; and**

6 **(B) Does not primarily serve students in a physical location.**

7 **(2) The State Board of Education shall:**

8 **(a) Develop a proposed governance model for virtual public schools,**
9 **including virtual public charter schools.**

10 **(b) Review the appropriate levels and methods of funding for virtual**
11 **public schools, including virtual public charter schools.**

12 **(c) In consultation with the State Advisory Council for Special Ed-**
13 **ucation and any other organizations assisting children with disabili-**
14 **ties:**

15 **(A) Review participation rates of children with disabilities at virtual**
16 **public schools, including virtual public charter schools; and**

17 **(B) Identify virtual public schools, including virtual public charter**
18 **schools, in this state at which the children are enrolled.**

19 **(3) All school districts, public schools, public charter schools, al-**
20 **ternative education programs and other entities that receive public**
21 **funding to provide educational services are directed to assist the State**
22 **Board of Education and the Department of Education in the perform-**
23 **ance of their duties under this section and, to the extent permitted**
24 **by laws relating to confidentiality, to furnish such information and**
25 **advice as the board and the department consider necessary to perform**
26 **their duties.**

27 **(4) Not later than September 1, 2010, the State Board of Education**
28 **shall present the proposed governance model and provide a prelimi-**
29 **nary report on the topics described in subsection (2) of this section to**
30 **the appropriate interim legislative committees.**

31 **SECTION 10. Section 9 of this 2010 Act is repealed on the date of**

1 the convening of the next regular biennial legislative session.

2 **SECTION 11.** (1) The appropriate legislative committees of the
3 Seventy-sixth Legislative Assembly shall evaluate whether the pro-
4 visions of ORS chapter 338 should apply to virtual public charter
5 schools. The evaluation shall take into consideration the information
6 provided by the State Board of Education under section 9 of this 2010
7 Act.

8 (2) Based on the evaluation described in subsection (1) of this sec-
9 tion, the committees shall make recommendations for consideration
10 by the Seventy-sixth Legislative Assembly.

11 **SECTION 12.** This 2010 Act being necessary for the immediate
12 preservation of the public peace, health and safety, an emergency is
13 declared to exist, and this 2010 Act takes effect on its passage.

14

APPENDIX B – Senate Bill 767 (2009)

75th OREGON LEGISLATIVE ASSEMBLY--2009 Regular Session

Enrolled Senate Bill 767

Sponsored by Senator DEVLIN, Representative BUCKLEY; Senators BONAMICI, DINGFELDER, MORRISETTE, Representatives DEMBROW, KAHL, WITT (at the request of Confederation of Oregon School Administrators, American Federation of Teachers-Oregon, Oregon School Employees Association, Oregon Education Association)

CHAPTER

AN ACT

Relating to public charter schools; creating new provisions; amending ORS 338.005, 338.035, 338.045, 338.055, 338.065, 338.095, 338.105 and 338.135; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 338.005 is amended to read:

338.005. As used in this chapter, unless the context requires otherwise:

- (1) “Applicant” means any person or group that develops and submits a written proposal for a public charter school to a sponsor.
- (2) “Public charter school” means an elementary or secondary school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant and operating pursuant to this chapter.
- (3) “Remote and necessary school district” means a school district that offers kindergarten through grade 12 and has:
 - (a) An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of less than 110; and
 - (b) A school that is located, by the nearest traveled road, more than 20 miles from the nearest school or from a city with a population of more than 5,000.
- (4) “Sponsor” means:
 - (a) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter with an applicant to create a public charter school.
 - (b) The State Board of Education pursuant to ORS 338.075.
- (5)(a) “Virtual public charter school” means a public charter school that provides online courses.**
- (b) “Virtual public charter school” does not include a public charter school that primarily serves students in a physical location.**

SECTION 2. ORS 338.035 is amended to read:

338.035. (1) A public charter school may be established:

(a) As a new public school;

(b) As a virtual public charter school;

~~[(b)]~~ (c) From an existing public school or a portion of the school; or

~~[(c)]~~ (d) From an existing alternative education program, as defined in ORS 336.615.

(2)(a) Before a public charter school may operate as a public charter school, it must:

(A) Be approved by a sponsor;

(B) Be established as a nonprofit organization under the laws of Oregon; and

(C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code.

(b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and (C) of this subsection do not apply to:

(A) A school in a school district that is composed of only one school; and

(B) A school in a school district that is a remote and necessary school district on the date the school first begins operation as a public charter school.

(3) An applicant seeking to establish a public charter school shall submit a proposal pursuant to ORS 338.045 to the school district board of the school district within which the public charter school will be located at least 120 days prior to the date upon which the public charter school would begin operating. However, it is recommended that an applicant consult with the school district board prior to submitting a proposal.

(4) An applicant seeking to establish a public charter school shall provide to the State Board of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a copy of any subsequent approval by the school district board.

(5)(a) One or more, but not all, schools in a school district may become public charter schools.

(b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is composed of only one school may become a public charter school.

(6)(a) A school district board or the State Board of Education may not approve a public charter school proposal that authorizes the conversion of any private school that is tuition based to a public charter school.

(b) Notwithstanding paragraph (a) of this subsection, a school district board or the State Board of Education may authorize the conversion of an existing alternative education program, as defined in ORS 336.615, to a public charter school.

(7) A school district board or the State Board of Education may not approve a public charter school proposal that is affiliated with a nonpublic sectarian school or a religious institution.

SECTION 3. The amendments to ORS 338.035 by section 2 of this 2009 Act apply to all public charter schools operating in this state prior to, on or after the effective date of this 2009 Act.

SECTION 4. ORS 338.045 is amended to read:

338.045. (1) An applicant seeking to establish a public charter school shall submit a written proposal to a school district board.

(2) The proposal shall include, but need not be limited to:

(a) The identification of the applicant;

(b) The name of the proposed public charter school;

- (c) A description of the philosophy and mission of the public charter school;
 - (d) A description of the curriculum of the public charter school;
 - (e) A description of the expected results of the curriculum and the verified methods of measuring and reporting objective results that will show the growth of knowledge of students attending the public charter school and allow comparisons with public schools;
 - (f) The governance structure of the public charter school;
 - (g) The projected enrollment to be maintained and the ages or grades to be served;
 - (h) The target population of students the public charter school will be designed to serve;
 - (i) A description of any distinctive learning or teaching techniques to be used in the public charter school;
 - (j) The legal address, facilities and physical location of the public charter school, if known;
 - (k) A description of admission policies and application procedures;
 - (L) The statutes and rules that shall apply to the public charter school;
 - (m) The proposed budget and financial plan for the public charter school and evidence that the proposed budget and financial plan for the public charter school are financially sound;
 - (n) A description of the financial management systems for the public charter school and a plan for having the financial management systems in place at the time the school begins operating;**
 - [(n)] (o) The standards for behavior and the procedures for the discipline, suspension or expulsion of students;
 - [(o)] (p) The proposed school calendar for the public charter school, including the length of the school day and school year;
 - [(p)] (q) A description of the proposed staff members and required qualifications of teachers at the public charter school;
 - [(q)] (r) The date upon which the public charter school would begin operating;
 - [(r)] (s) The arrangements for any necessary special education and related services provided pursuant to ORS 338.165 for children with disabilities who may attend the public charter school;
 - [(s)] (t) Information on the manner in which community groups may be involved in the planning and development process of the public charter school;
 - [(t)] (u) The term of the charter;
 - [(u)] (v) The plan for performance bonding or insuring the public charter school, including buildings and liabilities;
 - [(v)] (w) A proposed plan for the placement of public charter school teachers, other school employees and students of the public charter school upon termination or nonrenewal of a charter;
 - [(w)] (x) The manner in which the program review and fiscal audit will be conducted; and
 - [(x)] (y) In the case of an existing public school being converted to charter status:
 - (A) The alternative arrangements for students who choose not to attend the public charter school and for teachers and other school employees who choose not to participate in the public charter school; and
 - (B) The relationship that will exist between the public charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any.
- (3) In addition to the requirements of subsection (2) of this section, the school district board may require any additional information the board considers relevant to the formation or operation of a public charter school.

(4) At the request of the applicant, the school district board may provide technical assistance in developing the proposal for operation of the public charter school.

(5) School districts, education service districts and other public bodies, as defined in ORS 174.109, shall make available to the public lists of vacant and unused public buildings and portions of buildings that may be suitable for the operation of a public charter school. The lists shall be provided to developing or operating public charter schools within 30 days of a written request. Nothing in this subsection requires the owner of a building on the list to sell or lease the building or any portion of the building to a public charter school or a public charter school governing body.

SECTION 5. ORS 338.055 is amended to read:

338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school district board shall hold a public hearing on the provisions of the proposal.

(2) The school district board shall evaluate a proposal in good faith using the following criteria:

(a) The demonstrated, sustainable support for the public charter school by teachers, parents, students and other community members, including comments received at the public hearing held under subsection (1) of this section;

(b) The demonstrated financial stability of the public charter school, **including the demonstrated ability of the school to have a sound financial management system in place at the time the school begins operating;**

(c) The capability of the applicant, in terms of support and planning, to provide comprehensive instructional programs to students pursuant to an approved proposal;

(d) The capability of the applicant, in terms of support and planning, to specifically provide, pursuant to an approved proposal, comprehensive instructional programs to students identified by the applicant as academically low achieving;

(e) The extent to which the proposal addresses the information required in ORS 338.045;

(f) Whether the value of the public charter school is outweighed by any directly identifiable, significant and adverse impact on the quality of the public education of students residing in the school district in which the public charter school will be located;

(g) Whether there are arrangements for any necessary special education and related services for children with disabilities pursuant to ORS 338.165; and

(h) Whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school.

(3) The school district board must approve a proposal or state in writing the reasons for disapproving a proposal within 30 days after the public hearing held under subsection (1) of this section.

(4) Written notice of the school district board's action shall be sent to the applicant. If the proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall be clearly stated in the notice sent by the school district board to the applicant. If the proposal is not approved, the applicant may amend the proposal to address objections and any suggested remedial measures and resubmit the proposal to the school district board. The school district board shall approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is not approved, the applicant may appeal the decision of the school district board to the State Board of Education.

- (5) Individual elements in a public charter school proposal may be changed through the proposal and chartering process.
- (6) A proposal to convert an existing public school to a public charter school must be approved by the school district board of the public school.
- (7) The school district board or the State Board of Education shall not charge any fee to applicants for the proposal process.
- (8) Upon request by a school district, the State Board of Education may grant an extension of any timeline required by this section if the district has good cause for requesting the extension.

SECTION 6. The amendments to ORS 338.045 and 338.055 by sections 4 and 5 of this 2009 Act apply to proposals submitted on or after the effective date of this 2009 Act.

SECTION 7. Section 8 of this 2009 Act is added to and made a part of ORS chapter 338.

SECTION 8. (1) In addition to any other requirements of this chapter for a public charter school, a virtual public charter school must have:

- (a) A plan for academic achievement that addresses how the school will improve student learning and meet academic content standards required by ORS 329.045.**
- (b) Performance criteria the school will use to measure the progress of the school in meeting the academic performance goals set by the school for its first five years of operation.**
- (c) A plan for implementing the proposed education program of the school by directly and significantly involving parents and guardians of students enrolled in the school and involving the professional employees of the school.**
- (d) A budget, business plan and governance plan for the operation of the school.**
- (e) An agreement that the school will operate using an interactive Internet-based technology platform that monitors and tracks student progress and attendance in conjunction with performing other student assessment functions.**
- (f) Notwithstanding ORS 338.135 (7), an agreement to employ only licensed teachers who are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).**
- (g) A plan for maintaining student records and school records, including financial records, at a designated central office of operations.**
- (h) A plan to provide equitable access to the education program of the school by ensuring that each student enrolled in the school:**
 - (A) Has access to and use of computer and printer equipment as needed;**
 - (B) Is offered an Internet service cost reimbursement arrangement under which the school reimburses the parent or guardian of the student, at a rate set by the school, for the costs of obtaining Internet service at the minimum connection speed required to effectively access the education program provided by the school; or**
 - (C) Has access to and use of computer and printer equipment and is offered Internet service cost reimbursement.**
- (i) A plan to provide access to computer and printer equipment and the Internet service cost reimbursement as described in paragraph (h) of this subsection by students enrolled in the school who are from families that qualify as low-income under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).**

(j) A plan to conduct school-sponsored optional educational events at least six times each school year at locations selected to provide convenient access to all students enrolled in the school who want to participate.

(k) A plan to conduct biweekly meetings between teachers and students enrolled in the school, either in person or through the use of conference calls or other technology.

(L) A plan to provide opportunities for face-to-face meetings between teachers and students enrolled in the school at least six times each school year.

(2) If a virtual public charter school enters into a contract with a third-party entity to provide educational services for the virtual public charter school, the virtual public charter school must have on file the third-party entity's budget for the provision of educational services and that budget must itemize:

(a) The salaries of supervisory and management personnel and consultants who are providing educational or related services for a public charter school in this state; and

(b) The annual operating expenses and profit margin of the third-party entity for providing educational services to a public charter school in this state.

(3)(a) The sponsor of a virtual public charter school or a member of the public may request access to any of the documents described in subsections (1) and (2) of this section.

(b) Upon request by a sponsor or a member of the public, a virtual public charter school must provide reasonable access to the documents described in subsections (1) and (2) of this section. The documents may be provided electronically.

SECTION 9. Section 8 of this 2009 Act applies to all virtual public charter schools established in this state prior to, on or after the effective date of this 2009 Act.

SECTION 10. ORS 338.065 is amended to read:

338.065. (1) Upon approval of a proposal by a school district board under ORS 338.055, the school district board shall become the sponsor of the public charter school. The sponsor and applicant shall develop a written charter that contains the provisions of the proposal that have been duly approved by the sponsor and public charter school governing body. The sponsor and the applicant may agree to change elements of the proposal prior to incorporating them into the charter or exclude elements of the proposal from the charter. The charter, when duly executed by the sponsor and the public charter school governing body, shall act as the legal authorization for the establishment of the public charter school. The charter shall be legally binding on both the sponsor and the public charter school governing body.

(2) The sponsor and the public charter school governing body may amend a charter by joint agreement.

(3)(a) The initial charter shall be in effect for a period of not more than five years and shall be renewed upon the authorization of the sponsor using the process established under this section.

(b) The first renewal of a charter shall be for the same time period as the initial charter.

(c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed 10 years.

(4)(a) The renewal of a charter shall use the process required by this section.

(b) The public charter school governing body shall submit a written renewal request to the sponsor for consideration at least 180 days prior to the expiration of the charter.

(c) Within 45 days after receiving a written renewal request from a public charter school governing body, the sponsor shall hold a public hearing regarding the request for renewal.

- (d) Within 10 days after the public hearing, the sponsor shall notify the public charter school governing body of the sponsor's intent about the renewal of the charter.
- (e) Within 20 days after the public hearing, the sponsor shall approve the renewal of the charter or state in writing the reasons for denying the renewal of the charter.
- (f) If the sponsor approves the renewal of the charter, the sponsor and the public charter school governing body shall negotiate a new charter within 90 days after the date on which the sponsor approved the renewal of the charter unless the sponsor and the public charter school governing body agree to an extension of the time period.
- (g) If the sponsor does not renew the charter, the public charter school governing body may address the reasons stated under paragraph (e) of this subsection and any remedial measures suggested by the sponsor and submit a revised request for renewal to the sponsor.
- (h) Notwithstanding paragraphs (b) to (g) of this subsection, a sponsor and a public charter school governing body may agree in the charter of the school to a timeline for renewing the charter that is different from the timeline required by paragraphs (b) to (g) of this subsection.
- (5)(a) If the sponsor does not renew the charter based on the revised request for renewal submitted under subsection (4)(g) of this section, the public charter school governing body may appeal the decision of the sponsor to the State Board of Education for a review of whether the sponsor used the process required by this section in denying the renewal of the charter.
- (b) If the board finds that the sponsor used the process required by this section in denying the request for renewal, the board shall affirm the decision of the sponsor. A public charter school governing body may seek judicial review of an order of the board pursuant to ORS 183.484.
- (c) If the board finds that the sponsor did not use the process required by this section in denying the request for renewal, the board shall order the sponsor to reconsider the request for renewal.
- (d) If after reconsideration pursuant to paragraph (c) of this subsection the sponsor does not renew the charter, the public charter school governing body may seek judicial review of an order of the sponsor pursuant to ORS 183.484.
- (e) If the board is the sponsor of a public charter school and the board does not renew the charter based on the revised request for renewal submitted under subsection (4)(g) of this section, the public charter school governing body may seek judicial review of an order of the board pursuant to ORS 183.484 for a review of whether the board used the process required by this section in denying the request for renewal.
- (6)(a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether the public charter school:
- (A) Is in compliance with this chapter and all other applicable state and federal laws;
 - (B) Is in compliance with the charter of the public charter school;
 - (C) Is meeting or working toward meeting the student performance goals and agreements specified in the charter or any other written agreements between the sponsor and the public charter school governing body;
 - (D) Is fiscally stable **and has used the sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under this section;** and
 - (E) Is in compliance with any renewal criteria specified in the charter of the public charter school.
- (b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection primarily on a review of the public charter school's annual performance reports, annual audit of

accounts and annual site visit and review as required by ORS 338.095 and any other information mutually agreed upon by the public charter school governing body and the sponsor.

SECTION 11. ORS 338.095 is amended to read:

338.095. (1) A public charter school shall report to the sponsor and the State Board of Education at least annually on the performance of the school and its students. A public charter school shall disclose in its report information necessary to make a determination of compliance with the requirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the public charter school site and review the public charter school's compliance with the terms and provisions of the charter.

(2) The public charter school shall have an annual audit of the accounts of the public charter school prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990. [*The annual audit*] **After an audit, the following** shall be forwarded to the sponsor, the State Board of Education and the Department of Education:

(a) A copy of the annual audit;

(b) Any statements from the public charter school that show the results of all operations and transactions affecting the financial status of the public charter school during the preceding annual audit period for the school; and

(c) A balance sheet containing a summary of the assets and liabilities of the public charter school as of the closing date of the preceding annual audit period for the school.

(3) The State Board of Education may require public charter schools to file reports with the Department of Education as necessary to enable the department to gather information on public charter schools for inclusion in the Oregon Report Card issued pursuant to ORS 329.115.

SECTION 12. ORS 338.105 is amended to read:

338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the following grounds:

(a) Failure to meet the terms of an approved charter or this chapter.

(b) Failure to meet the requirements for student performance stated in the charter.

(c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.

(d) Failure to maintain insurance as described in the charter.

(e) Failure to maintain financial stability.

(f) Failure to maintain, for two or more consecutive years, a sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under ORS 338.065.

(2) If a charter is terminated under subsection (1) of this section, the sponsor shall notify the public charter school governing body at least 60 days prior to the proposed effective date of the termination. The notice shall state the grounds for the termination. The public charter school governing body may request a hearing by the sponsor.

(3) A public charter school governing body may appeal any decision of a sponsor that is:

(a) A school district board to the State Board of Education. The State Board of Education shall adopt by rule procedures to ensure a timely appeals process to prevent disruption of students' education.

(b) The State Board of Education to the circuit court pursuant to ORS 183.484.

- (4)(a) Notwithstanding subsection (2) of this section, a sponsor may terminate a charter immediately and close a public charter school if the public charter school is endangering the health or safety of the students enrolled in the public charter school.
- (b) The public charter school governing body may request a hearing from the sponsor on the termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days after receiving the request.
- (c) The public charter school governing body may appeal a decision of a sponsor under this subsection to the State Board of Education. The State Board of Education shall hold a hearing within 10 days after receiving the appeal request.
- (d) Throughout the appeals process, the public charter school shall remain closed at the discretion of the sponsor unless the State Board of Education orders the sponsor to open the public charter school and not terminate the charter.
- (5) Termination of a charter shall not abridge the public charter school's legal authority to operate as a private or nonchartered public school.
- (6) If a charter is terminated or a public charter school is dissolved, the assets of the public charter school that were purchased with public funds shall be given to the State Board of Education. The State Board of Education may disburse the assets of the public charter school to school districts or other public charter schools.
- (7) A public charter school governing body may only terminate a charter, dissolve or close a public charter school at the end of a semester. If a charter is terminated by the public charter school governing body or a public charter school is closed or dissolved, the public charter school governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the termination, closure or dissolution.

SECTION 13. The amendments to ORS 338.105 by section 12 of this 2009 Act become operative on July 1, 2011.

SECTION 13a. ORS 338.135 is amended to read:

338.135. (1) Employee assignment to a public charter school shall be voluntary.

(2)(a) A public charter school or the sponsor of the public charter school [*may be*] **is** considered the employer of any employees of the public charter school. If a school district board is not the sponsor of the public charter school, the school district board [*shall*] **may** not be the employer of the employees of the public charter school and the school district board may not collectively bargain with the employees of the public charter school. The public charter school governing body shall control the selection of employees at the public charter school.

(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts with a for-profit entity to provide educational services through the virtual public charter school, the for-profit entity may not be the employer of any employees of the virtual public charter school.

(3) The school district board of the school district within which the public charter school is located shall grant a leave of absence to any employee who chooses to work in the public charter school. The length and terms of the leave of absence shall be set by negotiated agreement or by board policy. However, the length of the leave of absence may not be less than two years unless:

(a) The charter of the public charter school is terminated or the public charter school is dissolved or closed during the leave of absence; or

- (b) The employee and the school district board have mutually agreed to a different length of time.
- (4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence. Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of a public charter school not operating within the school district may make provisions for the return of the employee to employment with the school district.
- (5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System.
- (6) For teacher licensing, employment experience in public charter schools shall be considered equivalent to experience in public schools.
- (7)(a) Any person employed as an administrator in a public charter school shall be licensed or registered to administer by the Teacher Standards and Practices Commission.
- (b) Any person employed as a teacher in a public charter school shall be licensed or registered to teach by the commission.
- (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.
- (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member of a labor organization or organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.
- (9) A school district or the State Board of Education may not waive the right to sponsor a public charter school in a collective bargaining agreement.

SECTION 13b. (1) Except as provided in subsection (2) of this section, ORS 338.135 (2)(b) applies to all virtual public charter schools operating in this state prior to, on or after the effective date of this 2009 Act.

(2) ORS 338.135 (2)(b) does not apply if a virtual public charter school or sponsor of a virtual public charter school entered into a contract with a for-profit entity prior to the effective date of this 2009 Act and the contract provided for the employment of employees of the virtual public charter school by the for-profit entity. A contract described in this subsection may not be extended or renewed.

SECTION 13c. ORS 338.125 (2)(b) applies to all public charter schools operating in this state prior to, on or after the effective date of this 2009 Act unless:

- (1) A public charter school has been granted a waiver of the provisions of ORS 338.125 (2)(b) by the State Board of Education under ORS 338.025; and**
- (2) The public charter school complies with the terms of the waiver described in subsection (1) of this section.**

SECTION 14. (1) The Online Learning Task Force is established for the purpose of ensuring that this state provides appropriate access to online learning through public charter schools.

(2)(a) The President of the Senate and the Speaker of the House of Representatives jointly shall appoint 17 members to the task force as follows:

(A) Three members of the Senate, of whom two represent the majority party and one represents the minority party.

(B) Three members of the House of Representatives, of whom two represent the majority party and one represents the minority party.

(C) One member who represents the Department of Education.

(D) One member who is a representative of public education employees.

(E) One member who is a representative of school administrators.

(F) One member who is a representative of school boards.

(G) One member who represents education service districts.

(H) One member who represents public charter schools.

(I) One member who represents the Oregon University System.

(J) One member who is a board member of a public charter school that offers online instruction.

(K) One member who is an administrator of a public charter school that offers online instruction.

(L) One member who represents the State Board of Education.

(M) One member who is a superintendent of a school district that does not sponsor a public charter school that offers online instruction but that has been impacted by public charter schools that offer online instruction.

(b) All appointments to the task force made under this subsection must be completed by July 15, 2009.

(3) The task force shall:

(a) Prepare a report that must address:

(A) Grades and ages to be served by public online instruction through public charter schools;

(B) Curriculum descriptions and accreditation or certification standards of online instruction offered through public charter schools;

(C) Accessibility of online instruction and accommodations of students to public charter schools that offer online instruction;

(D) Methods of financing public charter schools that offer online instruction;

(E) Levels of funding for public charter schools that offer online instruction;

(F) Financial accountability of public charter schools that offer online instruction;

(G) Reporting of student outcomes and compliance with academic accountability standards at public charter schools that offer online instruction;

(H) The use of teachers licensed by the Teacher Standards and Practices Commission, the teaching standards and the frequency of teacher contact at public charter schools that offer online instruction;

(I) Examples of school policies at a public charter school that offers online instruction, including policies involving online harassment, intimidation or bullying;

(J) The method of offering online instruction through school districts and education service districts;

- (K) Class sizes of online courses, including the student-to-teacher ratio for the online courses;**
- (L) How to transition students currently enrolled in public charter schools that offer online instruction to alternative learning options, if necessary;**
- (M) Methods to determine whether a school district is an appropriate sponsor of a public charter school that provides online instruction;**
- (N) How to best serve students who are learning English as a second language; and**
- (O) Any other topic concerning the provision of high-quality online instruction to students in this state and the accessibility of online instruction by students attending public schools in this state.**
- (b) Prepare any necessary legislation based on the findings made in the report described in paragraph (a) of this subsection.**
- (4) A majority of the members of the task force constitutes a quorum for the transaction of business.**
- (5) Official action by the task force requires the approval of a majority of the members of the task force.**
- (6) The President of the Senate and the Speaker of the House of Representatives shall jointly appoint one member of the Senate who represents the majority party and one member of the House of Representatives who represents the majority party to serve as co-chairpersons of the task force.**
- (7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.**
- (8) The task force shall meet at times and places specified by:**
- (a) The work plan developed as provided in subsection (11) of this section;**
- (b) The call of the co-chairpersons or of a majority of the members of the task force; or**
- (c) The President of the Senate and the Speaker of the House of Representatives.**
- (9) The task force may adopt rules necessary for the operation of the task force.**
- (10) For the first special session of the Legislative Assembly occurring in 2010 or, if there is not a special session in 2010, for the regular session of the Legislative Assembly occurring in 2011, the task force shall presession file legislation in the manner provided in ORS 171.130 for interim committees. All legislation recommended by official action of the task force must indicate that it is introduced at the request of the task force.**
- (11) No later than September 1, 2009, the co-chairpersons of the task force shall develop and submit to the President of the Senate and the Speaker of the House of Representatives a work plan that describes the timeline of the activities of the task force. The timeline must include the following:**
- (a) At least four dates between August 1, 2009, and November 30, 2009, when the task force will meet.**
- (b) The date when the task force will provide to the legislative education committees the report described in subsection (3) of this section and recommendations for legislation. The date may be no later than December 15, 2009.**
- (12) The Legislative Administrator may employ persons necessary for the performance of the functions of the task force. The Legislative Administrator shall fix the duties and amounts of compensation of these employees. The task force shall use the services of permanent legislative staff to the greatest extent practicable.**

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 15. Section 14 of this 2009 Act is repealed on the date of the convening of the next regular biennial legislative session.

SECTION 16. Section 17 of this 2009 Act is added to and made a part of ORS chapter 338.

SECTION 17. (1) As used in this section:

(a) “District student” means a student who resides in the school district that is the sponsor of a virtual public charter school.

(b) “Nondistrict student” means a student who does not reside in the school district that is the sponsor of a virtual public charter school.

(2)(a) Notwithstanding any other provision of this chapter, and based on the number of students to whom online instruction was provided on May 1, 2009, a virtual public charter school may not increase the number of students to whom online instruction is provided. This section applies to all virtual public charter schools established in this state prior to, on or after the effective date of this 2009 Act unless:

(A) Fifty percent or more of the students who attend the virtual public charter school are district students, in which case the number of students receiving online instruction may increase until the number of nondistrict students receiving online instruction is no greater than 50 percent of the total number of students receiving online instruction; or

(B) The virtual public charter school has been granted a waiver by the State Board of Education under ORS 338.025 of the provisions of ORS 338.125 (2)(b), and the school complies with the terms of the waiver.

(b)(A) Notwithstanding the restrictions of paragraph (a) of this subsection, a virtual public charter school may enroll a sibling of a student if the student was enrolled in the virtual public charter school on May 1, 2009, even if the virtual public charter school is restricted from increasing the number of students to whom online instruction is provided and only if the virtual public charter school is in compliance with subparagraphs (B) and (C) of this paragraph.

(B) A student who is a sibling of a student who was enrolled in the virtual public charter school on May 1, 2009, may enroll in the virtual public charter school as provided in this paragraph only if the enrollment is for the next academic term during which a student may begin receiving online instruction.

(C) A virtual public charter school that is restricted from increasing the number of students to whom online instruction is provided but that is able to enroll new students within the limits of that restriction must first enroll students who are siblings of students who were enrolled in the virtual public charter school on May 1, 2009.

(c) Notwithstanding the restrictions of paragraph (a) of this subsection, a virtual public charter school that did not provide online instruction to any students on May 1, 2009, may increase the number of students to whom online instruction is provided until the number of nondistrict students receiving online instruction is no greater than 50 percent of the total number of students receiving online instruction.

(d)(A) Notwithstanding the restrictions of paragraph (a) of this subsection and notwithstanding subsection (3) of this section, a virtual public charter school may increase the number of students to whom online instruction is provided if:

(i) The virtual public charter school had students enrolled on May 1, 2009;

(ii) The enrollment of the virtual public charter school was 120 or fewer students on May 1, 2009; and

(iii) The State Board of Education provides a waiver to the virtual public charter school under ORS 338.025 of the restrictions imposed by paragraph (a) of this subsection and the requirements of ORS 338.125 (2)(b).

(B) A waiver allowed under this paragraph may only allow a virtual public charter school described in this paragraph to increase, before July 1, 2011, the number of students to whom online instruction is provided to 120 without violating the provisions of this section or ORS 338.125 (2)(b). After the virtual public charter school has enrolled 120 students, enrollment of any additional students must comply with the provisions of ORS 338.125 (2)(b).

(3) Notwithstanding ORS 338.025, the State Board of Education may not approve a waiver of ORS 338.125 (2)(b) for a virtual public charter school established in this state prior to, on or after the effective date of this 2009 Act. This subsection applies to requests for waivers for a virtual public charter school that:

(a) Are pending before the State Board of Education or first submitted to the State Board of Education on or after the effective date of this 2009 Act; or

(b) Are granted on or after April 27, 2009, in which case the waiver is immediately revoked.

(4) A virtual public charter school that is in violation of the provisions of ORS 338.125 (2)(b) may continue to operate as long as the virtual public charter school is in compliance with this section.

SECTION 18. Section 17 of this 2009 Act is repealed on July 1, 2011.

SECTION 19. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate June 10, 2009

Repassed by Senate June 27, 2009

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Secretary of Senate

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President of Senate

Passed by House June 23, 2009

Repassed by House June 29, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State