

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 364

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE THAT  
2 INSTRUCTIONAL HOURS IN A SCHOOL DISTRICT'S ACADEMIC YEAR SHALL NOT  
3 BEGIN PRIOR TO THE TUESDAY FOLLOWING LABOR DAY; AND AMENDING SECTION  
4 33-5206, IDAHO CODE, TO PROVIDE THAT INSTRUCTIONAL HOURS IN A PUBLIC  
5 CHARTER SCHOOL'S ACADEMIC YEAR SHALL NOT BEGIN PRIOR TO THE TUESDAY FOL-  
6 LOWING LABOR DAY.  
7

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

9 SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school  
12 district shall have the following powers and duties:

13 (1) To fix the days of the year and the hours of the day when schools  
14 shall be in session. However:

15 (a) Each school district shall annually adopt and implement a school  
16 calendar which provides its students at each grade level with the fol-  
17 lowing minimum number of instructional hours:

	Grades	Hours
18		
19	9-12	990
20	4-8	900
21	1-3	810
22	K	450
23	Alternative schools	
24	(any grades)	900

25 (b) School assemblies, testing and other instructionally related ac-  
26 tivities involving students directly may be included in the required  
27 instructional hours.

28 (c) When approved by a local school board, annual instructional hour  
29 requirements stated in paragraph (a) of this subsection may be reduced  
30 as follows:

31 (i) Up to a total of twenty-two (22) hours to accommodate staff  
32 development activities conducted on such days as the local school  
33 board deems appropriate.

34 (ii) Up to a total of eleven (11) hours of emergency school clo-  
35 sures due to adverse weather conditions and facility failures.

36 However, transportation to and from school, passing times between  
37 classes, recess and lunch periods shall not be included.

38 (d) Student and staff activities related to the opening and closing of  
39 the school year, grade reporting, program planning, staff meetings, and  
40 other classroom and building management activities shall not be counted

1 as instructional time or in the reductions provided in paragraph (c) (i)  
2 of this subsection.

3 (e) For multiple shift programs, this rule applies to each shift (i.e.,  
4 each student must have access to the minimum annual required hours of  
5 instruction).

6 (f) The instructional time requirement for grade 12 students may be re-  
7 duced by action of a local school board for an amount of time not to ex-  
8 ceed eleven (11) hours of instructional time.

9 (g) The state superintendent of public instruction may grant an ex-  
10 emption from the provisions of this section for an individual building  
11 within a district, when the closure of that building, for unforeseen  
12 circumstances, does not affect the attendance of other buildings within  
13 the district.

14 (h) The state board of education may grant a waiver of the minimum  
15 number of instructional hours for a school district when districtwide  
16 school closures are necessary as a result of natural occurrences cre-  
17 ating unsafe conditions for students. A county or state disaster  
18 declaration must have been issued for one (1) or more of the counties  
19 in which the school district is located. A waiver request to the state  
20 board of education must describe the efforts by the school district to  
21 make up lost instructional hours, the range of grades impacted, and the  
22 number of hours the school district is requesting be waived.

23 (i) The reduction of instructional hours allowed in paragraphs (f)  
24 through (h) of this subsection may not be combined in a single school  
25 year.

26 (j) Instructional hours shall not begin prior to the Tuesday following  
27 Labor Day in any academic year.

28 (2) To adopt and carry on, and provide for the financing of, a total ed-  
29 ucational program for the district. Such programs in other than elementary  
30 school districts may include education programs for out-of-school youth and  
31 adults, and such districts may provide classes in kindergarten;

32 (3) To provide, or require pupils to be provided with, suitable text-  
33 books and supplies, and for advice on textbook selections may appoint a cur-  
34 ricular materials adoption committee as provided in section 33-512A, Idaho  
35 Code;

36 (4) To protect the morals and health of the pupils;

37 (5) To exclude from school, children not of school age;

38 (6) To prescribe rules for the disciplining of unruly or insubordinate  
39 pupils, including rules on student harassment, intimidation and bullying,  
40 such rules to be included in a district discipline code adopted by the board  
41 of trustees and a summarized version thereof to be provided in writing at the  
42 beginning of each school year to the teachers and students in the district  
43 in a manner consistent with the student's age, grade and level of academic  
44 achievement;

45 (7) To exclude from school, pupils with contagious or infectious dis-  
46 eases who are diagnosed or suspected as having a contagious or infectious  
47 disease or those who are not immune and have been exposed to a contagious or  
48 infectious disease; and to close school on order of the state board of health  
49 and welfare or local health authorities;

1 (8) To equip and maintain a suitable library or libraries in the school  
2 or schools and to exclude therefrom, and from the schools, all books, tracts,  
3 papers, and catechisms of sectarian nature;

4 (9) To determine school holidays. Any listing of school holidays shall  
5 include not less than the following: New Year's Day, Memorial Day, Indepen-  
6 dence Day, Thanksgiving Day, and Christmas Day. Other days listed in section  
7 73-108, Idaho Code, if the same shall fall on a school day, shall be observed  
8 with appropriate ceremonies; and any days the state board of education may  
9 designate, following the proclamation by the governor, shall be school holi-  
10 days;

11 (10) To erect and maintain on each schoolhouse or school grounds a suit-  
12 able flagstaff or flagpole, and display thereon the flag of the United States  
13 of America on all days, except during inclement weather, when the school is  
14 in session; and for each Veterans Day, each school in session shall conduct  
15 and observe an appropriate program of at least one (1) class period remember-  
16 ing and honoring American veterans;

17 (11) To prohibit entrance to each schoolhouse or school grounds, to pro-  
18 hibit loitering in schoolhouses or on school grounds and to provide for the  
19 removal from each schoolhouse or school grounds of any individual or indi-  
20 viduals who disrupt the educational processes or whose presence is detrimen-  
21 tal to the morals, health, safety, academic learning or discipline of the  
22 pupils. A person who disrupts the educational process or whose presence is  
23 detrimental to the morals, health, safety, academic learning or discipline  
24 of the pupils or who loiters in schoolhouses or on school grounds, is guilty  
25 of a misdemeanor;

26 (12) To supervise and regulate, including by contract with established  
27 entities, those extracurricular activities which are by definition outside  
28 of or in addition to the regular academic courses or curriculum of a public  
29 school, and which extracurricular activities shall not be considered to be  
30 a property, liberty or contract right of any student, and such extracurric-  
31 ular activities shall not be deemed a necessary element of a public school  
32 education, but shall be considered to be a privilege. For the purposes of  
33 extracurricular activities, any secondary school located in this state that  
34 is accredited by an organization approved through a process defined by the  
35 state department of education shall be able to fully participate in all ex-  
36 tracurricular activities described in and governed by the provisions of this  
37 subsection;

38 (13) To govern the school district in compliance with state law and  
39 rules of the state board of education;

40 (14) To submit to the superintendent of public instruction not later  
41 than July 1 of each year documentation which meets the reporting require-  
42 ments of the federal gun-free schools act of 1994 as contained within the  
43 federal improving America's schools act of 1994;

44 (15) To require that all certificated and noncertificated employees  
45 hired on or after July 1, 2008, and other individuals who are required by  
46 the provisions of section 33-130, Idaho Code, to undergo a criminal history  
47 check shall submit a completed ten (10) finger fingerprint card or scan to  
48 the department of education no later than five (5) days following the first  
49 day of employment or unsupervised contact with students in a K-12 setting,  
50 whichever is sooner. Such employees and other individuals shall pay the cost

1 of the criminal history check. If the criminal history check shows that the  
2 employee has been convicted of a felony crime enumerated in section 33-1208,  
3 Idaho Code, it shall be grounds for immediate termination, dismissal or  
4 other personnel action of the district, except that it shall be the right of  
5 the school district to evaluate whether an individual convicted of one (1)  
6 of these crimes and having been incarcerated for that crime shall be hired.  
7 Provided however, that any individual convicted of any felony offense listed  
8 in section 33-1208 2., Idaho Code, shall not be hired. For the purposes of  
9 criminal history checks, a substitute teacher is any individual who tem-  
10 porarily replaces a certificated classroom educator and is paid a substitute  
11 teacher wage for one (1) day or more during a school year. A substitute  
12 teacher who has undergone a criminal history check at the request of one (1)  
13 district in which he has been employed as a substitute shall not be required  
14 to undergo an additional criminal history check at the request of any other  
15 district in which he is employed as a substitute if the teacher has obtained  
16 a criminal history check within the previous five (5) years. If the district  
17 next employing the substitute still elects to require another criminal his-  
18 tory check within the five (5) year period, that district shall pay the cost  
19 of the criminal history check or reimburse the substitute teacher for such  
20 cost. To remain on the statewide substitute teacher list maintained by the  
21 state department of education, the substitute teacher shall undergo a crimi-  
22 nal history check every five (5) years;

23 (16) To maintain a safe environment for students by developing a system  
24 that cross-checks all contractors or other persons who have irregular con-  
25 tact with students against the statewide sex offender register, by develop-  
26 ing a school safety plan for each school and by meeting annually with emer-  
27 gency first responders to update the plans and discuss emergency exercises  
28 and operations;

29 (17) To provide support for teachers in their first two (2) years in the  
30 profession in the areas of: administrative and supervisory support, mentor-  
31 ing, peer assistance and professional development.

32 SECTION 2. That Section 33-5206, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 33-5206. REQUIREMENTS AND PROHIBITIONS OF A PUBLIC CHARTER  
35 SCHOOL. (1) In addition to any other requirements imposed in this chapter, a  
36 public charter school shall be nonsectarian in its programs, affiliations,  
37 admission policies, employment practices, and all other operations, shall  
38 not charge tuition, levy taxes or issue bonds, and shall not discriminate  
39 against any student on any basis prohibited by the federal or state constitu-  
40 tion or any federal, state or local law. Public charter schools shall comply  
41 with the federal individuals with disabilities education act. Admission to  
42 a public charter school shall not be determined according to the place of  
43 residence of the student, or of the student's parent or guardian within the  
44 district, except that a new replication or conversion public charter school  
45 established under the provisions of this chapter shall adopt and maintain a  
46 policy giving admission preference to students who reside within the con-  
47 tiguous and compact primary attendance area of that public charter school.

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

1 (3) Certified teachers in a public charter school shall be considered  
 2 public school teachers. Educational experience shall accrue for service in  
 3 a public charter school and such experience shall be counted by any school  
 4 district for any teacher who has been employed in a public charter school.  
 5 The staff of the public charter school shall be considered a separate unit  
 6 for the purposes of collective bargaining.

7 (4) Employment of charter school teachers and administrators shall be  
 8 on written contract conditioned upon a valid certificate being held by such  
 9 professional personnel at the time of entering upon the duties thereunder.  
 10 Administrators may be certified pursuant to the requirements set forth in  
 11 chapter 12, title 33, Idaho Code, pertaining to traditional public schools,  
 12 or may hold a charter school administrator certificate. An applicant is eli-  
 13 gible for a charter school administrator certificate if the applicant:

14 (a) Holds a bachelor's degree from an accredited four (4) year institu-  
 15 tion;

16 (b) Submits to a criminal history check as described in section 33-130,  
 17 Idaho Code;

18 (c) Completes a course consisting of a minimum of three (3) semester  
 19 credits in the statewide framework for teacher evaluations, which shall  
 20 include a laboratory component;

21 (d) Submits a letter from a charter school board of directors stating  
 22 that the board of directors has carefully considered the applicant's  
 23 candidacy, has chosen to hire the applicant, and is committed to over-  
 24 seeing the applicant's performance; and

25 (e) Has one (1) or more of the following:

26 (i) Five (5) or more years of experience administering a public  
 27 charter school;

28 (ii) A post-baccalaureate degree and a minimum of five (5) years  
 29 of experience in school administration, public administration,  
 30 business administration, or military administration;

31 (iii) Successful completion of a nationally recognized charter  
 32 school leaders fellowship; or

33 (iv) Five (5) or more years of teaching experience and a commit-  
 34 ment from an administrator at a charter school in academic, opera-  
 35 tional, and financial good standing according to its authorizer's  
 36 most recent review to mentor the applicant for a minimum of one (1)  
 37 year.

38 A charter school administrator certificate shall be valid for five (5) years  
 39 and renewable thereafter. Administrators shall be subject to oversight  
 40 by the professional standards commission. Certificates may be revoked  
 41 pursuant to the provisions of section 33-1208, Idaho Code. Issuance of a  
 42 certificate to any applicant may be refused for such reason as would have  
 43 constituted grounds for revocation.

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

46 (6) Authorized chartering entities may establish reasonable pre-open-  
 47 ing requirements or conditions to monitor the start-up progress of newly  
 48 approved public charter schools and ensure that they are prepared to open  
 49 smoothly on the date agreed, and to ensure that each school meets all build-

1 ing, health, safety, insurance and other legal requirements for school  
2 opening.

3 (7) Each public charter school shall annually submit the audit of its  
4 fiscal operations to the authorized chartering entity.

5 (8) A public charter school or the authorized chartering entity may  
6 enter into negotiations to revise a charter or performance certificate at  
7 any time. If a public charter school petitions to revise its charter or  
8 performance certificate, the authorized chartering entity's review of the  
9 revised petition shall be limited in scope solely to the proposed revisions.  
10 Except for public charter schools authorized by a school district board of  
11 trustees, when a non-virtual public charter school submits a proposed char-  
12 ter revision to its authorized chartering entity and such revision includes  
13 a proposal to increase such public charter school's approved student enroll-  
14 ment cap by ten percent (10%) or more, the authorized chartering entity shall  
15 hold a public hearing on such petition. The authorized chartering entity  
16 shall provide the board of the local school district in which the public  
17 charter school is physically located notice in writing of such hearing no  
18 later than thirty (30) days prior to the hearing. The public hearing shall  
19 include any oral or written comments that an authorized representative of  
20 the school district in which the public charter school is physically located  
21 may provide regarding the impact of the proposed charter revision upon the  
22 school district. Such public hearing shall also include any oral or written  
23 comments that any petitioner may provide regarding the impact of the pro-  
24 posed charter revision upon such school district.

25 (9) When a charter is nonrenewed pursuant to the provisions of section  
26 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code, or  
27 the board of directors of the public charter school terminates the charter,  
28 the assets of the public charter school remaining after all debts of the pub-  
29 lic charter school have been satisfied must be returned to the authorized  
30 chartering entity for distribution in accordance with applicable law.

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

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

37 (b) No more than one-third (1/3) of the public charter school's board  
38 membership may be comprised of nonprofit educational services provider  
39 representatives. Nonprofit educational services provider repre-  
40 sentatives may not be employees of the public charter school or the  
41 educational services provider and may not hold office as president or  
42 treasurer on the public charter school's board. For-profit educational  
43 services providers may not have representatives on the public charter  
44 school's board of directors.

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

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

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

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

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

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

17 (i) Prior to approval of the charter petition indicating the school  
18 board's intention to contract with an educational services provider,  
19 authorized chartering entities shall conduct a thorough evaluation of  
20 the academic, financial and organizational outcomes of other schools  
21 that have contracted with the educational services provider and evi-  
22 dence of the educational services provider's capacity to successfully  
23 grow the public charter school while maintaining quality management and  
24 instruction in existing schools.

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

29 (a) If initial capacity is insufficient to enroll all pupils who submit  
30 a timely application, then the admission procedures may provide that  
31 preference shall be given in the following order: first, to children  
32 of founders, provided that this admission preference shall be limited  
33 to not more than ten percent (10%) of the capacity of the public charter  
34 school; second, to siblings of pupils already selected by the lottery  
35 or other random method; third, to pupils seeking to transfer from an-  
36 other Idaho public charter school at which they have been enrolled for  
37 at least one (1) year, provided that this admission preference shall be  
38 subject to an existing written agreement for such preference between  
39 the subject charter schools; fourth, to students residing within the  
40 primary attendance area of the public charter school; and fifth, by an  
41 equitable selection process such as a lottery or other random method.  
42 If so stated in its petition, a new public charter school or replication  
43 public charter school may include the children of full-time employees  
44 of the public charter school within the first priority group subject to  
45 the limitations therein. Otherwise, such children shall be included in  
46 the highest priority group for which they would otherwise be eligible.

47 (b) If capacity is insufficient to enroll all pupils who submit a timely  
48 application for subsequent school terms, then the admission procedures  
49 may provide that preference shall be given in the following order:  
50 first, to pupils returning to the public charter school in the second or

1 any subsequent year of its operation; second, to children of founders,  
2 provided that this admission preference shall be limited to not more  
3 than ten percent (10%) of the capacity of the public charter school;  
4 third, to siblings of pupils already enrolled in the public charter  
5 school; fourth, to pupils seeking to transfer from another Idaho pub-  
6 lic charter school at which they have been enrolled for at least one  
7 (1) year, provided that this admission preference shall be subject to  
8 an existing written agreement for such preference between the subject  
9 charter schools; fifth, to students residing within the primary at-  
10 tendance area of the public charter school; and sixth, by an equitable  
11 selection process such as a lottery or other random method. There shall  
12 be no carryover from year to year of the list maintained to fill vacan-  
13 cies. A new lottery shall be conducted each year to fill vacancies that  
14 become available. If so stated in its petition, a public charter school  
15 may include the following children within the second priority group  
16 subject to the limitations therein:

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

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

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

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

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

29 (14) Instructional hours in a public charter school shall not begin  
30 prior to the Tuesday following Labor Day in any academic year.