

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 113

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO CHARTER SCHOOLS; AMENDING SECTION 33-5202A, IDAHO CODE, TO AL-  
2 LOW EDUCATIONAL SERVICES PROVIDERS TO CHARGE A FEE; AMENDING SECTION  
3 33-5203, IDAHO CODE, TO ALLOW CHARTER SCHOOLS TO CONTRACT WITH EDUCA-  
4 TIONAL SERVICE PROVIDERS AND TO REVISE PROVISIONS REGARDING CERTAIN  
5 LIMITATIONS; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVI-  
6 SIONS REGARDING VIRTUAL SCHOOLS AND TO MAKE TECHNICAL CORRECTIONS;  
7 AMENDING SECTION 33-5205B, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
8 CHARTER SCHOOL PERFORMANCE CERTIFICATES AND TO PROVIDE CONDITIONS FOR  
9 VIRTUAL SCHOOL APPROVAL; AMENDING SECTION 33-5206, IDAHO CODE, TO PRO-  
10 VIDE CONDITIONS FOR A VIRTUAL SCHOOL TO BE DEEMED SUFFICIENT; AMENDING  
11 SECTION 33-5209A, IDAHO CODE, TO PROVIDE FOR CERTAIN PERFORMANCE FRAME-  
12 WORK CRITERIA; AMENDING SECTION 33-5209B, IDAHO CODE, TO PROVIDE FOR  
13 CERTAIN CHARTER SCHOOL RENEWAL CRITERIA AND TO MAKE TECHNICAL CORREC-  
14 TIONS; AND DECLARING AN EMERGENCY.  
15

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

17 SECTION 1. That Section 33-5202A, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-  
20 quires otherwise:

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

22 (a) A local board of trustees of a school district in this state;

23 (b) The public charter school commission created pursuant to the provi-  
24 sions of this chapter;

25 (c) An Idaho public college, university or community college;

26 (d) A private, nonprofit, Idaho-based nonsectarian college or univer-  
27 sity that is accredited by the same organization that accredits Idaho  
28 public colleges and universities.

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

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

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

38 (5) "Founder" means a person, including employees or staff of a pub-  
39 lic charter school, who makes a material contribution toward the establish-  
40 ment of a public charter school in accordance with criteria determined by  
41 the board of directors of the public charter school, and who is designated  
42 as such at the time the board of directors acknowledges and accepts such con-

1 tribution. The criteria for determining when a person is a founder shall not  
2 discriminate against any person on any basis prohibited by the federal or  
3 state constitution or any federal, state or local law. The designation of a  
4 person as a founder, and the admission preferences available to the children  
5 of a founder, shall not constitute pecuniary benefits.

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

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

13 (8) "Career technical regional public charter school" means a public  
14 charter secondary school authorized under this chapter to provide programs  
15 in career technical education that meet the standards and qualifications es-  
16 tablished by the division of career technical education. A career techni-  
17 cal regional public charter school may be approved by an authorized char-  
18 tering entity and, by the terms of its charter, shall operate in associa-  
19 tion with at least two (2) school districts. This provision does not exclude  
20 a public charter school with a statewide boundary from applying for added  
21 cost funds authorized for career technical education, irrespective of the  
22 instructional delivery method. Participating school districts need not be  
23 contiguous.

24 (9) "Public charter school" means a school that is authorized under  
25 this chapter to deliver public education in Idaho with equal access and au-  
26 thority to participate in all state and federal programs to the same extent  
27 as a traditional public school, irrespective of the instructional delivery  
28 method.

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

31 (11) "Virtual school" means either a public charter school or a tradi-  
32 tional public school that delivers a full-time, sequential program of syn-  
33 chronous and/or asynchronous instruction primarily through the use of tech-  
34 nology via the internet in a distributed environment. Schools classified as  
35 virtual must have an online component to their school with online lessons and  
36 tools for student and data management.

37 SECTION 2. That Section 33-5203, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public  
40 charter schools is hereby authorized. Public charter schools shall be part  
41 of the state's program of public education.

42 (2) New public charter schools, which may begin educational instruc-  
43 tion in any one (1) school year, shall be subject to the following:

44 (a) No whole school district may be converted to a charter district or  
45 any configuration that includes all schools as public charter schools;  
46 and

47 (b) A petition must be received by the initial authorized chartering  
48 entity no later than September 1 to be eligible to begin instruction the

1 first complete school year following receipt of the petition, unless  
2 the authorized chartering entity agrees to a later date; and

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

5 (3) A public charter school may be formed either by creating a new  
6 public charter school or by replicating an existing high-performing public  
7 charter school, which charter may be approved by any authorized chartering  
8 entity, or by converting an existing traditional public school to a public  
9 charter school, which charter may only be approved by the board of trustees  
10 of the school district in which the existing public school is located.

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

12 (a) ~~Which That~~ provides for the conversion of any existing private or  
13 parochial school to a public charter school-;

14 (b) ~~To For~~ a for-profit entity ~~or any school that is operated by a~~  
15 ~~for-profit entity~~, provided however, nothing herein in this section  
16 shall prevent the board of directors of a public charter school from  
17 legally contracting with an educational service provider that provides  
18 comprehensive educational administrative and management services or  
19 with for-profit entities for the provision of products or services that  
20 aid in the operation of the school-; or

21 (c) By the board of trustees of a school district if the public charter  
22 school's physical location is outside the boundaries of the authorizing  
23 school district.

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

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

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

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

40 SECTION 3. That Section 33-5205, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Intent. Any  
43 group of persons, upon creating a nonprofit corporation pursuant to section  
44 33-5204, Idaho Code, may petition to establish a new public charter school,  
45 or to convert an existing traditional public school to a public charter  
46 school. The purpose of the charter petition is to present the proposed pub-  
47 lic charter school's academic and operational vision and plans, demonstrate  
48 the petitioner's capacities to execute the proposed vision and plans and  
49 provide the authorized chartering entity a clear basis for assessing the

1 applicant's plans and capacities. An approved charter petition shall not  
2 serve as the school's performance certificate.

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

9 (3) Application.

10 (a) The state board of education, by rule, shall develop an applica-  
11 tion to establish a new public charter school ~~which that~~, when submitted  
12 by petitioners, shall constitute the public charter school's completed  
13 petition. The application is not intended to be exhaustive, but shall  
14 require petitioners to provide descriptions of the following key fea-  
15 tures of the prospective public charter school:

- 16 (i) Educational program, including student academic proficiency  
17 and growth standards and measurement methods and any mission-spe-  
18 cific standards that may be unique to the school;  
19 (ii) Financial and facilities plan;  
20 (iii) Board capacity and governance structure; and  
21 (iv) Student demand and primary attendance area.

22 (b) Prior to submitting the completed petition to an authorized char-  
23 tering entity described in section 33-5202A(1), Idaho Code, petition-  
24 ers shall send a letter and a copy of the completed petition to the su-  
25 perintendent of each district that overlaps the proposed public charter  
26 school's primary attendance area. The purpose of the letter is to in-  
27 form the superintendent that petitioners are seeking an authorizer, and  
28 to offer to attend a district board of trustees meeting, if the superin-  
29 tendent so requests.

30 (c) A minimum of four (4) weeks after sending the letter and copy of  
31 the completed petition pursuant to paragraph (b) of this subsection,  
32 or earlier if the superintendent of each district that overlaps the  
33 proposed public charter school's primary attendance area agrees, peti-  
34 tioners may submit the completed petition to an authorized chartering  
35 entity pursuant to section 33-5202A(1), Idaho Code. Upon receipt of  
36 the completed petition, which may be received electronically, repre-  
37 sentatives of the authorized chartering entity shall review, and may  
38 contract with a third party or other government agency to assist in re-  
39 viewing, the petition. If necessary, representatives of the authorized  
40 chartering entity may request from petitioners limited additional in-  
41 formation necessary to clarify the contents of the completed petition.  
42 Any subsequent change to the completed petition will comprise the re-  
43 vised petition.

44 (4) Hearing. If the authorized chartering entity is the public char-  
45 ter school commission, within ten (10) weeks of receiving a revised petition  
46 and not later than twelve (12) weeks after receiving the completed petition,  
47 commission staff shall provide commissioners with a written recommendation  
48 that the commission ~~either~~ approve, deny or grant conditional approval of  
49 the petition. Concurrently, the commission staff shall provide a copy of the  
50 recommendation to petitioners, along with a notice of a hearing date, and

1 shall notify the district in which the proposed charter school will be phys-  
2 ically located of the opportunity to submit written comments or to testify  
3 at the hearing. Petitioners may testify to support or refute the recommen-  
4 dation. If the authorized chartering entity is other than the public charter  
5 school commission, it may develop its own hearing process.

6 (5) Petition Decision. If the authorized chartering entity approves  
7 the petition, the parties shall negotiate the terms of the performance  
8 certificate pursuant to section 33-5205B, Idaho Code. If the authorized  
9 chartering entity grants conditional approval, the conditions may be con-  
10 sidered reasonable pre-opening requirements or conditions pursuant to  
11 section 33-5206, Idaho Code, or may be added to the charter upon agreement of  
12 petitioners and the authorized chartering entity.

13 (6) Virtual Schools.

14 (a) In the case of a petition for a public virtual charter school, if  
15 the primary attendance area described in the petition of a proposed pub-  
16 lic virtual charter school extends within the boundaries of five (5) or  
17 fewer local school districts, the prospective authorizer shall provide  
18 notice in writing to those local school districts of the public hear-  
19 ing no less than thirty (30) days prior to the public hearing. The pub-  
20 lic hearing shall include any oral or written comments that an autho-  
21 rized representative of the local school districts may provide regard-  
22 ing the merits of the petition and any potential impacts on the school  
23 districts.

24 (b) An authorized chartering entity, ~~except for a school district board~~  
25 ~~of trustees,~~ may approve a charter for a public virtual school under the  
26 provisions of this chapter ~~only~~ if it determines that the petition con-  
27 tains the ~~requirements of subsection (2) of this section and the addi-~~  
28 ~~tional~~ statements describing the following:

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

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

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

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

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

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

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

49 (viii) To the extent there is a financial agreement that will re-  
50 quire an education service provider to assume a virtual school's

1 financial risk when the virtual school does not have sufficient  
2 residual funds to pay the education service provider, such fi-  
3 ancial agreement, which will be favorably considered during  
4 the application process. Where this paragraph is applicable,  
5 the education service provider shall make its audited financial  
6 statements available unless the education service provider al-  
7 ready makes such audited financial statements publicly available  
8 for compliance with other federal or state laws; and

9 (ix) A plan for ensuring equal access for all students, including  
10 the provision of necessary hardware, software and internet con-  
11 nectivity required for participation in online coursework.

12 (7) Conversion Charter Schools. A petition to convert an existing tra-  
13 ditional public school shall be submitted to the board of trustees of the  
14 district in which the school is located for review and approval. The pe-  
15 tition shall be signed by not less than sixty percent (60%) of the teachers  
16 currently employed by the school district at the school to be converted, and  
17 by one (1) or more parents or guardians of not less than sixty percent (60%)  
18 of the students currently attending the school to be converted. Each peti-  
19 tion submitted to convert an existing school or to establish a new charter  
20 school shall contain a copy of the articles of incorporation and the bylaws  
21 of the nonprofit corporation, which shall be deemed incorporated into the  
22 petition.

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

26 SECTION 4. That Section 33-5205B, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 33-5205B. PERFORMANCE CERTIFICATES. (1) Within seventy-five (75)  
29 days of approval of a charter application, the authorized chartering entity  
30 and the governing board of the approved public charter school shall execute  
31 a performance certificate that clearly sets forth the academic and opera-  
32 tional performance expectations and measures by which the public charter  
33 school will be judged and the administrative relationship between the autho-  
34 rized chartering entity and public charter school, including each party's  
35 rights and duties. The performance expectations and measures set forth  
36 in the performance certificate shall include, but need not be limited to,  
37 applicable federal and state accountability requirements, and shall take  
38 into consideration the actual and potential at-risk makeup of the student  
39 body population defined by the criteria set forth in section 33-1001(3) (a)  
40 and (b), Idaho Code, for all grade levels and economically disadvantaged  
41 students. The performance provisions may be refined or amended by mutual  
42 agreement after the public charter school is operating and has collected  
43 baseline achievement data for its enrolled students. A virtual school shall  
44 be deemed financially sufficient if there is an agreement that requires an  
45 education service provider to assume the virtual school's financial risk  
46 when it does not have sufficient residual funds to pay the education ser-  
47 vice provider. Where this subsection is applicable, the education service  
48 provider shall make its audited financial statements available unless the

1 education service provider already makes such audited financial statements  
2 publicly available for compliance with other federal or state laws.

3 (2) The performance certificate shall be signed by the president of the  
4 authorized chartering entity's governing board and the president of the pub-  
5 lic charter school's governing body. Within fourteen (14) days of executing  
6 a performance certificate, the authorized chartering entity shall submit to  
7 the state board of education written notification of the performance cer-  
8 tificate execution, including a copy of the performance certificate.

9 (3) No public charter school may commence operations without a perfor-  
10 mance certificate executed in accordance with this provision and approved in  
11 an open meeting of the authorized chartering entity's governing board.

12 (4) All public charter schools approved prior to July 1, 2013, shall  
13 execute performance certificates with their authorizers no later than July  
14 1, 2014. Such certificates shall ensure that each public charter school ap-  
15 proved prior to July 1, 2014, is evaluated for renewal or nonrenewal between  
16 March 1, 2016, and March 1, 2019.

17 SECTION 5. That Section 33-5206, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 33-5206. REQUIREMENTS AND PROHIBITIONS OF A PUBLIC CHARTER  
20 SCHOOL. (1) In addition to any other requirements imposed in this chapter, a  
21 public charter school shall be nonsectarian in its programs, affiliations,  
22 admission policies, employment practices, and all other operations, shall  
23 not charge tuition, levy taxes or issue bonds, and shall not discriminate  
24 against any student on any basis prohibited by the federal or state constitu-  
25 tion or any federal, state or local law. Public charter schools shall comply  
26 with the federal individuals with disabilities education act. Admission to  
27 a public charter school shall not be determined according to the place of  
28 residence of the student, or of the student's parent or guardian within the  
29 district, except that a new replication or conversion public charter school  
30 established under the provisions of this chapter shall adopt and maintain a  
31 policy giving admission preference to students who reside within the con-  
32 tiguous and compact primary attendance area of that public charter school.

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

35 (3) Certified teachers in a public charter school shall be considered  
36 public school teachers. Educational experience shall accrue for service in  
37 a public charter school and such experience shall be counted by any school  
38 district for any teacher who has been employed in a public charter school.  
39 The staff of the public charter school shall be considered a separate unit  
40 for the purposes of collective bargaining.

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

44 (5) Administrators may be certified pursuant to the requirements set  
45 forth in chapter 12, title 33, Idaho Code, pertaining to traditional public  
46 schools, or may hold a charter school administrator certificate. An appli-  
47 cant is eligible for a charter school administrator certificate if the ap-  
48 plicant:

- 1 (a) Holds a bachelor's degree from an accredited four (4) year institu-  
 2 tion;
- 3 (b) Submits to a criminal history check as described in section 33-130,  
 4 Idaho Code;
- 5 (c) Completes a course consisting of a minimum of three (3) semester  
 6 credits in the statewide framework for teacher evaluations, which shall  
 7 include a laboratory component;
- 8 (d) Submits a letter from a charter school board of directors stating  
 9 that the board of directors has carefully considered the applicant's  
 10 candidacy, has chosen to hire the applicant, and is committed to over-  
 11 seeing the applicant's performance; and
- 12 (e) Has one (1) or more of the following:
- 13 (i) Five (5) or more years of experience administering a public  
 14 charter school;
- 15 (ii) A post-baccalaureate degree and a minimum of five (5) years  
 16 of experience in school administration, public administration,  
 17 business administration, or military administration;
- 18 (iii) Successful completion of a nationally recognized charter  
 19 school leaders fellowship; or
- 20 (iv) Five (5) or more years of teaching experience and a commit-  
 21 ment from an administrator at a charter school in academic, opera-  
 22 tional, and financial good standing according to its authorizer's  
 23 most recent review to mentor the applicant for a minimum of one (1)  
 24 year.

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

31 (6) Charter school teachers may be certified pursuant to the require-  
 32 ments set forth in chapter 12, title 33, Idaho Code, pertaining to tradi-  
 33 tional public school districts, or may hold a charter school-specific teach-  
 34 ing certificate. A charter school-specific teaching certificate shall be  
 35 valid only for teachers teaching at a public charter school.

36 (a) Criteria for a charter school-specific teaching certificate shall  
 37 be in writing and require that teachers satisfy the provisions set forth  
 38 in section 33-1202 1., 3., and 4., Idaho Code, and meet the following  
 39 minimum educational or professional qualifications:

- 40 (i) Hold a bachelor's degree from an accredited institution; or  
 41 (ii) If instructing students in the fields of career technical ed-  
 42 ucation, satisfy the provisions of section 33-2205(6) (a), Idaho  
 43 Code.

44 (b) Teachers with a charter school-specific teaching certificate shall  
 45 receive mentoring and professional development as approved by the char-  
 46 ter school board of directors. The charter school board of directors  
 47 may impose additional requirements.

48 (c) The state board of education shall issue charter school-specific  
 49 teaching certificates to teachers upon recommendation of the individ-



1 ual charter school, unless denied on the grounds set forth in section  
2 33-1208, Idaho Code.

3 (d) Charter school-specific teaching certificates shall not be trans-  
4 ferable to a traditional public school district, but may be transfer-  
5 able to another public charter school at the election of the subsequent  
6 public charter school.

7 (e) For teachers holding a charter school-specific teaching certifi-  
8 cate, a charter school may substitute its own ongoing education and pro-  
9 fessional development requirements in place of those set forth in rule  
10 by the state board of education if the same number of credit hours is  
11 required as that of teachers holding a standard instructional certifi-  
12 cate.

13 (7) No board of trustees shall require any student enrolled in the  
14 school district to attend a public charter school.

15 (8) Authorized chartering entities may establish reasonable pre-open-  
16 ing requirements or conditions to monitor the start-up progress of newly  
17 approved public charter schools and ensure that they are prepared to open  
18 smoothly on the date agreed, and to ensure that each school meets all build-  
19 ing, health, safety, insurance and other legal requirements for school  
20 opening.

21 (9) Each public charter school shall annually submit the audit of its  
22 fiscal operations to the authorized chartering entity.

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

43 (11) When a charter is nonrenewed pursuant to the provisions of section  
44 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code, or  
45 the board of directors of the public charter school terminates the charter,  
46 the assets of the public charter school remaining after all debts of the pub-  
47 lic charter school have been satisfied must be returned to the authorized  
48 chartering entity for distribution in accordance with applicable law.

49 (12) Public charter schools may contract with educational services  
50 providers subject to the following provisions:

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

5 (b) No more than one-third (1/3) of the public charter school's board  
6 membership may be comprised of nonprofit educational services provider  
7 representatives. Nonprofit educational services provider repre-  
8 sentatives may not be employees of the public charter school or the  
9 educational services provider and may not hold office as president or  
10 treasurer on the public charter school's board. For-profit educational  
11 services providers may not have representatives on the public charter  
12 school's board of directors.

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

16 (d) Charter holders shall retain responsibility for academic, fiscal  
17 and organizational operations and outcomes of the school and may not re-  
18 linqish this responsibility to any other entity.

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

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

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

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

35 (i) Prior to approval of the charter petition indicating the school  
36 board's intention to contract with an educational services provider,  
37 authorized chartering entities shall conduct a thorough evaluation of  
38 the academic, financial and organizational outcomes of other schools  
39 that have contracted with the educational services provider and evi-  
40 dence of the educational services provider's capacity to successfully  
41 grow the public charter school while maintaining quality management and  
42 instruction in existing schools.

43 (j) A virtual school shall be deemed financially sufficient if there is  
44 an agreement that requires an education service provider to assume the  
45 virtual school's financial risk when it does not have sufficient resid-  
46 ual funds to pay the education service provider. Where this paragraph  
47 is applicable, the education service provider shall make its audited  
48 financial statements available unless the education service provider  
49 already makes such audited financial statements publicly available for  
50 compliance with other federal or state laws.

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

5 (a) If initial capacity is insufficient to enroll all pupils who submit  
6 a timely application, then the admission procedures may provide that  
7 preference shall be given in the following order: first, to children  
8 of founders, provided that this admission preference shall be limited  
9 to not more than ten percent (10%) of the capacity of the public charter  
10 school; second, to siblings of pupils already selected by the lottery  
11 or other random method; third, to pupils seeking to transfer from an-  
12 other Idaho public charter school at which they have been enrolled for  
13 at least one (1) year, provided that this admission preference shall be  
14 subject to an existing written agreement for such preference between  
15 the subject charter schools; fourth, to students residing within the  
16 primary attendance area of the public charter school; and fifth, by an  
17 equitable selection process such as a lottery or other random method.  
18 If so stated in its petition, a public charter school may weight the  
19 school's lottery to preference admission for the following education-  
20 ally disadvantaged students: students living at or below one hundred  
21 eighty-five percent (185%) of the federal poverty level, students who  
22 are homeless or in foster care, children with disabilities as defined  
23 in section 33-2001, Idaho Code, students with limited English profi-  
24 ciency, and students who are at-risk as defined in section 33-1001,  
25 Idaho Code. If so stated in its petition, a new public charter school or  
26 replication public charter school may include the children of full-time  
27 employees of the public charter school within the first priority group  
28 subject to the limitations therein. Otherwise, such children shall be  
29 included in the highest priority group for which they would otherwise be  
30 eligible.

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

1 one hundred eighty-five percent (185%) of the federal poverty level,  
 2 students who are homeless or in foster care, children with disabilities  
 3 as defined in section 33-2001, Idaho Code, students with limited Eng-  
 4 lish proficiency, and students who are at-risk as defined in section  
 5 33-1001, Idaho Code. If so stated in its petition, a public charter  
 6 school may include the following children within the second priority  
 7 group subject to the limitations therein:

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

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

14 (c) Each public charter school shall establish a process under which a  
 15 child may apply for enrollment or register for courses, regardless of  
 16 where such child resides at the time of application or registration, if  
 17 the child is a dependent of a member of the United States armed forces  
 18 who has received transfer orders to a location in Idaho and will, upon  
 19 such transfer, reside in an area served by the public charter school.  
 20 If capacity is insufficient as described in paragraph (a) or (b) of this  
 21 subsection, a child described in this paragraph shall be treated as a  
 22 student residing within the primary attendance area of the public char-  
 23 ter school for purposes of preference.

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

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

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

30 SECTION 6. That Section 33-5209A, Idaho Code, be, and the same is hereby  
 31 amended to read as follows:

32 33-5209A. ACCOUNTABILITY. (1) Performance framework. The perfor-  
 33 mance provisions within the performance certificate shall be based upon a  
 34 performance framework that clearly sets forth the academic and operational  
 35 performance indicators, measures and metrics that will guide the authorized  
 36 chartering entity's evaluations of each public charter school. The perfor-  
 37 mance framework shall include indicators, measures and metrics for, at a  
 38 minimum:

39 (a) Student academic proficiency;

40 (b) Student academic growth;

41 (c) College and career readiness (for high schools); ~~and~~

42 (d) The actual and potential at-risk makeup of the student body popula-  
 43 tion defined by the criteria set forth in section 33-1001(3) (a) and (b),  
 44 Idaho Code, for all grade levels and economically disadvantaged stu-  
 45 dents; and

46 (e) Board performance and stewardship, including compliance with all  
 47 applicable laws, regulations and terms of the performance certificate.

48 (2) Measurable performance targets shall be set by each charter holder  
 49 for each public charter school for which it holds a charter in conjunction

1 with its authorized chartering entity and shall, at a minimum, require that  
2 each school meet applicable federal, state and authorized chartering entity  
3 goals for student achievement.

4 (3) For each public charter school it oversees, the authorized char-  
5 tering entity shall be responsible for analyzing and reporting all data from  
6 state assessments in accordance with the performance framework.

7 SECTION 7. That Section 33-5209B, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 33-5209B. CHARTER RENEWALS. (1) A charter may be renewed for succes-  
10 sive five (5) year terms of duration. An authorized chartering entity may  
11 grant renewal with specific, written conditions for necessary improvements  
12 to a public charter school. Any such specific, written conditions shall  
13 state the date by which the conditions must be met.

14 (2) Following the initial three (3) year term, an authorized chartering  
15 entity may nonrenew or grant renewal for an additional five (5) years, based  
16 ~~upon~~ on the performance of the public charter school on the performance indi-  
17 cators, measures and metrics contained in the performance certificate. Sub-  
18 sequent renewals shall be for a term of five (5) years.

19 (3) No later than November 15, the authorized chartering entity shall  
20 issue a public charter school performance report and charter renewal ap-  
21 plication guidance to any charter holder with a public charter school whose  
22 charter will expire the following year. The performance report shall summa-  
23 rize the public charter school's performance record to date, based ~~upon~~ on  
24 the data required by this chapter and the performance certificate, and shall  
25 provide notice of any weaknesses or concerns determined by the authorized  
26 chartering entity concerning the public charter school that may jeopardize  
27 its position in seeking renewal, if not timely rectified. The charter holder  
28 shall have thirty (30) days to respond to the performance report and submit  
29 any corrections or clarifications for the report.

30 (4) The renewal application guidance shall, at a minimum, provide an  
31 opportunity for the charter holder to:

32 (a) Present additional evidence, beyond the data contained in the per-  
33 formance report, supporting its case for charter renewal; and

34 (b) Describe improvements undertaken or planned for the school.

35 (5) The renewal application guidance shall include or refer explicitly  
36 to the criteria that will guide the authorized chartering entity's renewal  
37 decisions, which shall be based on independent fiscal audits and the perfor-  
38 mance framework set forth in the performance certificate.

39 (6) No later than December 15, the charter holder seeking renewal shall  
40 submit a renewal application to the authorized chartering entity pursuant  
41 to the renewal application guidance issued by the authorized chartering en-  
42 tity. The authorized chartering entity shall vote on the renewal applica-  
43 tion no later than March 15.

44 (7) In making charter renewal decisions, every authorized chartering  
45 entity shall:

46 (a) Ground its decisions in evidence of the school's performance over  
47 the term of the performance certificate in accordance with the perfor-  
48 mance framework set forth in the performance certificate;

1 (b) Ensure that data used in making renewal decisions are available to  
2 the school and the public; ~~and~~

3 (c) Take into consideration the actual and potential at-risk makeup of  
4 the student body population defined by the criteria set forth in sec-  
5 tion 33-1001(3) (a) and (b), Idaho Code, for all grade levels and econom-  
6 ically disadvantaged students;

7 (d) Deem a virtual school financially sufficient if there is an agree-  
8 ment that requires an education service provider to assume a virtual  
9 school's financial risk when it does not have sufficient residual funds  
10 to pay the education service provider. Where this paragraph is appli-  
11 cable, the education service provider shall make its audited financial  
12 statements available unless the education service provider already  
13 makes such audited financial statements publicly available for compli-  
14 ance with other federal or state laws; and

15 (e) Provide a public report summarizing the evidence basis for each de-  
16 cision.

17 (8) An authorized chartering entity must develop revocation and nonre-  
18 newal processes that:

19 (a) Provide the charter holders with a timely notification of the  
20 prospect of revocation or nonrenewal and of the reasons for such possi-  
21 ble closure, which shall be limited to failure to meet the terms of the  
22 performance certificate or the written conditions established pursuant  
23 to the provisions of subsection (1) of this section;

24 (b) Allow the charter holders a reasonable amount of time in which to  
25 prepare a response;

26 (c) Provide the charter holders with an opportunity to submit documents  
27 and give testimony challenging the rationale for closure and in support  
28 of the continuation of the school at an orderly proceeding held for that  
29 purpose;

30 (d) Allow the charter holders to be represented by counsel and to call  
31 witnesses on their behalf;

32 (e) Permit the recording of such proceedings; and

33 (f) After a reasonable period for deliberation, require a final deter-  
34 mination to be made and conveyed in writing to the charter holders.

35 (9) An authorized chartering entity shall renew any charter in which  
36 the public charter school met all of the terms of its performance certificate  
37 at the time of renewal. An authorized chartering entity may renew or nonre-  
38 new any charter in which the public charter school failed to meet one (1) or  
39 more of the terms of its performance certificate.

40 SECTION 8. An emergency existing therefor, which emergency is hereby  
41 declared to exist, this act shall be in full force and effect on and after its  
42 passage and approval.