

IN THE SENATE

SENATE BILL NO. 1085

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION AND PUBLIC CHARTER SCHOOLS; TO PROVIDE  
 2 LEGISLATIVE INTENT; AMENDING SECTION 33-5203, IDAHO CODE, TO  
 3 PROVIDE FOR A TEMPORARY MORATORIUM ON THE CREATION OF PUBLIC  
 4 CHARTER SCHOOLS; AMENDING SECTION 33-5206, IDAHO CODE, TO  
 5 PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 33-5208,  
 6 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.  
 7

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

9 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to preserve the  
 10 efficacy of traditional public schools in Idaho. The traditional public schools of this state serve  
 11 as the cornerstone for an educated and productive citizenry. In light of the economic crisis  
 12 confronting Idaho and the rest of the United States, the Legislature is determined to ensure, to  
 13 the extent possible, that Idaho's traditional public schools are safeguarded from the effects of  
 14 this economic downturn.

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

17 33-5203. TEMPORARY MORATORIUM – AUTHORIZATION –  
 18 LIMITATIONS. (1) Notwithstanding any other provision of law, from the effective  
 19 date of this act through June 30, 2012, there is hereby imposed a temporary moratorium on the  
 20 creation of public charter schools in this state. The provisions of this subsection shall in no  
 21 way repeal the authorization to operate a public charter school provided for in subsection (3)(g)  
 22 of this section, where such authorization was granted on or before January 1, 2009.

23 (2) The creation of public charter schools is hereby authorized. Public charter schools  
 24 shall be part of the state's program of public education.

25 (23) The number of new public charter schools which may begin educational instruction  
 26 in any one (1) school year shall be limited in number in accordance with the following:

27 (a) Not more than six (6) new public charter schools may begin educational instruction in  
 28 any one (1) school year, and

29 (b) Not more than one (1) new public charter school may begin educational instruction  
 30 that is physically located within any one (1) school district in any one (1) school year, and

31 (c) No whole school district may be converted to a charter district or any configuration  
 32 which includes all schools as public charter schools, and

33 (d) Public virtual charter schools approved by the public charter school commission are  
 34 not included in paragraph (b) of this subsection, and

35 (e) The transfer of a charter for a school already authorized pursuant to section  
 36 33-5205A, Idaho Code, is not included in the limit on the annual number of public charter  
 37 schools approved to begin educational instruction in any given school year as set forth in  
 38 paragraph (a) of this subsection, and

1 (f) A petition must be received by the initial authorized chartering entity no later than  
 2 September 1 to be eligible to begin instruction the first complete school year following  
 3 receipt of the petition, and

4 (g) To begin operations, a newly-chartered public school must be authorized by no later  
 5 than January 1 of the previous school year.

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

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

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

14 (b) To a for-profit entity or any school which is operated by a for-profit entity, provided  
 15 however, nothing herein shall prevent the board of directors of a public charter school  
 16 from legally contracting with for-profit entities for the provision of products or services  
 17 that aid in the operation of the school.

18 (c) By the board of trustees of a school district if the public charter school's physical  
 19 location is outside the boundaries of the authorizing school district. The limitation  
 20 provided in this subsection ~~(4)~~(c) does not apply to a home-based public virtual school.

21 ~~(56)~~ A public virtual school charter may be approved by the public charter school  
 22 commission. In addition, a charter may also be approved by the state board of education  
 23 pursuant to section 33-5207(5)(b), Idaho Code.

24 ~~(67)~~ The state board of education shall adopt rules, subject to law, to establish a  
 25 consistent application and review process for the approval and maintenance of all public charter  
 26 schools.

27 ~~(78)~~ The state board of education shall be responsible to designate those public charter  
 28 schools that will be identified as a local education agency (LEA) as such term is defined in 34  
 29 CFR 300.18; however, only public charter schools chartered by the board of trustees of a school  
 30 district may be included in that district's LEA.

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

33 33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A  
 34 PUBLIC CHARTER SCHOOL. (1) In addition to any other requirements imposed in this  
 35 chapter, a public charter school shall be nonsectarian in its programs, affiliations, admission  
 36 policies, employment practices, and all other operations, shall not charge tuition, levy taxes  
 37 or issue bonds, and shall not discriminate against any student on any basis prohibited by the  
 38 federal or state constitutions or any federal, state or local law. Admission to a public charter  
 39 school shall not be determined according to the place of residence of the student, or of the  
 40 student's parent or guardian within the district, except that a new or conversion public charter  
 41 school established under the provisions of this chapter shall adopt and maintain a policy giving  
 42 admission preference to students who reside within the attendance area of that public charter  
 43 school. The attendance area of a charter school, as described in the petition, shall be composed  
 44 of compact and contiguous area. For the purposes of this section, if services are available to  
 45 students throughout the state, the state of Idaho is considered a compact and contiguous area.

1 (2) No board of trustees shall require any employee of the school district to be  
2 involuntarily assigned to work in a public charter school.

3 (3) Certified teachers in a public charter school shall be considered public school  
4 teachers. Educational experience shall accrue for service in a public charter school and such  
5 experience shall be counted by any school district for any teacher who has been employed in a  
6 public charter school.

7 (4) Employment of charter school teachers and administrators shall be on written contract  
8 in form as approved by the state superintendent of public instruction, conditioned upon a valid  
9 certificate being held by such professional personnel at the time of entering upon the duties  
10 thereunder.

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

13 (6) Upon approval of the petition by the authorized chartering entity, the petitioner shall  
14 provide written notice of that approval, including a copy of the approved petition, to the state  
15 board of education. For the purpose of implementing the provisions of section 33-5203(~~2~~3),  
16 Idaho Code, the state board of education shall assign a number to each petition it receives.  
17 Petitions shall be numbered based on the chronological order in which notice of the approved  
18 petition is received by the state board of education.

19 (7) Each public charter school shall annually submit a report to the authorized chartering  
20 entity which approved its charter. The report shall contain the audit of the fiscal and  
21 programmatic operations as required in section 33-5205(3)(k), Idaho Code, a report on student  
22 progress based on the public charter school's student educational standards identified in section  
23 33-5205(3)(b), Idaho Code, and a copy of the public charter school's accreditation report.

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

28 SECTION 4. That Section 33-5208, Idaho Code, be, and the same is hereby amended to  
29 read as follows:

30 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided  
31 in subsection (8) of this section, from the state educational support program the state  
32 department of education shall make the following apportionment to each public charter school  
33 for each fiscal year based on attendance figures submitted in a manner and time as required by  
34 the department of education:

35 (1) Per student support. Computation of support units for each public charter school  
36 shall be calculated as if it were a separate school according to the schedules in section  
37 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred  
38 (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not  
39 apply, and no public charter school shall receive an increase in support units that exceeds the  
40 support units it received in the prior year by more than thirty (30). Funding from the state  
41 educational support program shall be equal to the total distribution factor, plus the salary-based  
42 apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public  
43 charter school that is formed by the conversion of an existing traditional public school shall be  
44 assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors

1 of the school district in which the traditional public school is located, for each category of  
2 pupils listed.

3 (2) Special education. For each student enrolled in the public charter school who is  
4 entitled to special education services, the state and federal funds from the exceptional child  
5 education program for that student that would have been apportioned for that student to the  
6 school district in which the public charter school is located.

7 (3) Alternative school support. Public charter schools may qualify under the provisions  
8 of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the  
9 necessary statutory requirements, and students qualify for attendance at an alternative school as  
10 provided by rule of the state board of education.

11 (4) Transportation support. Support shall be paid to the public charter school as provided  
12 in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter  
13 school shall furnish the department with an enrollment count as of the first Friday in November,  
14 of public charter school students living more than one and one-half (1 1/2) miles from the  
15 school. For charter schools in the initial year of operation, the petition shall include a proposal  
16 for transportation services with an estimated first year cost. The state department of education  
17 is authorized to include in the annual appropriation to the charter school eighty percent (80%)  
18 of the estimated transportation cost. The final appropriation payment in July shall reflect  
19 eighty-five percent (85%) of the actual cost.

20 (5) Payment schedule. The state department of education is authorized to make an  
21 advance payment of twenty-five percent (25%) of a public charter school's estimated annual  
22 apportionment for its first year of operation, and each year thereafter, provided the public  
23 charter school has an increase of student population in any given year of twenty (20) students  
24 or more, to assist the school with initial start-up costs or payroll obligations.

25 (a) For a state public charter school to receive the advance payment, the school shall  
26 submit its anticipated fall membership for each grade level to the state department of  
27 education by June 1.

28 (b) Using the figures provided by the public charter school, the state department of  
29 education shall determine an estimated annual apportionment from which the amount of  
30 the advance payment shall be calculated. Advance payment shall be made to the school  
31 on or after July 1 but no later than July 31.

32 (c) All subsequent payments, taking into account the one-time advance payment made for  
33 the first year of operation, shall be made to the public charter school in the same manner  
34 as other traditional public schools in accordance with the provisions of section 33-1009,  
35 Idaho Code.

36 A public charter school shall comply with all applicable fiscal requirements of law, except that  
37 the following provisions shall not be applicable to public charter schools: section 33-1003B,  
38 Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho  
39 Code, relating to reduction of the administrative and instructional staff allowance when there  
40 is a discrepancy between the number allowed and the number actually employed; and section  
41 33-1004E, Idaho Code, for calculation of district staff indices.

42 (6) Nothing in this chapter shall be construed to prohibit any private person or  
43 organization from providing funding or other financial assistance to the establishment or  
44 operation of a public charter school.

45 (7) Nothing in this chapter shall prevent a public charter school from applying for federal  
46 grant moneys.

1 (8) (a) For the period July 1, 2003, through June 30, 2005, all public virtual schools  
2 shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher  
3 than the median divisor shown for each respective category of pupils, among the possible  
4 divisors listed, for each respective category of pupils that contains more than one (1)  
5 divisor. If there is an even number of possible divisors listed for a particular category of  
6 pupils, then the lesser of the two (2) median divisors shall be used. For the period July  
7 1, 2005, through June 30, 2007, all public virtual schools shall be assigned divisors,  
8 pursuant to section 33-1002, Idaho Code, that are no higher than the second highest  
9 divisor shown, among the possible divisors listed, for each respective category of pupils  
10 that contains more than one (1) divisor. The divisor provisions contained herein shall  
11 only be applicable to the number of pupils in average daily attendance in such public  
12 virtual schools for the period July 1, 2003, through June 30, 2004. If the number of  
13 pupils in average daily attendance in any particular category of pupils increases, during  
14 the period July 1, 2004, through June 30, 2005, to a number above that which existed  
15 in the prior fiscal year, then those additional pupils in average daily attendance shall be  
16 assigned the divisor, pursuant to section 33-1002, Idaho Code, that would have otherwise  
17 been assigned to the school district or public charter school had this section not been in  
18 force.

19 (b) Each student in attendance at a public virtual school shall be funded based upon  
20 either the actual hours of attendance in the public virtual school on a flexible schedule, or  
21 the percentage of coursework completed, whichever is more advantageous to the school,  
22 up to the maximum of one (1) full-time equivalent student.

23 (c) All federal educational funds shall be administered and distributed to public charter  
24 schools, including public virtual schools, that have been designated by the state board of  
25 education as a local education agency (LEA), as provided in section 33-5203(~~78~~), Idaho  
26 Code.

27 (9) Nothing in this section prohibits separate face-to-face learning activities or services.