

IN THE SENATE

SENATE BILL NO. 1106

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-1002G, IDAHO CODE,
2 TO PROVIDE THAT PUBLIC CHARTER SCHOOLS MAY BE ELIGIBLE FOR CERTAIN
3 FUNDING; AMENDING SECTION 33-2202, IDAHO CODE, TO REVISE PROVISIONS
4 REGARDING POWERS AND DUTIES OF THE STATE BOARD FOR CAREER TECHNICAL
5 EDUCATION; AMENDING SECTION 33-2205, IDAHO CODE, TO REVISE PROVISIONS
6 REGARDING THE DIVISION OF CAREER TECHNICAL EDUCATION; AMENDING SECTION
7 33-5202, IDAHO CODE, TO REVISE PROVISIONS REGARDING LEGISLATIVE INTENT
8 IN RELATION TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202A, IDAHO
9 CODE, TO REVISE DEFINITIONS; AND AMENDING SECTION 33-5208, IDAHO CODE,
10 TO REVISE PROVISIONS REGARDING FINANCIAL SUPPORT FOR PUBLIC CHARTER
11 SCHOOLS.
12

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

14 SECTION 1. That Section 33-1002G, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 33-1002G. CAREER TECHNICAL SCHOOL FUNDING AND ELIGIBILITY. (1)
17 School districts and public charter schools may establish career technical
18 schools that qualify for funding appropriated for the specific purpose of
19 supporting the added cost of career technical schools. These funds will be
20 appropriated to the state board for career technical education, to be ex-
21 pended by the division of career technical education. In order for a school
22 to qualify for funding as a career technical school, it must make application
23 to the division of career technical education on or before the fifteenth
24 of April for the following fiscal year. This includes applicants for new
25 schools and renewal applications. Approved public charter schools with
26 career technical education courses and programs will receive the same added
27 cost unit as any other eligible school and will not be penalized with a re-
28 duced rate for courses and programs that are provided virtually. All career
29 technical schools must meet all three (3) of the following criteria:

30 (a) The school serves students from two (2) or more high schools. No one
31 (1) high school can comprise more than eighty-five percent (85%) of the
32 total enrolled career technical school students. In the event a student
33 enrolled in the career technical school is not enrolled in a public high
34 school, the eighty-five percent (85%) will be calculated based on the
35 public high school attendance area where the student resides. This pro-
36 vision does not exclude a public charter school with a statewide bound-
37 ary from applying for appropriate added cost funds authorized for ca-
38 reer technical education, irrespective of the instructional delivery
39 method.

40 (b) The majority of the school's program offerings lead to some form of
41 postsecondary credit, such as dual credit or other advanced opportuni-

1 ties, as defined by the state board of education, or include apprentice-
2 ship opportunities.

3 (c) All school programs offer at least one (1) supervised field experi-
4 ence for all students.

5 (2) All career technical schools must also meet at least one (1) of the
6 following three (3) requirements:

7 (a) The school is funded separately from schools that qualify for com-
8 putation using regular secondary support units.

9 (b) The school has a separate and distinct governing board.

10 (c) The majority of the school programs are provided at dedicated fa-
11 cilities that are separate from the regular high school facilities.

12 SECTION 2. That Section 33-2202, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 33-2202. STATE BOARD FOR CAREER TECHNICAL EDUCATION -- POWERS AND
15 DUTIES. (1) The state board of education is hereby designated as the state
16 board for career technical education for the purpose of carrying into effect
17 the provisions of the federal act known as the Smith-Hughes act, amendments
18 thereto, and any subsequent acts now or in the future enacted by the congress
19 affecting vocational education, and is hereby authorized to cooperate with
20 the United States office of education, vocational division, or any other
21 agency of the United States designated to administer such legislation, in
22 the administration and enforcement of the provisions of said act, or acts,
23 and to exercise such powers and perform such acts as are necessary to entitle
24 the state of Idaho to receive the benefits of the same, and to execute the
25 laws of the state of Idaho relative to career technical education; to admin-
26 ister the funds provided by the federal government and the state of Idaho
27 under the provisions of this chapter for promotion of education in agricul-
28 tural subjects, trade and industrial subjects, family and consumer science
29 subjects and other subjects authorized by the board. Incident to the other
30 powers and duties of the board for career technical education, the board may
31 hold title to real property.

32 (2) As used in this title, unless otherwise specifically defined, the
33 term "career technical education" means all secondary, postsecondary, and
34 adult courses, programs, training, and services, irrespective of delivery
35 method, administered by the division of career technical education for oc-
36 cupations or careers that require other than a baccalaureate, master's, or
37 doctoral degree. As approved by the board, this term may also apply to spe-
38 specific courses or programs offered in grades 7 and 8 or offered by any approved
39 public charter school that are delivered through traditional or virtual on-
40 line instructional methods.

41 (3) The courses, programs, training, and services include, but are not
42 limited to, career, technical, and applied technology education. They are
43 delivered through the career technical delivery system of public secondary
44 schools, including approved public charter schools, irrespective of the de-
45 livery method, and postsecondary schools and colleges. The division of ca-
46 reer technical education will include approved public charter schools and
47 their students equally and without discrimination in reviewing, authoriz-
48 ing, and funding the delivery of career technical education courses and pro-
49 grams, irrespective of the school's chosen instructional delivery method.

1 SECTION 3. That Section 33-2205, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 33-2205. STATE BOARD TO APPOINT ADMINISTRATOR -- DESIGNATION OF AS-
4 SISTANTS -- DIVISION OF CAREER TECHNICAL EDUCATION -- DUTIES AND POWERS. (1)
5 The state board of education shall appoint a person to serve as an adminis-
6 trator to the state board for career technical education, who shall be known
7 as the administrator of career technical education. The administrator shall
8 designate, by and with the advice and consent of the state board for career
9 technical education, such assistants as may be necessary to properly carry
10 out the provisions of the federal acts and this chapter for the state of
11 Idaho. The administrator and such assistants shall together be known as the
12 division of career technical education.

13 (2) The administrator of career technical education shall also carry
14 into effect such rules as the state board for career technical education may
15 adopt, and shall coordinate all efforts in career technical education ap-
16 proved by the board with the executive secretary, and shall prepare such re-
17 ports concerning the condition of career technical education in the state as
18 the state board for career technical education may require.

19 (3) The division of career technical education shall ~~coordinate with~~
20 ~~the Idaho digital learning academy to provide approved~~ online career techni-
21 cal education courses ~~to any~~ developed by independent curriculum providers
22 including, but not limited to, the Idaho digital learning academy to all
23 Idaho school districts and public charter schools.

24 (4) The division of career technical education may provide incentives
25 to Idaho public colleges and universities offering career technical pro-
26 grams that, in coordination with the division, align their foundational
27 courses that are required in the same or substantially similar programs of
28 study so as to achieve uniformity and transferability in the core program
29 requirements at all such public colleges and universities. Postsecondary
30 credits earned by a student in a career technical education program shall
31 transfer at the full credit value to any public Idaho college or university
32 in a like program of study and such postsecondary credits will be treated by
33 any such public college or university as satisfying specific course require-
34 ments in such program of study.

35 (5) The state board of education may promulgate rules to implement the
36 provisions of this section.

37 SECTION 4. That Section 33-5202, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 33-5202. LEGISLATIVE INTENT. It is the intent of the legislature to
40 provide opportunities for teachers, parents, students, and community mem-
41 bers to establish and maintain public charter schools ~~which that~~ operate
42 independently from the existing traditional school district structure but
43 within the existing public school system ~~as a method~~. In order to accomplish
44 any of the following, public charter schools shall have equal access and
45 authority to participate in all state and federal programs to the same extent
46 as a traditional public school, irrespective of the instructional delivery
47 method:

48 (1) Improve student learning;

- 1 (2) Increase learning opportunities for all students, with special em-
2 phasis on expanded learning experiences for students;
- 3 (3) Include the use of different and innovative teaching methods;
- 4 (4) Utilize virtual distance learning and ~~on-line~~ online learning;
- 5 (5) Create new professional opportunities for teachers, including the
6 opportunity to be responsible for the learning program at the school site;
- 7 (6) Provide parents and students with expanded choices in the types of
8 educational opportunities that are available within the public school sys-
9 tem;
- 10 (7) Hold the schools established under this chapter accountable for
11 meeting measurable student educational standards.

12 SECTION 5. That Section 33-5202A, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-
15 quires otherwise:

- 16 (1) "Authorized chartering entity" means any of the following:
- 17 (a) A local board of trustees of a school district in this state;
- 18 (b) The public charter school commission created pursuant to the provi-
19 sions of this chapter;
- 20 (c) An Idaho public college, university or community college;
- 21 (d) A private, nonprofit, Idaho-based, nonsectarian college or univer-
22 sity that is accredited by the same organization that accredits Idaho
23 public colleges and universities.
- 24 (2) "Charter" means the grant of authority approved by the authorized
25 chartering entity to the board of directors of the public charter school.
- 26 (3) "Charter holder" means the public charter school's board of direc-
27 tors to which a charter is granted pursuant to chapter 52, title 33, Idaho
28 Code.
- 29 (4) "Educational services provider" means a nonprofit or for-profit
30 entity that contracts with a public charter school to provide educational
31 services and resources including administrative support and educational
32 design, implementation or management.
- 33 (5) "Founder" means a person, including employees or staff of a pub-
34 lic charter school, who makes a material contribution toward the establish-
35 ment of a public charter school in accordance with criteria determined by
36 the board of directors of the public charter school, and who is designated
37 as such at the time the board of directors acknowledges and accepts such con-
38 tribution. The criteria for determining when a person is a founder shall not
39 discriminate against any person on any basis prohibited by the federal or
40 state constitutions or any federal, state or local law. The designation of a
41 person as a founder, and the admission preferences available to the children
42 of a founder, shall not constitute pecuniary benefits.
- 43 (6) "Performance certificate" means a fixed-term, renewable certifi-
44 cate between a public charter school and an authorized chartering entity
45 that outlines the roles, powers, responsibilities and performance expecta-
46 tions for each party to the certificate.
- 47 (7) "Petition" means the document submitted by a person or persons to
48 the authorized chartering entity to request the creation of a public charter
49 school.

1 (8) "Career technical regional public charter school" means a public
 2 charter secondary school authorized under this chapter to provide programs
 3 in career technical education ~~which~~ that meet the standards and qualifica-
 4 tions established by the division of career technical education. A career
 5 technical regional public charter school may be approved by an authorized
 6 chartering entity and, by the terms of its charter, shall operate in associa-
 7 tion with at least two (2) school districts. This provision does not exclude
 8 a public charter school with a statewide boundary from applying for added
 9 cost funds authorized for career technical education, irrespective of the
 10 instructional delivery method. Participating school districts need not be
 11 contiguous.

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

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

19 (11) "Virtual school" means either a public charter school or a
 20 traditional public school that delivers a full-time, sequential program of
 21 synchronous and/or asynchronous instruction primarily through the use of
 22 technology via the internet in a distributed environment. Schools classi-
 23 fied as virtual must have an online component to their school with online
 24 lessons and tools for student and data management.

25 SECTION 6. That Section 33-5208, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided
 28 in subsection (10) of this section, from the state educational support pro-
 29 gram the state department of education shall make the following apportion-
 30 ment to each public charter school for each fiscal year based on attendance
 31 figures submitted in a manner and time as required by the department of edu-
 32 cation:

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

47 (2) Special education. For each student enrolled in the public charter
 48 school who is entitled to special education services, the state and federal
 49 funds from the exceptional child education program for that student that

1 would have been apportioned for that student to the school district in which
2 the public charter school is located.

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

8 (4) Transportation support. Support shall be paid to the public char-
9 ter school as provided in chapter 15, title 33, Idaho Code, and section
10 33-1006, Idaho Code. Each public charter school shall furnish the depart-
11 ment with an enrollment count as of the first Friday in November, of public
12 charter school students who are eligible for reimbursement of transporta-
13 tion costs under the provisions of this subsection and who reside more than
14 one and one-half (1 1/2) miles from the school. The state department of edu-
15 cation is authorized to include in the annual appropriation to the charter
16 school sixty percent (60%) of the estimated transportation cost. The final
17 appropriation payment in July shall reflect reimbursements of actual costs
18 pursuant to section 33-1006, Idaho Code. To be eligible for state reimburse-
19 ment under the provisions of section 33-1006, Idaho Code, the student to be
20 transported must reside within the public charter school's primary atten-
21 dance area, and must meet at least one (1) of the following two (2) criteria:

22 (a) The student resides within the school district in which the public
23 charter school is physically located; or

24 (b) The student resides within fifteen (15) miles of the public charter
25 school, by road.

26 The limitations placed by this subsection on the reimbursement of trans-
27 portation costs for certain students shall not apply to public virtual
28 schools.

29 (5) Facilities funds. The state department of education shall distrib-
30 ute facilities funds to public charter schools for each enrolled student in
31 which a majority of the student's instruction is received at a facility that
32 is owned or leased by the public charter school. Such funds shall be used to
33 defray the purchase, fee, loan or lease costs associated with payments for
34 real property used by the students or employees of the public charter school
35 for educational or administrative purposes. Such funds shall be distributed
36 from the moneys appropriated to the educational support program, and shall
37 be calculated as a percentage of the statewide average amount of bond and
38 plant facility funds levied per student by Idaho school districts, as fol-
39 lows:

40 Fiscal Year 2014 Twenty Percent (20%)

41 Fiscal Year 2015 Thirty Percent (30%)

42 For fiscal year 2016 and each fiscal year thereafter, this percentage
43 shall increase by ten percent (10%) each time the total appropriation of
44 state funds for the educational support program increases by three percent
45 (3%) or more over the prior fiscal year, and shall decrease by ten percent
46 (10%) each time the total appropriation of state funds for the educational
47 support program decreases as compared to the prior fiscal year. Provided
48 however, that the percentage shall be no less than twenty percent (20%) and
49 no greater than fifty percent (50%), and that the average amount of funding

1 received per public charter school shall not exceed the average amount of
2 funding received by each school district pursuant to the provisions of sec-
3 tion 33-906, Idaho Code.

4 For those public charter schools that do not receive facilities funds
5 for all enrolled students, the school may submit to the state department of
6 education a reimbursement claim for any costs for which facilities funds may
7 be used. The state department of education shall reduce such claim by the
8 greater of fifty percent (50%) or the percentage of the school's enrolled
9 students for which the school receives facilities funds, and shall pay the
10 balance. Provided however, that the total reimbursements paid to a public
11 charter school, in combination with any facilities stipend received by the
12 school, shall not exceed the amount of facilities funds that would have been
13 received by the school had the school received facilities funds for all en-
14 rolled students. For the purposes of this subsection, the term "real prop-
15 erty" shall be used as defined in section 63-201, Idaho Code.

16 (6) Payment schedule. The state department of education is authorized
17 to make an advance payment of twenty-five percent (25%) of a public charter
18 school's estimated annual apportionment for its first year of operation,
19 and each year thereafter, provided the public charter school is serving more
20 grades or at least ten percent (10%) more classes than the previous year, to
21 assist the school with initial start-up costs or payroll obligations. For a
22 public charter school entering its second or greater year of operations, the
23 state department of education may require documentation establishing the
24 need for such an advance payment, including comparative class schedules and
25 proof of a commensurate increase in the number of employees.

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

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

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

39 A public charter school shall comply with all applicable fiscal requirements
40 of law, except that the following provisions shall not be applicable to pub-
41 lic charter schools: that portion of section 33-1004, Idaho Code, relating
42 to reduction of the administrative and instructional staff allowance and the
43 pupil service staff allowance when there is a discrepancy between the number
44 allowed and the number actually employed; and section 33-1004E, Idaho Code,
45 for calculation of district staff indices.

46 (7) Nothing in this chapter shall be construed to prohibit any private
47 person or organization from providing funding or other financial assistance
48 to the establishment or operation of a public charter school.

49 (8) Each public charter school shall pay an authorizer fee to its autho-
50 rized chartering entity, to defray the actual documented cost of monitoring,

1 evaluation and oversight, which, in the case of public charter schools
2 authorized by the public charter school commission, shall include each
3 school's proportional fee share of moneys appropriated from the public char-
4 ter school authorizers fund to the public charter school commission, plus
5 fifteen percent (15%). Provided however, that each public charter school's
6 board of directors may direct up to ten percent (10%) of the calculated fee
7 to pay membership fees to an organization or association that provides tech-
8 nical assistance, training and advocacy for Idaho public charter schools.
9 Unless the authorized chartering entity declines payment, such fee shall be
10 paid by March 15 of each fiscal year and shall not exceed the greater of:

11 (a) All state funds distributed to public schools on a support unit ba-
12 sis for the prior fiscal year, divided by the statewide number of public
13 school students in average daily attendance in the first reporting pe-
14 riod in the prior fiscal year; or

15 (b) The lesser of:

16 (i) The result of the calculation in ~~subsection (8) paragraph (a)~~ paragraph (a)
17 of this subsection, multiplied by four (4); or

18 (ii) One and one-half percent (1.5%) of the result of the calcu-
19 lation in ~~subsection (8) paragraph (a)~~ paragraph (a) of this subsection, multi-
20 plied by the public charter school's average daily attendance in
21 the first reporting period in the current fiscal year.

22 (9) Nothing in this chapter shall prevent a public charter school from
23 applying for federal grant moneys or for career technical education funding
24 of any source for any reason including, but not limited to, the instructional
25 delivery method.

26 (10) (a) Each student in attendance at a public virtual school shall be
27 funded based upon either the actual hours of attendance in the public
28 virtual school on a flexible schedule, or the percentage of coursework
29 completed, whichever is more advantageous to the school, up to the maxi-
30 mum of one (1) full-time equivalent student.

31 (b) All federal educational funds shall be administered and dis-
32 tributed to public charter schools, including public virtual schools,
33 that have been designated as a local education agency (LEA), as provided
34 in section 33-5203(8), Idaho Code.

35 (11) Nothing in this section prohibits separate face-to-face learning
36 activities or services. Virtual schools shall not be required to provide
37 face-to-face instruction.

38 (12) The provisions of section 33-1021, Idaho Code, shall apply to pub-
39 lic charter schools provided for in this chapter.