LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature                              First Regular Session - 2019

IN THE SENATE

SENATE BILL NO. 1180

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING CHAPTER 52, TITLE 33, IDAHO
CODE, BY THE ADDITION OF A NEW SECTION 33-5218, IDAHO CODE, TO ESTABLISH
PROVISIONS REGARDING A PUBLIC CHARTER SCHOOL FACILITIES PROGRAM.

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

SECTION 1. That Chapter 52, Title 33, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 33-5218, Idaho Code, and to read as follows:

33-5218. PUBLIC CHARTER SCHOOL FACILITIES PROGRAM. (1) Legislative
intent. It is the intent of the legislature, in recognition that providing
Idaho students with a thorough education is an essential public purpose of
the state, to support public charter schools by providing a mechanism to
obtain favorable financing on bonds so that less money is obligated toward
interest payments and more money remains in public charter schools for the
benefit of Idaho's students. There is hereby created the public charter
school facilities program to assist qualifying charter schools in obtaining
favorable financing on bonds for facility improvements and construction.
(2) Eligibility. A public charter school seeking to use the public
charter school facilities program must receive approval from the Idaho
housing and finance association pursuant to requirements for issuance of
nonprofit facility bonds and to satisfaction of the criteria set forth in
this section. To qualify, a public charter school must submit the following
documentation to the Idaho housing and finance association:
(a) A letter of commitment from one (1) of the following:
   (i) A national or state chartered financial institution;
   (ii) A community development financial institution; or
   (iii) A qualified underwriter or an investment firm;
(b) Evidence that the public charter school has been in academic, op-
erational, and financial good standing according to its authorizer for
each of the previous three (3) years;
(c) Annual budgets and cash flow statements projecting that the cost
to operate the proposed facility, including future debt service, future
occupancy cost, and facility operating expenses, will not exceed twenty
percent (20%) of ongoing revenues;
(d) Evidence that the school has operating reserves greater than sixty
(60) days of cash on hand and a debt service coverage ratio equal to or
greater than one and two-tenths (1.2);
(e) An audit opinion or opinions demonstrating:
   (i) An unqualified audit opinion, or a qualified opinion quali-
fied only on the basis of not reporting the actuarial value of the
PERSI sick leave plan pursuant to statement no. 45 of the govern-
mental accounting standards board;
(ii) An audit devoid of significant findings and conditions, material weakness, or significant internal control weakness; and
(iii) An audit that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report for three (3) consecutive years;

(f) Certification from a public charter school's board chair or treasurer that projected future budgets and cash flows are based on reasonable assumptions related to level or increasing projected enrollment or waitlist and projected total income, including any matching funds and donations contingent on receipt of a loan under this section;

(g) Evidence of strong academic results, including above state average growth or proficiency on the Idaho standards achievement test; and

(h) Any additional information requested by the Idaho housing and finance association.

(3) Approval to participate. Upon receipt of documentation satisfying the criteria set forth in subsection (2) of this section, the Idaho housing and finance association shall notify the public charter school and the state treasurer that the school has been approved to participate in the public charter school facilities program if:

(a) The public charter school complies with the requirements set forth in subsection (4) of this section; and

(b) The public charter school’s participation would not cause a violation of the limitations set forth in subsection (8) of this section.

Additional requirements and security interests may be imposed by agreement of the school and bondholder or trustee.

(4) Restricted debt service reserve account.

(a) A school participating in the public charter school facilities program shall agree to have deposited a minimum of twelve (12) months' payment on principal and interest in a restricted debt service reserve account established and held by the bondholder or trustee.

(b) Except as provided in paragraph (c) of this subsection, money in a participating public charter school’s restricted debt service reserve account may not be withdrawn if the amount withdrawn would reduce the level of money in the account to less than twelve (12) months' payment on principal and interest.

(c) As long as applicable bonds issued under the facilities program remain outstanding, money in a restricted debt service reserve account may be withdrawn in an amount that would reduce the level to less than twelve (12) months' payment on principal and interest, if the money is withdrawn for the purpose of:

(i) Paying the principal, redemption price, or interest on a bond when due if the state payments intercepted pursuant to subsection (5) of this section, plus funded grants and other revenues pledged by the participating public charter school for payment of the bond, are insufficient to make the payment; or

(ii) Paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding.

(5) Intercept. As a requirement to participate in the public charter school facilities program, a participating public charter school shall pro-
vide a directive to the Idaho department of education that all payments to
the school pursuant to the state educational support program shall be paid
directly to the bond trustee to set aside funds in accordance with the bond
indenture. All remaining funds shall be forwarded to the public charter
school. The payment directive required in this subsection may not be revoked
or amended.

(6) Public charter school facilities program fund. There is hereby es-
established in the state treasury the public charter school facilities program
fund, which shall consist of moneys made available through appropriations,
fees, grants, gifts, or any other source to fulfill the purposes of this
section. Moneys in the fund are hereby continuously appropriated for the
purposes of this section and shall only be expended for the purposes stated
herein. Any interest earned on the investment of idle moneys in the pub-
lic charter school facilities program fund shall be returned to the public
charter school facilities program fund. Schools participating in the pub-
lic charter school facilities program shall pay a one time fee in an amount
equal to one-half percent (0.5%) of par at the time of issuance and an annual
fee in an amount equal to seventy-five thousandths percent (0.075%) on the
outstanding balance, which shall be deposited in the public charter school
facilities program fund.

(7) Nonpayment.

(a) If a public charter school participating in the public charter
school facilities program has defaulted on its obligation to pay, a draw
on its restricted debt service reserve account shall be made, then the
following shall occur:

(i) The bond trustee shall exercise its remedies under the bond
indenture and loan agreement.
(ii) Within ten (10) days following the withdrawal from the re-
stricted debt service account, the bond holder or trustee shall
notify the Idaho housing and finance association, the state trea-
surer, and the state controller of the shortfall in the school's
restricted debt service reserve account.
(iii) Within fifteen (15) days of the notice provided pursuant to
subsection (ii) of this paragraph, the controller shall trans-
fer, from the public charter school facilities program fund set
forth in subsection (6) of this section, to the public school in-
come fund and then to the school's restricted debt service reserve
account an amount equal to one (1) month's interest on the bonds
based on the interest payments for which the draw on the restricted
debt service reserve account occurred. Moneys transferred to the
public school income fund pursuant to this subparagraph shall be
continuously appropriated for such purposes.
(iv) By December 1 of each year, the treasurer shall submit to
the governor a letter certifying the amount, if any, required to
restore amounts on deposit in the restricted debt service reserve
accounts of participating public charter schools and the public
charter school facilities program fund. The governor shall send
the legislature a statement of the expenditure of moneys from
the public charter school facilities program fund as specified
in section 8, article IV of the Idaho constitution and report the
amount needed to restore funds in the restricted debt service reserve accounts to the amount required in subsection (4)(b) of this section. The legislature may appropriate money to restore amounts on deposit in the restricted debt service reserve account of a defaulting public charter school to the amounts required in subsection (4)(b) of this section or to redeem all outstanding bonds issued for a defaulting public charter school, the source of which may be the public charter school facilities program fund or any other available funds. The legislature may also appropriate money to restore amounts withdrawn from the public charter school facilities program fund.

(b) Repayment. If money has been withdrawn from the public charter school facilities program fund pursuant to paragraph (a) of this subsection, the school shall repay the fund from the school's allocation of facilities funds pursuant to section 33-5208(5), Idaho Code, at a time agreed to by the superintendent of public instruction over a period of years until the amount so withdrawn has been repaid to the public charter school facilities program fund, as long as the repayment does not cause an event of default on a facility lease or loan.

(8) Limitations.

(a) Bonds issued for the benefit of public charter schools using the public charter school facilities program fund pursuant to paragraph (a) of this subsection, but are special obligations payable solely from:

(i) Revenues or other funds pledged by the qualifying public charter school; and

(ii) Amounts appropriated by the legislature pursuant to subsection (7) of this section.

(b) The Idaho housing and finance association may not use the public charter school facilities program when issuing bonds for a public charter school under the facilities program if the total par amount outstanding under the facilities program, plus the par amount of the bonds to be issued, would exceed the percentage of all Idaho public school students attending public charter schools multiplied by the par amount of the bonds guaranteed under the Idaho school bond guaranty act.