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

IN THE SENATE

SENATE BILL NO. 1106

BY EDUCATION COMMITTEE

AN ACT
RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-1002G, IDAHO CODE, TO PROVIDE THAT PUBLIC CHARTER SCHOOLS MAY BE ELIGIBLE FOR CERTAIN FUNDING; AMENDING SECTION 33-2202, IDAHO CODE, TO REVISE PROVISIONS REGARDING POWERS AND DUTIES OF THE STATE BOARD FOR CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2205, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DIVISION OF CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-5202, IDAHO CODE, TO REVISE PROVISIONS REGARDING LEGISLATIVE INTENT IN RELATION TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202A, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING SECTION 33-5208, IDAHO CODE, TO REVISE PROVISIONS REGARDING FINANCIAL SUPPORT FOR PUBLIC CHARTER SCHOOLS.

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

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

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

(a) The school serves students from two (2) or more high schools. No one high school can comprise more than eighty-five percent (85%) of the total enrolled career technical school students. In the event a student enrolled in the career technical school is not enrolled in a public high school, the eighty-five percent (85%) will be calculated based on the public high school attendance area where the student resides. This provision does not exclude a public charter school with a statewide boundary from applying for appropriate added cost funds authorized for career technical education, irrespective of the instructional delivery method.

(b) The majority of the school's program offerings lead to some form of postsecondary credit, such as dual credit or other advanced opportuni-
ties, as defined by the state board of education, or include apprentice-
ship opportunities.
(c) All school programs offer at least one (1) supervised field experi-
ence for all students.
(2) All career technical schools must also meet at least one (1) of the
following three (3) requirements:
(a) The school is funded separately from schools that qualify for com-
putation using regular secondary support units.
(b) The school has a separate and distinct governing board.
(c) The majority of the school programs are provided at dedicated fa-
cilities that are separate from the regular high school facilities.

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

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

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

(3) The courses, programs, training, and services include, but are not
limited to, career, technical, and applied technology education. They are
delivered through the career technical delivery system of public secondary
schools, including approved public charter schools, irrespective of the de-
livery method, and postsecondary schools and colleges. The division of ca-
reer technical education will include approved public charter schools and
their students equally and without discrimination in reviewing, authoriz-
ing, and funding the delivery of career technical education courses and pro-
grams, irrespective of the school's chosen instructional delivery method.
SECTION 3. That Section 33-2205, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The administrator of career technical education shall also carry into effect such rules as the state board for career technical education may adopt, and shall coordinate all efforts in career technical education approved by the board with the executive secretary, and shall prepare such reports concerning the condition of career technical education in the state as the state board for career technical education may require.

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

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

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

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

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

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

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

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:
(1) "Authorized chartering entity" means any of the following:
(a) A local board of trustees of a school district in this state;
(b) The public charter school commission created pursuant to the provisions of this chapter;
(c) An Idaho public college, university or community college;
(d) A private, nonprofit, Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities.
(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.
(3) "Charter holder" means the public charter school's board of directors to which a charter is granted pursuant to chapter 52, title 33, Idaho Code.
(4) "Educational services provider" means a nonprofit or for-profit entity that contracts with a public charter school to provide educational services and resources including administrative support and educational design, implementation or management.
(5) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.
(6) "Performance certificate" means a fixed-term, renewable certificate between a public charter school and an authorized chartering entity that outlines the roles, powers, responsibilities and performance expectations for each party to the certificate.
(7) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.
(8) "Career technical regional public charter school" means a public charter secondary school authorized under this chapter to provide programs in career technical education which meet the standards and qualifications established by the division of career technical education. A career technical regional public charter school may be approved by an authorized chartering entity and, by the terms of its charter, shall operate in association with at least two (2) school districts. This provision does not exclude a public charter school with a statewide boundary from applying for added cost funds authorized for career technical education, irrespective of the instructional delivery method. Participating school districts need not be contiguous.

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

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

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

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

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (10) of this section, from the state educational support program the state department of education shall make the following appropriation to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

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

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

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

(4) Transportation support. Support shall be paid to the public char-
ter school as provided in chapter 15, title 33, Idaho Code, and section
33-1006, Idaho Code. Each public charter school shall furnish the depart-
ment with an enrollment count as of the first Friday in November, of public
charter school students who are eligible for reimbursement of transporta-
tion costs under the provisions of this subsection and who reside more than
one and one-half (1 1/2) miles from the school. The state department of edu-
cation is authorized to include in the annual appropriation to the charter
school sixty percent (60%) of the estimated transportation cost. The final
appropriation payment in July shall reflect reimbursements of actual costs
pursuant to section 33-1006, Idaho Code. To be eligible for state reimburse-
ment under the provisions of section 33-1006, Idaho Code, the student to be
transported must reside within the public charter school's primary atten-
dance area, and must meet at least one (1) of the following two (2) criteria:
   (a) The student resides within the school district in which the public
charter school is physically located; or
   (b) The student resides within fifteen (15) miles of the public charter
school, by road.
The limitations placed by this subsection on the reimbursement of trans-
portation costs for certain students shall not apply to public virtual
schools.

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

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>2014</td>
<td>Twenty Percent (20%)</td>
</tr>
<tr>
<td>2015</td>
<td>Thirty Percent (30%)</td>
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</tbody>
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For fiscal year 2016 and each fiscal year thereafter, this percentage
shall increase by ten percent (10%) each time the total appropriation of
state funds for the educational support program increases by three percent
(3%) or more over the prior fiscal year, and shall decrease by ten percent
(10%) each time the total appropriation of state funds for the educational
support program decreases as compared to the prior fiscal year. Provided
however, that the percentage shall be no less than twenty percent (20%) and
no greater than fifty percent (50%), and that the average amount of funding
received per public charter school shall not exceed the average amount of funding received by each school district pursuant to the provisions of section 33-906, Idaho Code.

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

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

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

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

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

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

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

(8) Each public charter school shall pay an authorizer fee to its authorized chartering entity, to defray the actual documented cost of monitoring,
evaluation and oversight, which, in the case of public charter schools authorized by the public charter school commission, shall include each school's proportional fee share of moneys appropriated from the public charter school authorizers fund to the public charter school commission, plus fifteen percent (15%). Provided however, that each public charter school's board of directors may direct up to ten percent (10%) of the calculated fee to pay membership fees to an organization or association that provides technical assistance, training and advocacy for Idaho public charter schools. Unless the authorized chartering entity declines payment, such fee shall be paid by March 15 of each fiscal year and shall not exceed the greater of:

(a) All state funds distributed to public schools on a support unit basis for the prior fiscal year, divided by the statewide number of public school students in average daily attendance in the first reporting period in the prior fiscal year; or

(b) The lesser of:

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

(ii) One and one-half percent (1.5%) of the result of the calculation in subsection (8) paragraph (a) of this subsection, multiplied by the public charter school's average daily attendance in the first reporting period in the current fiscal year.

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

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

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

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

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