

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 745

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-5207, IDAHO CODE, AS ADDED BY
2 SECTION 23 OF HOUSE BILL NO. 422, AS ENACTED BY THE SECOND REGULAR SES-
3 SION OF THE SIXTY-SEVENTH IDAHO LEGISLATURE, TO REVISE A PROVISION RE-
4 GARDING THE DISTRIBUTION OF FACILITIES FUNDS TO PUBLIC CHARTER SCHOOLS;
5 AMENDING SECTION 33-5209A, IDAHO CODE, AS ADDED BY SECTION 26 OF HOUSE
6 BILL NO. 422, AS ENACTED BY THE SECOND REGULAR SESSION OF THE SIXTY-SEV-
7 ENTH IDAHO LEGISLATURE, TO REMOVE A PROVISION REGARDING PROVISIONAL
8 RENEWAL; AND DECLARING AN EMERGENCY.
9

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

11 SECTION 1. That Section 33-5207, Idaho Code, as added by Section 23 of
12 House Bill No. 422, as enacted by the Second Regular Session of the Sixty-
13 seventh Idaho Legislature, be, and the same is hereby amended to read as fol-
14 lows:

15 33-5207. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. (1) Except as oth-
16 erwise provided for in this section, the state department of education shall
17 make the following apportionment to each charter school for each fiscal year
18 based on attendance figures submitted in a manner and time as required by the
19 state department of education.

20 (2) Per student support. Computation of support units for each public
21 charter school shall be calculated as if it were a separate school accord-
22 ing to the schedules in section 33-1002(4), Idaho Code, except that public
23 charter schools with fewer than one hundred (100) secondary ADA shall use a
24 divisor of twelve (12) and the minimum units shall not apply. No public char-
25 ter school shall receive an increase in support units that exceeds the sup-
26 port units it received in the prior year by more than forty (40), except in
27 cases of state declared emergencies that have been approved by the autho-
28 rizer as having an impact on public education. Funding from the state educa-
29 tional support program shall be equal to the total distribution factor, plus
30 the salary-based apportionment provided in chapter 10, title 33, Idaho Code.
31 Provided, however, any public charter school that is formed by the conver-
32 sion of an existing traditional public school shall be assigned divisors,
33 pursuant to section 33-1002, Idaho Code, that are no lower than the divisors
34 of the school district in which the traditional public school is located, for
35 each category of pupils listed.

36 (3) Special education. For each student enrolled in the public char-
37 ter school who is entitled to special education services, the public charter
38 school shall receive the state and federal funds from the exceptional child
39 education program for that student that would have been apportioned to the
40 school district in which the public charter school is located.

41 (4) Alternative school support. Public charter schools may qualify
42 under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided

1 the public charter school meets the necessary statutory requirements and
2 students qualify for attendance at an alternative school as provided by rule
3 of the state board of education.

4 (5) Transportation support. Support shall be paid to the public char-
5 ter school as provided in chapter 15, title 33, Idaho Code, and section
6 33-1006, Idaho Code. Each public charter school shall furnish the depart-
7 ment with an enrollment count as of the first Friday in November of public
8 charter school students who are eligible for reimbursement of transporta-
9 tion costs under the provisions of this subsection and who reside more than
10 one and one-half (1 1/2) miles from the school. The state department of edu-
11 cation is authorized to include in the annual appropriation to the charter
12 school sixty percent (60%) of the estimated transportation cost. The final
13 appropriation payment in July shall reflect reimbursements of actual costs
14 pursuant to section 33-1006, Idaho Code. To be eligible for state reimburse-
15 ment under the provisions of section 33-1006, Idaho Code, the student to be
16 transported must reside within the public charter school's primary atten-
17 dance area and must meet at least one (1) of the following criteria:

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

20 (b) The student resides within fifteen (15) miles by road of the public
21 charter school. The limitations placed by this subsection on the reim-
22 bursement of transportation costs for certain students shall not apply
23 to public virtual schools.

24 (6) Facilities funds.

25 (a) The state department of education shall distribute facilities
26 funds to public charter schools for each enrolled student in which a ma-
27 jority of the student's instruction is received at a physical facility
28 that is owned or leased by the public charter school. Such funds shall
29 be used to defray the costs associated with payments for real property
30 used by the students or employees of the public charter school for ed-
31 ucational or administrative purposes. Such funds shall be distributed
32 ~~from the moneys appropriated to the educational support program and~~
33 ~~shall be calculated as fifty percent (50%) of the statewide average~~
34 ~~amount of bond and plant facility funds levied per student by Idaho~~
35 ~~school districts at four hundred dollars (\$400) per attending student~~
36 ~~pursuant to section 33-1003A, Idaho Code. For the purposes of this~~
37 ~~paragraph, beginning in state fiscal year 2025, "attending student"~~
38 ~~means each student in average daily attendance in kindergarten through~~
39 ~~grade 12 at such physical charter school facilities where the student is~~
40 ~~enrolled; except that, upon formal approval by the state board of educa-~~
41 ~~tion, a charter school may receive an exemption to the physical facility~~
42 ~~requirement pursuant to the provisions of this paragraph if the student~~
43 ~~would have attended a physical facility if not for a stated emergency.~~

44 (b) For those public charter schools that do not receive facilities
45 funds for all enrolled students, the school may submit to the state de-
46 partment of education a reimbursement claim for any costs for which fa-
47 cilities funds may be used. The state department of education shall re-
48 duce such claim by the greater of fifty percent (50%) or the percentage
49 of the school's enrolled students for which the school receives facili-
50 ties funds and shall pay the balance. Provided, however, that the total

1 reimbursements paid to a public charter school, in combination with any
2 facilities stipend received by the school, shall not exceed the amount
3 of facilities funds that would have been received by the school had the
4 school received facilities funds for all enrolled students in average
5 daily attendance pursuant to section 33-1003A, Idaho Code. For the
6 purposes of this subsection, the term "real property" shall be used as
7 defined in section 63-201, Idaho Code. A virtual public charter school
8 authorized by the public charter school commission or authorized by a
9 public school district on or after March 1, 2024, shall not be eligible
10 for funds appropriated pursuant to the provisions of this subsection.

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

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

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

29 (c) All subsequent payments, taking into account the onetime advance
30 payment made for the first year of operation, shall be made to the public
31 charter school in the same manner as other traditional public schools in
32 accordance with the provisions of section 33-1009, Idaho Code. A public
33 charter school shall comply with all applicable fiscal requirements of
34 law, except that the following provisions shall not be applicable to
35 public charter schools: that portion of section 33-1004, Idaho Code,
36 relating to reduction of the administrative and instructional staff
37 allowance and the pupil service staff allowance when there is a dis-
38 crepancy between the number allowed and the number actually employed;
39 and section 33-1004E, Idaho Code, for calculation of district staff
40 indices.

41 (8) If an authorizer has reason to believe that a public charter school
42 cannot remain fiscally sound for the remainder of its certificate term, it
43 shall provide the state department of education with written notification of
44 such concern. Upon receiving such notification, the state department of ed-
45 ucation shall have the authority to modify the percentage of the total appro-
46 priation to be paid to the public charter school pursuant to the provisions
47 of section 33-1009 1., Idaho Code, such that equal percentages are paid on
48 each of the prescribed dates.

49 (9) Each public charter school shall pay an authorizer fee to its au-
50 thorizer, not to initially exceed twenty thousand dollars (\$20,000), or, in

1 the case of existing charter schools, up to a five-percent (5%) increase of
2 the previous year's fee. Authorizers shall annually set the authorizer's
3 fee and in doing so shall document the fees to actual expenditures associated
4 with authorizing.

5 (10) Nothing in this chapter shall prevent a public charter school from:

6 (a) Applying for federal grant moneys or for career technical education
7 funding of any source; or

8 (b) Receiving funding or other financial assistance for the establish-
9 ment or operation of a public charter school from any private person or
10 organization.

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

16 (12) All federal educational funds shall be administered and dis-
17 tributed to public charter schools, including public virtual schools, that
18 have been designated as a local education agency (LEA), as provided in sec-
19 tion 33-5203, Idaho Code.

20 (13) Nothing in this section prohibits separate face-to-face learning
21 activities or services. In order to be eligible for career technical educa-
22 tion essential components funding, virtual schools may be required to offer
23 some face-to-face instruction in order to meet industry standards, licens-
24 ing requirements, work-based learning requirements, or other requirements
25 set forth by law.

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

28 SECTION 2. That Section 33-5209A, Idaho Code, as added by Section 26 of
29 House Bill No. 422, as enacted by the Second Regular Session of the Sixty-
30 seventh Idaho Legislature, be, and the same is hereby amended to read as fol-
31 lows:

32 33-5209A. CHARTER RENEWALS. (1) A charter may be renewed for succes-
33 sive terms. An authorizer may grant renewal with specific written condi-
34 tions for necessary improvements to a public charter school and a date by
35 which the conditions must be met.

36 (2) No later than September 1, the authorizer shall issue a public char-
37 ter school performance report and charter renewal application guidance to
38 any charter holder with a public charter school whose charter will expire the
39 following year. The performance report shall summarize the public charter
40 school's performance record to date, based on the performance certificate,
41 and shall provide notice of any weaknesses or concerns that may jeopardize
42 renewal, if not timely rectified. The charter holder shall have thirty (30)
43 days to respond to the performance report and submit any corrections or clar-
44 ifications for the report.

45 (3) The renewal application guidance shall, at a minimum, provide an
46 opportunity for the charter holder to:

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

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

1 (4) The renewal application guidance shall include or refer explicitly
2 to the criteria that will guide the authorizer's renewal decisions, which
3 shall be based on independent fiscal audits and the performance framework
4 set forth in the performance certificate.

5 (5) No later than December 15, the charter holder seeking renewal shall
6 submit a renewal application to the authorizer pursuant to the renewal ap-
7 plication guidance issued by the authorizer. The authorizer shall vote on
8 the renewal application no later than March 15; if the authorizer does not
9 vote by March 15, the application shall be deemed approved.

10 (6) In making charter renewal decisions, every authorizer shall:

11 (a) Ground its decisions in evidence of the school's performance over
12 the term of the performance certificate;

13 (b) Ensure that data used in making renewal decisions are available to
14 the school and the public;

15 (c) Take into consideration the actual and potential at-risk and
16 economically disadvantaged makeup of the student body population as
17 defined in section 33-1001, Idaho Code, for all grade levels;

18 (d) Provide a public report summarizing the evidence basis for each de-
19 cision.

20 (7) An authorizer shall renew any charter in which the public charter
21 school met all of the terms of its performance certificate at the time of re-
22 newal for a term of twelve (12) years or, in the case of a pilot charter, a
23 renewal term of six (6) years. An authorizer may renew for a six (6) year term
24 or choose not to renew any charter in which the public charter school failed
25 to meet one (1) or more of the terms of its performance certificate.

26 ~~(8) If an authorizer takes no action on a renewal, the charter shall be~~
27 ~~provisionally renewed until such time as the chartering entity takes action.~~

28 ~~(9)~~ (8) A decision not to renew a charter or to deny a revision of a char-
29 ter may be appealed to the office of administrative hearings and is subject
30 to judicial review as a contested case as set forth in chapter 52, title 67,
31 Idaho Code.

32 SECTION 3. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after its
34 passage and approval.