

IN THE SENATE

SENATE BILL NO. 1101

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO THE TRANSFER OF PUPILS; AMENDING SECTION 33-1402, IDAHO CODE,  
2 TO REVISE PROVISIONS REGARDING ENROLLMENT OPTIONS; AMENDING SECTION  
3 33-1403, IDAHO CODE, TO REQUIRE NOTIFICATION TO PARENTS FOR PUPIL  
4 TRANSFERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1404,  
5 IDAHO CODE, TO REVISE PROVISIONS REGARDING TRANSFER OF CERTAIN PUPILS  
6 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1405, IDAHO  
7 CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1406, IDAHO  
8 CODE, TO REMOVE A PROVISION REGARDING PARENTAL TUITION PAYMENT AND TO  
9 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1407, IDAHO CODE, TO  
10 REVISE PROVISIONS REGARDING PAYMENT OF TUITION; AMENDING CHAPTER 14,  
11 TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1409, IDAHO  
12 CODE, TO ESTABLISH PROVISIONS REGARDING MEASURING AND REPORTING CAPAC-  
13 ITY; AMENDING CHAPTER 14, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW  
14 SECTION 33-1410, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING STUDENT  
15 APPEALS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
16

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

18 SECTION 1. That Section 33-1402, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 33-1402. ENROLLMENT OPTIONS. ~~Beginning with the 1991-92 school year,~~  
21 ~~an~~ (1) An enrollment options program shall be implemented as provided in this  
22 section.

23 (2) Whenever the parent or guardian of any pupil determines that it is  
24 in the best interest of the pupil to attend a school within another district,  
25 or to attend another school within the home district, such pupil, or pupils,  
26 may be transferred to and attend the selected school, subject to the provi-  
27 sions of this section and section 33-1404, Idaho Code. ~~The pupil's parent~~  
28 ~~or guardian must apply annually for admission to a school within another~~  
29 ~~district, or to another school within the home district, on a form provided~~  
30 ~~by the state department of education. The application, accompanied by the~~  
31 ~~pupil's accumulative record, must be submitted to the receiving school~~  
32 ~~district by February 1 for enrollment during the following school year,~~  
33 ~~and notice of such application given to the home district. The receiving~~  
34 ~~school district, or the receiving school within the home district, shall~~  
35 ~~notify the applicant within sixty (60) days and, if denied, must include~~  
36 ~~written explanation of the denial. Upon agreement between the resident and~~  
37 ~~the nonresident school boards, or between the affected schools within the~~  
38 ~~home district, the deadlines for application may be waived. Whenever any~~  
39 ~~pupil enrolls in, and attends a school outside the district within which the~~  
40 ~~parent or guardian resides, the parent or guardian shall be responsible for~~  
41 ~~transporting the pupil to and from the school or to an appropriate bus stop~~  
42 ~~within the receiving district. For students attending another school within~~

1 the home district, the parent or guardian is responsible for transporting  
 2 the pupil to and from an appropriate bus stop. Tuition shall be waived for  
 3 parents or guardians of any pupils allowed under the provisions of this sec-  
 4 tion. Tuition charged to the debtor district may be waived by the creditor  
 5 district.

6 ~~No pupil shall gain eligibility to participate in extracurricular ac-~~  
 7 ~~tivities in violation of policies governing eligibility as a result of an en-~~  
 8 ~~rollment option transfer to another school district.~~

9 ~~A pupil who applies and is accepted in a nonresident school district,~~  
 10 ~~but fails to attend the nonresident district, shall be ineligible to again~~  
 11 ~~apply for an enrollment option in that nonresident district.~~

12 (3) No district shall take any action to prohibit or prevent applica-  
 13 tion by resident pupils to attend school in another school district or to at-  
 14 tend another school within the home district. ~~By resolution of the board of~~  
 15 ~~trustees, any district may opt not to receive pupils in the enrollment op-~~  
 16 ~~tions program.~~

17 (4) A pupil under suspension or expulsion shall be ineligible for the  
 18 provisions of this section.

19 (5) The state department of education shall conduct an annual survey of  
 20 districts ~~participating in the enrollment options program~~ to determine the  
 21 number of participants, ~~the number of denied applications,~~ the effective-  
 22 ness of the program, and other relevant information, ~~and shall~~ prepare an an-  
 23 nual report of the program.

24 SECTION 2. That Section 33-1403, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 33-1403. TRANSFER OF PUPILS BY INITIATIVE OF THE BOARD OF  
 27 TRUSTEES. (1) Whenever the board of trustees of any school district shall  
 28 determine that it is in the best interest of any of its pupils to attend  
 29 school in another district within this state, the boards of trustees of the  
 30 districts may annually agree, in writing, that such pupil or pupils shall  
 31 be transferred to and attend the designated school or schools of the other  
 32 district party to the agreement.

33 (2) Whenever the board of trustees of any Idaho school district abut-  
 34 ting upon another state shall determine that it is in the best interest of  
 35 any of its pupils to attend school in a school district in such neighboring  
 36 state, the board of trustees may annually agree, in writing, with the gov-  
 37 erning board of the nearest appropriate school district in the neighboring  
 38 state for the education, and transportation if the school district attended  
 39 abuts on the home district, of such pupil or pupils. Any such agreement shall  
 40 specify the rate of tuition, and cost of transportation if any, to be paid  
 41 by the Idaho school district, and the agreement shall be entered into the  
 42 records of the board of trustees and a copy thereof shall be filed with the  
 43 state board of education.

44 (3) The board of trustees of any Idaho school district, as a creditor  
 45 district, may, subject to the approval of the state board of education, en-  
 46 ter into an agreement with the governing body of any school district in an-  
 47 other state, as the debtor district, to educate, and if necessary transport,  
 48 any of the pupils of such debtor district upon such terms and conditions as  
 49 may be agreed upon and approved, but the rate of tuition to be charged by

1 the Idaho school district shall be not less than the gross per-pupil cost  
 2 of the credit district, as defined in section 33-1405, Idaho Code, plus the  
 3 per-pupil costs paid by the state for the employer's share of social secu-  
 4 rity, and the employer's share of retirement for the employees of the credi-  
 5 tor district for the previous fiscal year, and other appropriate costs, all  
 6 as determined by the state board of education. A copy of the agreement shall  
 7 be entered into the records of the board of trustees and a copy thereof shall  
 8 be filed with the state board of education.

9 (4) No pupil shall be transferred to any school without the notifica-  
 10 tion and consent of the pupil's parent or guardian.

11 SECTION 3. That Section 33-1404, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 33-1404. DISTRICTS TO RECEIVE PUPILS. (1) Every school district shall  
 14 receive and admit pupils transferred thereto, where payment of their tuition  
 15 is to be paid by the home district, or waived by the receiving district, ex-  
 16 cept when any such transfer would work a hardship on the receiving district.  
 17 Each receiving school district shall be governed by written policy guide-  
 18 lines, adopted by the board of trustees, which define hardship impact upon  
 19 the district or upon an individual school within the district. The policy  
 20 shall provide specific standards for acceptance and rejection of applica-  
 21 tions for accepting out of district pupils. Standards may include the ca-  
 22 capacity of a program, class, grade level or school building. Standards may  
 23 not include previous academic achievement, athletic or other extracurricu-  
 24 lar ability, disabling conditions, or proficiency in the English language.

25 ~~Nonresident pupils who are placed by court order under provisions of~~  
 26 ~~the Idaho juvenile corrections or child protective acts and reside in li-~~  
 27 ~~icensed homes, agencies and institutions shall be received and admitted by~~  
 28 ~~the school district in which the facility is located without payment of tu-~~  
 29 ~~ition. when there is capacity at the grade level or school, subject to the~~  
 30 provisions of this section and section 33-1409, Idaho Code.

31 (2) Homeless children and youth as defined by the McKinney-Vento home-  
 32 less assistance act, 42 U.S.C. section 11301 et seq., may attend any school  
 33 district or school within a district without payment of tuition when it is  
 34 determined to be in the best interest of that child.

35 SECTION 4. That Section 33-1405, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 33-1405. RATES OF TUITION -- TUITION CERTIFICATES. (1) The state de-  
 38 partment of education shall prepare and distribute all necessary forms, and  
 39 shall issue to each school district, annually, a tuition certificate bearing  
 40 a serial number, which certificate shall authorize the receiving district to  
 41 charge and to bill for the tuition of its nonresident pupils where tuition  
 42 has not been waived.

43 (2) In determining tuition rates to be charged by any creditor school  
 44 district, the state department of education shall compute the sum of that  
 45 district's maintenance and operation costs, depreciation on its buildings,  
 46 equipment, and other property, and the interest, if any paid by it on bonded  
 47 debt or registered warrants. The said state department of education shall

1 then compute what proportion of the sum of said costs, depreciation, and in-  
 2 terest is allocable to elementary schools, and what proportion is allocable  
 3 to secondary schools, in the district. The proportion allocable to elemen-  
 4 tary schools shall then be divided by the average daily attendance of elemen-  
 5 tary school pupils, and the proportion allocable to secondary schools shall  
 6 be divided by the average daily attendance of secondary school pupils, in the  
 7 district, and the amount so determined shall be the gross per-pupil cost, el-  
 8 elementary or secondary, as the case may be. The net per-pupil cost shall be  
 9 the gross per-pupil cost less the per-pupil apportionment to the district of  
 10 any foundation program funds.

11 (3) Computations of tuition rates shall be made as of the school year  
 12 next preceding the year for which tuition charges are determined and made.

13 (4) Charges for tuition made by any creditor school district shall be  
 14 its net per-pupil cost, as hereinabove defined; except that its gross per-  
 15 pupil cost shall be charged where any pupil has transferred to the credi-  
 16 tor district by transfer other than one prescribed by section 33-1403, Idaho  
 17 Code, or where the home district of any pupil attending school in the credi-  
 18 tor district is without the state of Idaho.

19 (5) The board of trustees of a school district may request a waiver from  
 20 the state board of education of any portion of the tuition rate determined  
 21 pursuant to this section. A waiver request must be made for each individual  
 22 student, and may be requested for up to four (4) years, subject to annual re-  
 23 view by the local board of trustees. Waivers must be requested before April 1  
 24 of the year prior to the operative date.

25 SECTION 5. That Section 33-1406, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 33-1406. BILLS OF TUITION. (1) Bills of tuition for nonresident pupils  
 28 shall be rendered by each creditor district and for nonresident pupils at-  
 29 tending any school of the creditor district under the provisions of section  
 30 33-1403 or 33-1404, Idaho Code, the bill of tuition shall be submitted to the  
 31 home district of such pupils. ~~In all other cases, the creditor district may~~  
 32 ~~submit to the parent of any nonresident pupil attending school in its dis-~~  
 33 ~~trict a bill of tuition of such pupil, and such parent shall be liable for the~~  
 34 ~~payment of said tuition, if so billed.~~ Tuition reimbursement for nonresi-  
 35 dent pupils who are placed by court order under provisions of the Idaho ju-  
 36 venile corrections or child protective acts may be obtained by the creditor  
 37 district through procedures established in section 33-1002, Idaho Code, for  
 38 nonresident tuition-equivalency allowance.

39 (2) Each bill of tuition submitted to a home district shall show the se-  
 40 rial number of the tuition certificate last issued to the creditor district  
 41 by the state department of education and shall show also the number of pupils  
 42 for whom tuition is charged, which charge shall be as shown by the said tu-  
 43 tion certificate.

44 (3) Bills of tuition, if submitted other than annually, shall be appor-  
 45 tioned according to the number of school months for which any such bill is ap-  
 46 plicable. A fraction of a school month shall be deemed a school month.

47 SECTION 6. That Section 33-1407, Idaho Code, be, and the same is hereby  
 48 amended to read as follows:

1           33-1407. PAYMENT OF TUITION -- SUIT TO RECOVER PAYMENT. (1) The board  
2 of trustees of any debtor district shall allow and order paid any bill for  
3 tuition received by it in proper form, at the first regular meeting following  
4 receipt of said bill.

5           (2) Whenever any school district, ~~or person,~~ liable for the payment of  
6 tuition, ~~shall fail~~ fails or refuses to pay the same after payment thereof is  
7 due, the creditor district may commence suit against such district ~~or person~~  
8 in the district court in and for the county in which such district maintains  
9 its administrative offices, ~~or in which such person resides.~~

10           SECTION 7. That Chapter 14, Title 33, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 33-1409, Idaho Code, and to read as follows:

13           33-1409. MEASURING AND REPORTING CAPACITY. (1) Every school district  
14 shall adopt a policy to determine the capacity of each grade level and such  
15 policy shall state that each school has to receive and admit transferred  
16 pupils. The policy shall prohibit discrimination against any pupil on the  
17 basis of residential address, ability, disability, race, ethnicity, sex, or  
18 socioeconomic status.

19           (2) By January 1 and not less than once per year, the policy shall be  
20 updated and publicly posted on the school district website.

21           (3) By the first day of each month, every school district shall publicly  
22 post on its website the capacity of each grade level and each school to re-  
23 ceive and admit transferred pupils.

24           (4) By the first day of each month, every school district shall report  
25 to the state department of education the capacity of each grade level and  
26 school, the number of transfer applications, the number of accepted trans-  
27 ferred pupils, and the number of denied applications.

28           (5) By September 1 each year, the state department of education shall  
29 collect, analyze, and report to the legislature all of the capacity and  
30 transfer data from each school district from the previous year. The report  
31 shall be published on the department's website.

32           SECTION 8. That Chapter 14, Title 33, Idaho Code, be, and the same is  
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
34 ignated as Section 33-1410, Idaho Code, and to read as follows:

35           33-1410. STUDENT APPEALS. (1) If a transfer request is denied by a  
36 school district, the school district shall notify the parent of the denial in  
37 writing within five (5) days of the decision.

38           (2) The parent of the student may appeal the denial to the state board of  
39 education within ten (10) days of receiving the written notification of the  
40 denial. The parent shall submit to the state board of education and the su-  
41 perintendent of the receiving school a notice of appeal on a form prescribed  
42 by the state board of education.

43           (3) The appeal shall be considered by the state board of education at  
44 its next regularly scheduled meeting, where the parent and a representative  
45 from the receiving school district may address the state board of education.

46           (4) The state board of education may promulgate rules to establish the  
47 appeals process authorized by this section.

1           SECTION 9. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after  
3 July 1, 2023.