

IN THE SENATE

SENATE BILL NO. 1125

BY STATE AFFAIRS 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 REVISE A PROVISION REGARDING CERTAIN TUITION PAYMENTS AND TO  
9 MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 14, TITLE 33, IDAHO CODE,  
10 BY THE ADDITION OF A NEW SECTION 33-1409, IDAHO CODE, TO ESTABLISH PRO-  
11 VISIONS REGARDING MEASURING AND REPORTING CAPACITY; AMENDING CHAPTER  
12 14, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1410, IDAHO  
13 CODE, TO ESTABLISH PROVISIONS REGARDING STUDENT APPEALS; AND DECLARING  
14 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
15

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

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

19 33-1402. ENROLLMENT OPTIONS. ~~Beginning with the 1991-92 school year,~~  
20 (1) Each school district shall implement an enrollment options program shall  
21 be implemented as provided in this section. School districts shall adopt  
22 policies to govern the process for enrollment options pursuant to this chap-  
23 ter, including in-district transfers. The policies shall prohibit discrim-  
24 ination against any pupil on the basis of his residential address, ability,  
25 disability, race, ethnicity, sex, or socioeconomic status. Such policies  
26 shall be posted to the school district's website. Schools of choice within a  
27 district that have lottery enrollment policies are not subject to the provi-  
28 sions of this chapter.

29 (2) Whenever the parent or guardian of any Idaho pupil determines that  
30 it is in the best interest of the pupil to attend a school within another dis-  
31 trict, or to attend another school within the home district, such pupil, or  
32 pupils, may be transferred to and attend the selected school, subject to the  
33 provisions of this section and section 33-1404, Idaho Code.

34 (3) The pupil's parent or guardian must apply ~~annually~~ for admission  
35 to a school within another district, or to another school within the home  
36 district, on a form provided by the state department of education or a dis-  
37 trict-provided form that is substantially similar. The application, accom-  
38 panied by the pupil's accumulative record, must be submitted to the receiv-  
39 ing school district by February 1 for enrollment during the following school  
40 year, and notice of such application given to the home district. At the time  
41 of application, the parent or guardian must request that the home district  
42 or school forward the pupil's student record. The home district or school

1 shall respond by forwarding a certified copy of the transferred student's  
 2 record within ten (10) days, unless the provisions of section 18-4511, Idaho  
 3 Code, apply. The receiving school district, or the receiving school within  
 4 the home district, shall notify the applicant within sixty (60) days and,  
 5 if denied, must include written explanation of the denial. ~~Upon agreement~~  
 6 ~~between the resident and the nonresident school boards, or between the af-~~  
 7 ~~fectured schools within the home district, the deadlines for application may~~  
 8 ~~be waived.~~

9 (4) There may be times during the school year when a parent or guardian  
 10 believes it is in the best interest of the pupil to transfer schools. Open  
 11 enrollment applications shall be accepted at any time throughout the year.  
 12 However, those applications received after the February 1 deadline will be  
 13 considered based on capacity stated in policy at the receiving district.

14 (5) Priority for enrollment under this section shall be given to pupils  
 15 applying to attend another school within the home district.

16 (6) A district may deny a transfer application for the following rea-  
 17 sons:

18 (a) The pupil was expelled by the pupil's previous district;

19 (b) The pupil has a documented history of significant disciplinary is-  
 20 ssues;

21 (c) The pupil has a documented history of chronic absenteeism; or

22 (d) The receiving district does not have space available pursuant to  
 23 section 33-1409, Idaho Code. Where applicable, a denial may include in-  
 24 formation about other schools that are below maximum enrollment.

25 (7) For a pupil accepted by the receiving school or district, the parent  
 26 or guardian does not need to re-apply to regain acceptance the next school  
 27 year. However, the parent or guardian must provide notice to the receiv-  
 28 ing school or district of intent for the pupil to re-enroll. The district  
 29 may prescribe the form of notice. Once a pupil has been enrolled at the same  
 30 school for a second consecutive year, the pupil may complete his education  
 31 at such a school, unless the pupil's approved transfer has been revoked pur-  
 32 suant to this section.

33 (8) Whenever any pupil enrolls in, and attends a school outside the dis-  
 34 trict within which the parent or guardian resides, the parent or guardian  
 35 shall be responsible for transporting the pupil to and from the school or  
 36 to an appropriate bus stop within the receiving district. For students at-  
 37 tending another school within the home district, the parent or guardian is  
 38 responsible for transporting the pupil to and from an appropriate bus stop.  
 39 Tuition shall be waived for parents or guardians of any Idaho pupils allowed  
 40 under the provisions of this section. Tuition charged to the debtor district  
 41 may be waived by the creditor district.

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

45 (9) A pupil who applies and is accepted in a nonresident school dis-  
 46 trict, but fails to attend the nonresident district, is subject to the policy  
 47 of the receiving school district and shall be ineligible to again apply for  
 48 an enrollment option or the transfer approval may be revoked in that nonresi-  
 49 dent district. if:

50 (a) The pupil is chronically absent;

1 (b) The pupil commits repeated, serious disciplinary infractions;

2 (c) The pupil commits disciplinary infractions that result in expul-  
 3 sion; or

4 (d) The school in which the student is enrolled exceeds maximum enroll-  
 5 ment of resident pupils due to growth. However, pursuant to subsection  
 6 (7) of this section, the receiving district may not revoke a transfer  
 7 approval to a school after two (2) consecutive years of attendance. If a  
 8 transfer approval is revoked under this subsection, the receiving dis-  
 9 trict must offer the pupil information about other schools within the  
 10 district that are below maximum enrollment.

11 (10) A receiving school shall inform the parent or guardian of the cir-  
 12 cumstances that jeopardize the student's status at a transfer school.

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

18 A pupil under suspension or expulsion shall be ineligible for the provi-  
 19 sions of this section.

20 The state department of education shall conduct an annual survey of dis-  
 21 tricts participating in the enrollment options program to determine the num-  
 22 ber of participants, the number of denied applications, the effectiveness of  
 23 the program, and other relevant information, and prepare an annual report of  
 24 the program.

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

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

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

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

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

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

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

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

26 (2) Nonresident pupils who are placed by court order under provisions  
 27 of the Idaho juvenile corrections or child protective acts and reside in li-  
 28 censed homes, agencies and institutions shall be received and admitted by  
 29 the school district in which the facility is located without payment of tu-  
 30 ition.

31 (3) 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 ementary 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  
 31 the home district of such pupils. ~~In all other cases, the~~ The creditor dis-  
 32 trict may submit to the parent of any nonresident out-of-state pupil attend-  
 33 ing school in its district a bill of tuition of such pupil, and such parent  
 34 shall be liable for the payment of said tuition, if so billed. Tuition reim-  
 35 bursement for nonresident pupils who are placed by court order under provi-  
 36 sions of the Idaho juvenile corrections or child protective acts may be ob-  
 37 tained by the creditor district through procedures established in section  
 38 33-1002, Idaho Code, for 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.

1 SECTION 6. That Chapter 14, Title 33, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 33-1409, Idaho Code, and to read as follows:

4 33-1409. MEASURING AND REPORTING CAPACITY. (1) Every school district  
5 must determine maximum enrollment for each grade-level. The district will  
6 use the maximum enrollment to determine space available for transfer appli-  
7 cations. For secondary grades, a district may use core classroom size per  
8 grade level as the standard to determine maximum enrollment.

9 (2) Not less than four (4) times during the school year, every school  
10 district shall publicly post on its website the space available at each  
11 grade-level and at each school. Space available shall be determined by com-  
12 paring the maximum enrollment to the number of pupils actually enrolled. A  
13 school district that does not meet the minimum sample size necessary to pre-  
14 vent unlawful release of personally identifiable student data established  
15 pursuant to subsection (5) of this section is not subject to the publication  
16 requirements pursuant to this subsection.

17 (3) Not less than four (4) times during the school year, every school  
18 district shall report to the state reporting system the space available at  
19 each grade-level, school, and in each program, the number of transfer appli-  
20 cations, the number of accepted transferred pupils, and the number of denied  
21 applications.

22 (4) By September 1 each year, the state board of education shall col-  
23 lect, analyze, and publish to its website the capacity and transfer data from  
24 each school district from the previous year. The report shall include the  
25 number of participants, the number of denied applications, and other rele-  
26 vant information. The state board of education shall also report this infor-  
27 mation to the legislature no later than February 1 of each year.

28 (5) The state board of education shall not publish or release data of  
29 a school district if the number of students who applied for a transfer is  
30 less than the minimum sample size necessary for prevention of the unlawful  
31 release of personally identifiable student data. The state board of educa-  
32 tion shall establish the minimum number of students necessary to meet the re-  
33 quirements of this subsection.

34 SECTION 7. That Chapter 14, Title 33, Idaho Code, be, and the same is  
35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
36 ignated as Section 33-1410, Idaho Code, and to read as follows:

37 33-1410. STUDENT APPEALS. (1) If a transfer request is denied by a re-  
38 ceiving school or district, a parent or guardian may request an administra-  
39 tive review by the board of trustees of the receiving district. The parent or  
40 guardian must request the review within five (5) school days of receiving the  
41 written denial notice. The board of trustees shall consider the appeal at  
42 its next regularly scheduled meeting. The board of trustees must issue its  
43 decision in writing.

44 (2) If a pupil's approved transfer is revoked, the pupil's parent or  
45 guardian may request an administrative review by the board of trustees of the  
46 receiving district. The parent or guardian must request the review within  
47 five (5) school days of receiving the written notice of the transfer revoca-

1 tion. The board of trustees shall consider the appeal at its next regularly  
2 scheduled meeting. The board of trustees must issue its decision in writing.

3 (3) The parent or guardian may appeal the board of trustees decision  
4 under this section to the state board of education and must do so within ten  
5 (10) school days of receiving the district's written decision. The state  
6 board of education shall review the appeal. When appropriate, the state  
7 board of education shall consider the appeal at its next regularly scheduled  
8 meeting, where the parent and a representative from the receiving school  
9 district may address the state board of education. The state board of edu-  
10 cation may promulgate rules to establish the appeals process authorized by  
11 this subsection.

12 SECTION 8. An emergency existing therefor, which emergency is hereby  
13 declared to exist, this act shall be in full force and effect on and after  
14 July 1, 2023.