

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 289

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A
2 NEW CHAPTER 66, TITLE 33, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
3 THE IDAHO EDUCATION OPPORTUNITY PROGRAM, TO DEFINE TERMS, TO PROVIDE
4 FOR CERTAIN ACCOUNTS, TO PROVIDE FOR FUNDING PROCEDURES, AND TO PROVIDE
5 FOR ADMINISTRATION; AMENDING SECTION 33-1030, IDAHO CODE, TO REVISE
6 A DEFINITION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND
7 PROVIDING AN EFFECTIVE DATE.
8

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

10 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
12 ter 66, Title 33, Idaho Code, and to read as follows:

13 CHAPTER 66

14 IDAHO EDUCATION OPPORTUNITY PROGRAM

15 33-6601. IDAHO EDUCATION OPPORTUNITY PROGRAM. (1) There is hereby
16 established the Idaho education opportunity program (IEOP), to be adminis-
17 tered by the state department of education according to the provisions of
18 this chapter.

19 (2) To administer this program, the state department of education
20 shall:

21 (a) Establish an IEOP application process; and

22 (b) Subject to appropriation, award IEOP grants under this program to
23 qualifying students whose household has an adjusted gross income under
24 seventy thousand dollars (\$70,000), as verified by the state tax com-
25 mission using the prior year's tax returns. Starting thirty (30) days
26 after grant awards in a fiscal year are made pursuant to this paragraph,
27 remaining funds shall be available to all other eligible students on
28 a first-come, first-served basis until all available funds are dis-
29 tributed.

30 (3) (a) There is hereby established in the state treasury the Idaho
31 education opportunity program fund, to be administered by the state
32 department of education. Moneys in the fund shall be continuously ap-
33 propriated for the purpose of funding student accounts pursuant to this
34 chapter. Funds shall consist of:

35 (i) Legislative appropriations;

36 (ii) Donations and contributions made to the fund; and

37 (iii) Interest earned on idle moneys in the fund.

38 (b) The public education stabilization fund may not be utilized to fund
39 the Idaho education opportunity program.

40 33-6602. DEFINITIONS. For the purposes of this chapter:

1 (1) "Eligible postsecondary institution" means a community college,
 2 a university under the jurisdiction of the state board of education or the
 3 board of regents of the university of Idaho, or an accredited private post-
 4 secondary institution.

5 (2) "Obscene" means a depiction that:

6 (a) The average person, applying contemporary community standards,
 7 would find to appeal to the prurient interest;

8 (b) Depicts or describes sexual conduct in a patently offensive way;
 9 and

10 (c) Lacks serious literary, artistic, political, or scientific value.

11 (3) "Parent" means the parent or legal guardian of a qualified student.

12 (4) "Personalized student education plan" means a plan prepared by or
 13 on behalf of the student to describe how funds from the IEOP would be uti-
 14 lized to provide the qualifying student with a thorough education in at least
 15 the subjects of reading, writing, grammar, mathematics, social studies, and
 16 science.

17 (5) "Public school" means any public school within any public school
 18 district organized under the laws of this state, including specially char-
 19 tered school districts.

20 (6) "Qualified school" means an accredited nongovernmental primary or
 21 secondary school that is located in this state.

22 (7) "Qualified student" means a student who is a resident of Idaho, is
 23 of age as defined in section 33-201, Idaho Code, resides within a school dis-
 24 trict in this state, and is eligible to enroll in a public kindergarten pro-
 25 gram or any grades 1 through 12. Students eligible to enroll in any grade
 26 1 through 12 must have been enrolled in a public school for at least ninety
 27 (90) days to be a qualified student unless the student participated in the
 28 Idaho education opportunity program in kindergarten. The student may not be
 29 simultaneously enrolled in a public school or a kindergarten program while
 30 receiving a grant pursuant to this chapter. A student approved for an IEOP
 31 grant, by this definition, is not home schooled.

32 33-6603. IDAHO EDUCATION OPPORTUNITY PROGRAM ACCOUNTS. (1) IEOP ac-
 33 counts are established to provide options for students' education in this
 34 state. To enroll a student for an IEOP account and to continue to receive
 35 funds each school year, the parent of the qualified student must apply by
 36 June 15 of the school year funds are to be provided and sign an agreement to:

37 (a) Use the IEOP account money to provide an education to their qualify-
 38 ing student in at least the subjects of reading, writing, grammar, math-
 39 ematics, social studies, and science. Moneys may be used to provide a
 40 thorough education in more subjects as long as the qualified student is
 41 receiving an education in the subjects listed in this paragraph;

42 (b) Not enroll the qualified student in an Idaho public school and to
 43 relieve the school district from all obligations to educate the quali-
 44 fied student;

45 (c) Use moneys deposited in the qualified student's IEOP account only
 46 for the expenses provided in this section; and

47 (d) Not to use funds for new electronic equipment such as a laptop for
 48 the qualified student more than one (1) time every five (5) years.

1 (2) The state department of education must respond to an application
2 submitted pursuant to subsection (1) of this section within thirty (30) days
3 of the application's submission.

4 (3) IEOP account funds may only be used for:

5 (a) Tuition or fees at a qualified school, vocational and life skills
6 program, or career technical education program approved by the state
7 department of education;

8 (b) Textbooks required by a qualified school curricula and supplemen-
9 tary materials;

10 (c) Reasonable and efficient transportation to and from a qualified
11 school;

12 (d) Any necessary equipment for classes, such as assistive technology
13 for qualified students with disabilities or required electronic equip-
14 ment;

15 (e) Educational therapies from a licensed or accredited practitioner
16 or provider, including and up to any amount not covered by insurance or
17 medicaid if the expense is partially paid by a health insurance policy
18 or medicaid for the qualified student;

19 (f) Fees for nationally normed assessment tests, advanced placement
20 examinations, or any exam related to college or university admission;

21 (g) Fees to manage the IEOP account. These fees may not exceed five per-
22 cent (5%) of total funds distributed in a single academic year for the
23 first two (2) years. For all years thereafter, fees to manage the IEOP
24 account may not exceed three percent (3%);

25 (h) Services provided by a public school, including individual classes
26 and extracurricular programs. A school may not count a student under
27 this paragraph for enrollment purposes but may charge the student a rea-
28 sonable fee for the service;

29 (i) Uniforms purchased from or through a qualified school or uniform
30 provider approved by the qualified school;

31 (j) Tutoring by a tutor qualified as defined by the state department of
32 education. The tutor may not be a family member;

33 (k) Internet access if the student or the parent of the student does not
34 have internet access. If internet access is purchased with these funds,
35 the services provided may not be used to access or view obscene or porno-
36 graphic material; and

37 (l) Other technological devices, including but not limited to calcula-
38 tors, microscopes, telescopes, and printers. This does not include en-
39 tertainment and other primarily noneducational devices such as televi-
40 sions, telephones, video game consoles and accessories, or home theater
41 and audio equipment.

42 (4) After a parent agrees to the terms stipulated in this section, the
43 state department of education shall transfer eighty percent (80%) of the
44 money distributed for the average distribution to a school district for one
45 (1) student in this state to be deposited into the qualified student's in-
46 dividual IEOP account in accordance with section 33-6604, Idaho Code. The
47 remaining twenty percent (20%) shall be distributed to a recipient's prior
48 school district if the recipient still resides within the district or the
49 charter school that the student attended to meet the ninety (90) day re-
50 quirement in section 33-6602(7), Idaho Code, or the expected school district

1 of attendance in the district's final funding distribution for the given
2 academic year. The fund distributions pursuant to this subsection shall
3 be calculated from all state appropriations for public schools and public
4 charter schools, including moneys available in the public school income fund
5 minus the funds appropriated for educational services for the deaf and blind
6 pursuant to section 33-3403, Idaho Code, and statewide services as appropri-
7 ated in the central services division.

8 (5) The school district in which the qualified student resides shall
9 allow a qualified student, at no cost, to participate in the SAT, ISAT, or
10 IRI programs to determine personal academic growth and achievement. The re-
11 sults shall not be aggregated within the school district academic progress
12 reports.

13 (6) All decisions relating to philosophy or doctrine, selection of
14 books, teaching materials and curriculum, and methods, timing, and place in
15 the provision or evaluation of home-based instruction shall be the respon-
16 sibility of the parent except for matters specifically referred to in this
17 chapter.

18 33-6604. FUNDING PROCEDURES. (1) (a) Funds shall be deposited into the
19 individual qualified student's IEOP account on a quarterly basis as follows:

20 (i) Fifty percent (50%) of the total funds to be deposited shall
21 be deposited on August 15 of the year in which the qualifying stu-
22 dent is admitted to the IEOP; and

23 (ii) The remaining fifty percent (50%) shall be distributed in two
24 separate installments equaling twenty-five percent (25%) of the
25 total funds available. The first installment shall be distributed
26 in November and the second installment shall be distributed in
27 February. Distributions shall occur no later than the fifteenth
28 day of the corresponding month.

29 (b) If appropriated funds allow and a qualifying student has moved to
30 Idaho after an academic year has started and is enrolled in the IEOP,
31 then the student may apply for and shall receive half of the total amount
32 of the distributions made during the current academic year.

33 (c) Money deposited into a qualified student's IEOP account shall not
34 be considered taxable income.

35 (d) Money from an IEOP account may not be refunded, rebated, or shared
36 with the parents of an eligible student or an eligible student in any
37 manner, except that funds may be remitted or refunded to an IEOP account
38 in accordance with procedures established by the state department of
39 education.

40 (2) A parent must renew the qualified student's account on an annual ba-
41 sis by agreeing to the requirements listed in section 33-6603, Idaho Code. A
42 renewal must be submitted by June 15 prior to the academic year funds are to
43 be deposited. To renew, a qualified student with a personalized student edu-
44 cation plan that does not include full-time attendance at a qualified school
45 must demonstrate the student is at grade level or has improved by one (1)
46 grade level through a nationally normed assessment test.

47 (3) A student who has renewed an account and is attending a qualified
48 school shall have an affidavit from the qualified school that is signed by
49 the student's parent or legal guardian stating the student has taken and com-

1 pleted a nationally normed assessment test, the parent or legal guardian has
2 seen the results, and a copy of the results are provided on the affidavit.

3 (4) If a parent does not renew the qualified student's IEP account for
4 a period of two (2) academic years, the state department of education shall
5 notify the parent by mail that, unless a renewal is filed, the account will be
6 closed in sixty (60) days. Moneys remaining in a closed account shall return
7 to the general fund.

8 (5) All funding shall end when the student graduates from high school or
9 when the student is no longer qualified as defined in 33-6602, Idaho Code.

10 33-6605. ADMINISTRATION. (1) The state department of education may
11 contract with private financial management firms to manage the IEP ac-
12 counts.

13 (2) The state department of education may conduct or contract with a
14 third party for annual audits of accounts to ensure compliance with this
15 chapter. The department shall conduct or contract for random audits on a
16 quarterly basis. The department may conduct audits as necessary to ensure
17 compliance with the terms of this chapter.

18 (3) The state department of education may remove any parent or quali-
19 fied student from eligibility from the IEP if the parent or qualified stu-
20 dent fails to comply with the terms of this chapter or if the parent or quali-
21 fied student does not respond and take corrective action within fifteen (15)
22 days. A decision to remove eligibility or withhold funds may be appealed by a
23 process established by the state department of education.

24 (4) This chapter does not permit any government agency to exercise con-
25 trol or supervision over any nonpublic school or homeschooling. A qualified
26 school that accepts a payment from a parent pursuant to this chapter is not
27 an agent of the state or federal government. A qualified school shall not be
28 required to alter its creed, practices, admissions policy, or curriculum in
29 order to accept qualified students whose tuition or fees are paid through an
30 IEP account pursuant to this chapter in order to participate as a qualified
31 school.

32 SECTION 2. That Section 33-1030, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 33-1030. DEFINITIONS. As used in this section through section
35 33-1034, Idaho Code:

36 (1) "Assessment" means an examination or another objective evaluation
37 of a student's academic performance, academic engagement, or college or ca-
38 reer readiness.

39 (2) "Board" means the state board of education.

40 (3) "Eligible education expenses" means:

41 (a) Computer hardware, internet access, or other technological devices
42 or services that are primarily used to meet a participant's educational
43 needs;

44 (b) Textbooks, curriculum, or other instructional materials, includ-
45 ing educational software and applications;

46 (c) Fees for national standardized assessments, advanced placement ex-
47 aminations, examinations related to college or university admissions,
48 or industry-recognized certification examinations;

1 (d) Therapies, including but not limited to occupational, behavioral,
2 physical, speech-language, and audiology therapies, or other services
3 or therapies specifically approved by the board;

4 (e) Educational programs offered for a fee or pursuant to contract by a
5 school district, public charter school, or career technical education
6 program to nonpublic students, provided that such students may not be
7 counted for purposes of calculating public school enrollment; ~~or~~

8 (f) Other education expenses and services as approved by the board,
9 upon recommendation of the parent advisory panel established pursuant
10 to section 33-1032, Idaho Code; ~~or~~

11 (g) For qualifying students under the Idaho education opportunity pro-
12 gram whose adjusted gross income is less than forty thousand dollars
13 (\$40,000) as established in section 33-6601, Idaho Code, tuition for a
14 qualified school as defined in section 33-6602, Idaho Code.

15 (4) "Eligible student" means a person in kindergarten through grade 12,
16 whether a public school or nonpublic school student.

17 (5) "Grant" means an award of one thousand dollars (\$1,000), which must
18 be used for eligible education expenses.

19 (6) "Grant distribution platform" means a digital platform through
20 which grant funds are transferred from the board to participant accounts.

21 (7) "Parent" means the parent or legal guardian of an eligible student
22 or a participant.

23 (8) "Participant" means an eligible student for whom a grant is awarded
24 under section 33-1031, Idaho Code.

25 (9) "Program" means the empowering parents grant program established
26 by section 33-1031, Idaho Code.

27 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
28 to be severable and if any provision of this act or the application of such
29 provision to any person or circumstance is declared invalid for any reason,
30 such declaration shall not affect the validity of the remaining portions of
31 this act.

32 SECTION 4. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after
34 January 1, 2024.