

IN THE SENATE

SENATE BILL NO. 1325

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC SCHOOL PERSONNEL; AMENDING SECTION 33-517, IDAHO CODE,  
2 TO PROVIDE FOR A PROGRAM UNDER WHICH NONCERTIFICATED PUBLIC SCHOOL EM-  
3 PLOYEES MAY SEEK CERTIFICATION AND TO MAKE TECHNICAL CORRECTIONS; AND  
4 AMENDING SECTION 33-4303, IDAHO CODE, TO PROVIDE FOR THE AWARD OF OP-  
5 PORTUNITY SCHOLARSHIP FUNDS TO NONCERTIFICATED PUBLIC SCHOOL EMPLOYEES  
6 SEEKING CERTIFICATION.  
7

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

9 SECTION 1. That Section 33-517, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 33-517. NONCERTIFICATED PERSONNEL. The board of trustees of each  
12 school district, including any specially chartered district and any Idaho  
13 public charter school, shall have the following powers and duties:

14 (1) To provide that hiring and evaluation procedures for noncertifi-  
15 cated personnel shall be in writing and shall be available for any noncer-  
16 tificated employee's review during regular business hours. Job descrip-  
17 tions for all noncertificated employees shall be written and shall be made  
18 available to employees of the district or other people seeking employment.

19 (2) To provide a grievance procedure for noncertificated employees  
20 of the district ~~which~~ that meets the minimum standards of paragraphs (a)  
21 through (i) of this subsection. In the event a grievance procedure is not  
22 provided, the following grievance procedure shall apply-:

23 (a) A grievance shall be defined as a written allegation of:

24 (i) A violation of current written board-approved school dis-  
25 trict policy;

26 (ii) A violation of current written school procedures;

27 (iii) A violation of the current written board-approved employee  
28 handbook;

29 (iv) A condition or conditions that jeopardize the health or  
30 safety of the employee or another; or

31 (v) Tasks assigned outside of the employee's essential job func-  
32 tions and for which the employee has no specialized training.

33 A noncertificated employee of the district may file a grievance about  
34 any matter related to his or her employment, only if it directly relates  
35 to any of the grounds for a grievance provided for in paragraph (a) (i)  
36 through (v) of this subsection. However, neither the rate of salary or  
37 wage of the employee nor the decision to terminate an employee for cause  
38 during the initial one hundred eighty (180) days of employment shall  
39 be a proper subject for consideration under the grievance procedure  
40 provided in this section. For the purposes of this section, "current"  
41 means as of the date of the incident giving rise to the grievance.

1 (b) If a noncertificated employee files a grievance, the employee shall  
2 submit the grievance in writing to the district's human resources ad-  
3 ministrator within six (6) working days of the incident giving rise to  
4 the grievance. The grievance shall state the nature of the grievance  
5 and the remedy sought. Within six (6) working days of receipt of the  
6 grievance, the district's human resources administrator shall schedule  
7 an informal grievance meeting with the grievant, the employee against  
8 whom the grievance is filed, respective advocates, as well as a dis-  
9 trict administrator who will not be involved in the statutory grievance  
10 process. The purpose of the meeting shall be to attempt to find a reso-  
11 lution to the employee grievance.

12 (c) If a resolution is not reached during the informal grievance meet-  
13 ing, the individual against whom a grievance is filed shall file a writ-  
14 ten response to the employee grievance within six (6) working days af-  
15 ter the conclusion of the informal grievance meeting. Thereafter, the  
16 employee may appeal the grievance to the superintendent of the district  
17 or the superintendent's designee within six (6) working days of the re-  
18 ceipt of the written response or within six (6) working days from the  
19 date the written response was due if the noncertificated employee re-  
20 ceived no written response. Within six (6) working days of an appeal,  
21 the superintendent or his designee shall provide a written response to  
22 the noncertificated employee.

23 (d) If the noncertificated employee is not satisfied with the response  
24 of the superintendent or the designee, or if there is no response by  
25 the superintendent or the designee within the time frame provided in  
26 ~~subsection (2) paragraph (c) of this section~~ subsection, the noncer-  
27 tificated employee may request a review of the grievance by a hearing  
28 panel within six (6) working days from receipt of the response provided  
29 in ~~subsection (2) paragraph (c) of this section~~ subsection if the em-  
30 ployee received a written response, or six (6) working days from the  
31 date the superintendent or designee last had to respond if the non-  
32 certificated employee received no written response. Within ten (10)  
33 working days of receipt of an appeal, a panel consisting of three (3)  
34 persons: one (1) designated by the superintendent, one (1) designated  
35 by the employee, and one (1) agreed upon by the two (2) appointed members  
36 shall convene for the purpose of reviewing the appeal. Within ten (10)  
37 working days following completion of the review, the panel shall submit  
38 its decision in writing to the noncertificated employee, the superin-  
39 tendent, and the board of trustees.

40 (e) The panel's decision shall be the final and conclusive resolution  
41 of the grievance unless the board of trustees overturns the panel's de-  
42 cision by resolution at the board of trustees' next regularly scheduled  
43 public meeting or unless, within forty-two (42) calendar days of the  
44 filing of the board's decision, either party appeals to the district  
45 court in the county where the school district is located. Upon appeal of  
46 a decision of the board of trustees, the district court may affirm or set  
47 aside and remand the matter to the board of trustees upon the following  
48 grounds, and shall not set the same aside on any other grounds:

49 (i) That the findings of fact are not based on any substantial,  
50 competent evidence;

1 (ii) That the board of trustees has acted without jurisdiction or  
2 in excess of its powers;

3 (iii) That the findings by the board of trustees as a matter of law  
4 do not support the decision.

5 (f) A noncertificated employee filing a grievance pursuant to this  
6 section shall be entitled to a representative of the employee's choice  
7 at each step of the grievance procedure provided in this section. The  
8 person against whom the grievance is filed, the superintendent, or the  
9 superintendent's designee shall be entitled to a representative at  
10 each step of the grievance procedure. None of these individuals will be  
11 qualified to sit on the advisory grievance panel.

12 (g) The timelines of the grievance procedure established in this sec-  
13 tion may be waived or modified by mutual agreement.

14 (h) Utilization of the grievance procedure established pursuant to  
15 this section shall not constitute a waiver of any right of appeal avail-  
16 able pursuant to law or regulation.

17 (i) Neither the board nor any member of the administration shall take  
18 reprisals affecting the employment status of any party in interest. The  
19 employee filing a grievance shall not take any reprisals regarding the  
20 course of the outcome of the grievance nor take any reprisals against  
21 any party or witness participating in the grievance.

22 (j) A noncertificated employee of a school district shall be provided a  
23 personnel file consistent with the provisions of section 33-518, Idaho  
24 Code.

25 (3) To establish a program under which noncertificated employees may  
26 seek certification while employed by the district, which program may be  
27 funded by professional development moneys and other sources as determined  
28 by the district, provided that to use professional development moneys, the  
29 noncertificated employee must already have a baccalaureate degree and be  
30 teaching under a provisional certificate.

31 SECTION 2. That Section 33-4303, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 33-4303. IDAHO OPPORTUNITY SCHOLARSHIP. (1) The purposes of this sec-  
34 tion are to:

35 (a) Recognize that all Idaho citizens benefit from an educated citi-  
36 zenry;

37 (b) Increase individual economic vitality and improve the overall  
38 quality of life for many of Idaho's citizens;

39 (c) Provide access to eligible Idaho postsecondary education through  
40 funding to remove financial barriers;

41 (d) Increase the opportunity for economically disadvantaged Idaho stu-  
42 dents; and

43 (e) Incentivize students to complete a postsecondary education degree  
44 or certificate.

45 (2) For the purposes of this section, the following definitions shall  
46 apply:

47 (a) "Educational costs" means the dollar amount determined annually  
48 by the state board of education as necessary for student tuition, fees,

1 books and such other expenses reasonably related to attendance at an  
2 eligible Idaho postsecondary educational institution.

3 (b) "Eligible Idaho postsecondary educational institution" means a  
4 public postsecondary organization governed or supervised by the state  
5 board, the board of regents of the university of Idaho, a board of  
6 trustees of a community college established pursuant to the provisions  
7 of chapter 21, title 33, Idaho Code, or the state board for career tech-  
8 nical education or any educational organization located in Idaho that  
9 is:

10 (i) Operated privately;

11 (ii) Classified as not-for-profit under state law;

12 (iii) Under the control of an independent board and not directly  
13 controlled or administered by a public or political subdivision;  
14 and

15 (iv) Accredited by an organization recognized by the state board  
16 as provided in section 33-2402, Idaho Code.

17 (c) "Eligible student" means a student who:

18 (i) Is an Idaho resident as defined in section 33-3717B, Idaho  
19 Code;

20 (ii) Has graduated or will graduate from an accredited high school  
21 or its equivalent in Idaho as determined by the state board;

22 (iii) Has enrolled or applied to an eligible Idaho postsecondary  
23 educational institution;

24 (iv) Is a postsecondary undergraduate student who has not pre-  
25 viously completed a baccalaureate (bachelor's) degree or higher;  
26 and

27 (v) Meets need and merit criteria as set by the state board.

28 "Eligible student" also means a student who has met the eligibility  
29 requirements and was awarded an opportunity scholarship prior to June  
30 30, 2014. Continued eligibility shall be based upon the eligibility  
31 requirements at the time of the original award.

32 (d) "Opportunity scholarship program" means the scholarship program  
33 described in this section and in the rules established by the state  
34 board.

35 (e) "Shared model of responsibility" means a model set by the board to  
36 determine the required and expected contributions of the student, the  
37 student's family and available federal financial aid.

38 (f) "State board" means the state board of education.

39 (3) The state board shall promulgate rules to determine student eligi-  
40 bility, academic and financial eligibility, a process for eligible students  
41 to apply, amount of awards, how eligible students will be selected and when  
42 the awards shall be made, as well as other rules necessary for the adminis-  
43 tration of this section.

44 (4) An eligible student must:

45 (a) Apply or have applied for federal student financial assistance  
46 available to an eligible student who will attend or is enrolled in an  
47 eligible Idaho postsecondary educational institution; and

48 (b) Meet need and merit criteria established by the state board in rule.

49 (5) Funds that are available for the opportunity scholarship program  
50 shall be used to provide scholarships based upon a shared model of respon-

1 sibility between the scholarship recipient and the recipient's family,  
2 the federal government and the participating eligible Idaho postsecondary  
3 educational institution that the recipient attends for covering the educa-  
4 tional costs.

5 (6) (a) Up to twenty percent (20%) of funds that are available for  
6 the opportunity scholarship program may be used for awards to adult  
7 students who have earned at least twenty-four (24) credits toward a  
8 postsecondary degree or certificate and who return to an eligible Idaho  
9 postsecondary educational institution to complete a certificate or de-  
10 gree.

11 (b) Up to five hundred thousand dollars (\$500,000) of funds available  
12 for the opportunity scholarship program may be used for awards to non-  
13 certificated employees of a school district or public charter school  
14 who are seeking certification under a program established by the dis-  
15 trict or school as described in section 33-517(3), Idaho Code.

16 (7) The opportunity scholarship award shall not exceed the actual edu-  
17 cational costs at the eligible Idaho postsecondary educational institution  
18 that the student attends. The amount of scholarship shall not exceed the ed-  
19 ucational costs established by the state board.

20 (8) Award payments shall be made annually to an eligible Idaho postsec-  
21 ondary educational institution. In no instance may the entire amount of an  
22 award be paid to or on behalf of such student in advance.

23 (9) If an eligible student becomes ineligible for a scholarship under  
24 the provisions of this chapter, or if a student discontinues attendance  
25 before the end of any semester, quarter, term or equivalent covered by  
26 the award after receiving payment under this chapter, the eligible Idaho  
27 postsecondary educational institution shall remit, up to the amount of any  
28 payments made under this program, any prorated tuition or fee balances to the  
29 state board.

30 (10) There is hereby created an account in the state treasury to be des-  
31 ignated the opportunity scholarship program account.

32 (a) The account shall consist of moneys appropriated to the account by  
33 the legislature, moneys contributed to the account from other sources  
34 and the earnings on such moneys. The executive director of the state  
35 board may receive on behalf of the state board any moneys or real or per-  
36 sonal property donated, bequeathed, devised or conditionally granted  
37 to the state board for purposes of providing funding for such account.  
38 Moneys received directly or derived from the sale of such property shall  
39 be deposited by the state treasurer in the account.

40 (b) Earnings from moneys in the account or specified gifts shall be  
41 distributed annually to the state board to implement the opportunity  
42 scholarship program as provided for under the provisions of this chap-  
43 ter.

44 (c) All moneys placed in the account and earnings thereon are hereby  
45 perpetually appropriated to the state board for the purpose described  
46 in paragraph (b) of this subsection. All expenditures from the account  
47 shall be paid out in warrants drawn by the state controller upon presen-  
48 tation of the proper vouchers. Up to fifty thousand dollars (\$50,000)  
49 of the annual earnings distribution to the state board may be used by the

1 state board annually for administrative costs related to the implemen-  
2 tation of the provisions of this chapter.

3 (d) Allowable administrative costs include, but are not limited to, op-  
4 erating expenses for the implementation and maintenance of a database,  
5 operating expenses to administer the program, personnel costs neces-  
6 sary to administer the program and costs related to promoting awareness  
7 of the program.

8 (e) Any unused annual funds shall be deposited into the opportunity  
9 scholarship program account.

10 (f) Pending use, surplus moneys in the account shall be invested by the  
11 state treasurer or endowment fund investment board in the same manner  
12 as provided under section 67-1210 or 68-501, Idaho Code, as applicable.  
13 Interest earned on the investments shall be returned to the account.

14 (11) The effectiveness of the Idaho opportunity scholarship will be  
15 evaluated by the state board on a regular basis. This evaluation will in-  
16 clude annual data collection as well as longer-term evaluations.