

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 227

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A
2 NEW CHAPTER 57, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PRO-
3 VIDE DEFINITIONS, TO ESTABLISH PROVISIONS RELATING TO A TAX CREDIT FOR
4 CONTRIBUTIONS MADE TO A SCHOLARSHIP GRANTING ORGANIZATION, TO ESTAB-
5 LISH PROVISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF SCHOL-
6 ARSHIP GRANTING ORGANIZATIONS, TO ESTABLISH PROVISIONS RELATING TO THE
7 DUTIES AND RESPONSIBILITIES OF THE STATE DEPARTMENT OF EDUCATION, TO
8 PROVIDE FOR RULES, TO ESTABLISH PROVISIONS RELATING TO THE DUTIES AND
9 RESPONSIBILITIES OF PARTICIPATING SCHOOLS, TO PROVIDE FOR LIMITATION
10 OF REGULATORY AUTHORITY, AND TO PROVIDE THAT THE AMOUNT OF A SCHOLARSHIP
11 SHALL NOT BE TREATED AS INCOME; AND PROVIDING AN EFFECTIVE DATE.
12

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

14 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended
15 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
16 ter 57, Title 33, Idaho Code, and to read as follows:

17 CHAPTER 57

18 IDAHO ELEMENTARY AND SECONDARY SCHOOL SCHOLARSHIP ACT

19 33-5701. SHORT TITLE. This act shall be known and may be cited as the
20 "Idaho Elementary and Secondary School Scholarship Act."

21 33-5702. DEFINITIONS. The following terms have the following mean-
22 ings for the purposes of this act:

23 (1) "Department" means the state department of education.

24 (2) "Educational scholarships" means grants to students to cover all or
25 part of the tuition and fees at a qualified nonpublic school located in the
26 state of Idaho.

27 (3) "Eligible student" means a student who:

28 (a) Is a member of a household whose total annual income during the year
29 before he or she receives an educational scholarship under this program
30 does not exceed an amount equal to one hundred fifty percent (150%) of
31 the income standard used to qualify for a free or reduced price lunch
32 under the national free or reduced price lunch program as described in
33 42 U.S.C. section 1751, et seq. Once a student has received a scholar-
34 ship under this program, the student will remain eligible until he or
35 she graduates from high school or reaches twenty-two (22) years of age,
36 whichever occurs first;

37 (b) Is at least five (5) years of age and less than twenty-two (22) years
38 of age;

1 (c) Attended a public school in the preceding semester, is entering
2 kindergarten or first grade, or is starting school in Idaho for the
3 first time; and

4 (d) Resides in Idaho and attends a school located in Idaho while receiv-
5 ing an educational scholarship.

6 (4) "Parent" includes a guardian, custodian or other person with au-
7 thority to act on behalf of the child.

8 (5) "Program" means the Idaho elementary and secondary school scholar-
9 ship program.

10 (6) "Qualified school" means a nonpublic elementary and/or secondary
11 school in Idaho that is not a homeschool, that voluntarily agrees to enroll
12 an eligible student and that complies with all of the requirements of the
13 program.

14 (7) "Scholarship granting organization" means an organization that
15 complies with the requirements of this program and provides educational
16 scholarships to students attending qualified schools of their parents'
17 choice.

18 33-5703. SCHOLARSHIP PROGRAM -- TAX CREDIT. Beginning with the tax
19 year commencing January 1, 2014, and for eligible contributions made on and
20 after that date:

21 (1) A taxpayer who files a state income tax return pursuant to section
22 63-3024, 63-3025 or 63-3025A, Idaho Code, and is not a dependent of another
23 taxpayer may claim a credit for a contribution made to a scholarship granting
24 organization.

25 (2) The credit may be claimed by an individual taxpayer or a married
26 couple filing jointly in an amount equal to the total contributions made to
27 a scholarship granting organization during the taxable year for which the
28 credit is claimed.

29 (3) An individual taxpayer or a married couple filing jointly may carry
30 forward a tax credit under this program for three (3) years.

31 (4) A credit may be claimed by any taxpayer that is a legal business en-
32 tity including limited and general partnerships, corporations and limited
33 liability corporations in an amount equal to the total contributions made to
34 a scholarship granting organization for educational scholarships during the
35 taxable year for which the credit is claimed up to fifty percent (50%) of the
36 business entity's tax liability.

37 (5) A business taxpayer may carry forward a tax credit under this pro-
38 gram for three (3) years.

39 (6) The credit authorized by this section shall not be used to reduce
40 the tax liability of any taxpayer to less than zero.

41 (7) In no event shall the aggregate amount of tax credits allowed pur-
42 suant to this section exceed ten million dollars (\$10,000,000) per tax year,
43 except as provided below.

44 (a) If the amount of credit allowed pursuant to this section reaches an
45 amount equal to ten million dollars (\$10,000,000) for tax year 2014, any
46 amounts due for qualified credits exceeding that amount shall be car-
47 ried over to the next tax year.

48 (b) In any tax year following 2014, the amount of credit provided for
49 pursuant to this section shall be revised from ten million dollars

1 (\$10,000,000) to reflect any percentage change in the consumer price
2 index from the immediately preceding year. In the event the credit
3 allowed during a tax year reaches the total annual credit authorized
4 by this section, any amounts due for qualified credits exceeding such
5 amount shall be carried over to the next tax year.

6 (8) The department shall allow the tax credits on a first come, first
7 served basis.

8 33-5704. SCHOLARSHIP GRANTING ORGANIZATIONS -- DUTIES AND RESPONSI-
9 BILITIES. (1) Each scholarship granting organization shall:

10 (a) Notify the state department of education of its intent to provide
11 educational scholarships to eligible students attending qualified
12 schools.

13 (b) Be located in Idaho and demonstrate to the department that it has
14 been granted exemption from the federal income tax as an organization
15 described in section 501(c)(3) of the Internal Revenue Code.

16 (c) Provide a department approved receipt to taxpayers for contribu-
17 tions made to the organization.

18 (d) Ensure that at least ninety percent (90%) of its revenue from do-
19 nations is spent on educational scholarships, and that all revenue from
20 interest or investments is spent on educational scholarships. Revenue
21 received by scholarship granting organizations for which no tax credit
22 was received by the donor is not required to be used for scholarships or
23 tuition grants.

24 (e) Provide educational scholarships to eligible students attending
25 qualified schools without limiting availability only to students of one
26 (1) school.

27 (f) Be prohibited from awarding or restricting the award of a scholar-
28 ship to a specific eligible student at the request of a donor.

29 (g) Ensure that educational scholarship recipients meet all eligibil-
30 ity requirements outlined in this act.

31 (h) Distribute periodic scholarship payments as checks made out to a
32 student's parent or guardian; and the checks will be delivered to the
33 qualified school where the student is enrolled.

34 (i) Ensure that scholarships are portable during the school year and
35 can be used at any qualified school that accepts the eligible student
36 according to a parent's wishes. If a student moves to a new qualified
37 school during a school year, the scholarship amount may be prorated.

38 (j) Demonstrate financial accountability by submitting a financial in-
39 formation report for the organization that complies with generally ac-
40 cepted uniform financial accounting standards that was conducted by a
41 certified public accountant.

42 (k) Not provide educational scholarships for students to attend any
43 school with paid staff or board members, or relatives thereof, in common
44 with the scholarship granting organization.

45 (l) Ensure that the maximum scholarship provided under this program is
46 equal to the lesser of the following:

47 (i) The sum of the tuition and fees the eligible student or the
48 parent of the eligible student would otherwise be obligated to pay
49 to attend a qualified school; or

1 (ii) An amount not greater than the per student tuition support
2 provided to the school district in which the eligible student re-
3 sides.

4 (m) Be permitted to transfer scholarship funds to another approved
5 scholarship granting organization that complies with this act.

6 (2) A scholarship granting organization shall publicly report to the
7 state department of education each year the following information prepared
8 by a certified public accountant regarding its grants in the previous calen-
9 dar year:

10 (a) The name and address of the scholarship granting organization;

11 (b) The total number and total dollar amount of contributions received
12 during the previous calendar year; and

13 (c) The total number and total dollar amount of educational scholar-
14 ships awarded during the previous calendar year.

15 (d) Upon request, scholarship granting organizations shall provide the
16 department with documentation demonstrating that educational scholar-
17 ship recipients meet the eligibility requirements outlined in this act.
18 All personal information reported under this subsection shall be confi-
19 dential taxpayer information.

20 33-5705. STATE DEPARTMENT OF EDUCATION -- DUTIES AND RESPONSIBILI-
21 TIES. (1) The state department of education shall adopt only those rules and
22 procedures necessary and consistent with this act in order to implement the
23 program.

24 (2) The state department of education shall provide a current list of
25 all approved scholarship granting organizations on its website.

26 (3) The department shall provide a standardized format for a receipt
27 to be issued by a scholarship granting organization to a taxpayer to indi-
28 cate the value of a contribution received. The state department of education
29 shall require a taxpayer to provide a copy of this receipt when claiming the
30 Idaho elementary and secondary school scholarship tax credit.

31 (4) The department shall provide a standardized format for scholar-
32 ship granting organizations to report the information required in section
33 33-5704, Idaho Code.

34 (5) The department shall have the authority to conduct either a finan-
35 cial review or audit of a scholarship granting organization if possessing
36 evidence of fraud.

37 (6) The department may bar a scholarship granting organization from
38 participating in the program if the department establishes that the schol-
39 arship granting organization has intentionally and substantially failed to
40 comply with the requirements provided for in section 33-5704, Idaho Code.

41 (7) The department shall provide scholarship granting organizations
42 with written notice of such failure to comply with any requirements of this
43 act by certified mail and allow ninety (90) days from the receipt of such no-
44 tice to correct all deficiencies.

45 (8) Upon failure to correct all deficiencies within ninety (90) days,
46 the department may require such scholarship granting organizations to be re-
47 moved from the list of approved scholarship granting organizations and bar
48 such scholarship granting organizations from participating in the program.

1 (9) If the department bars a scholarship granting organization from the
2 program, it shall notify affected scholarship students and their parents of
3 this decision as quickly as possible.

4 33-5706. PARTICIPATING SCHOOLS -- DUTIES AND RESPONSIBILITIES. All
5 participating nonpublic schools that accept educational scholarships under
6 this act shall:

- 7 (1) Be required to operate in Idaho;
- 8 (2) Hold a valid occupancy permit if required by their municipality;
- 9 (3) Certify that they will comply with federal nondiscrimination re-
10 quirements outlined in 42 U.S.C. section 1981;
- 11 (4) Be accredited or in the process of becoming accredited by either the
12 state board or a national or regional accreditation agency;
- 13 (5) Administer either the state assessment test or a norm-referenced
14 test to participating eligible students;
- 15 (6) Provide academic accountability to parents of students in the pro-
16 gram by regularly reporting to the parents on the student's progress;
- 17 (7) Comply with all state laws that apply to nonpublic schools regard-
18 ing criminal background checks for employees and exclude from employment any
19 people not permitted by state law to work in a nonpublic school; and
- 20 (8) Comply with all health and safety laws or codes that apply to non-
21 public schools.

22 33-5707. AUTONOMY OF QUALIFIED SCHOOLS. The creation of the Idaho el-
23 elementary and secondary school scholarship act does not expand the regula-
24 tory authority of the state, the state's officers or a school district to im-
25 pose additional regulation of nonpublic schools beyond those necessary to
26 enforce the requirements of the program.

27 33-5708. SCHOLARSHIP NOT TREATED AS INCOME. The amount of a scholar-
28 ship provided to an eligible individual under this act shall not be treated
29 as income or a resource for the purposes of qualifying for any other federal
30 or state grant program administered by the state or a political subdivision.

31 SECTION 2. This act shall be in full force and effect on and after Jan-
32 uary 1, 2014.