

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 170, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PAY FOR SUCCESS CONTRACTING; AMENDING CHAPTER 1, TITLE 33, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 33-125B, IDAHO CODE, TO PROVIDE
3 THAT THE STATE DEPARTMENT OF EDUCATION MAY ENTER INTO PAY FOR SUCCESS
4 CONTRACTS, TO PROVIDE CONTRACT REQUIREMENTS, TO PROVIDE FOR AN EXTERNAL
5 EVALUATOR, TO PROVIDE FOR INVESTOR MONEYS, TO PROVIDE FOR A THIRD PARTY
6 ADMINISTRATOR, TO ESTABLISH AN OVERSIGHT COMMITTEE, TO PROVIDE REPORT-
7 ING REQUIREMENTS, TO GRANT RULEMAKING AUTHORITY AND TO DEFINE TERMS.
8

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

10 SECTION 1. That Chapter 1, 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 33-125B, Idaho Code, and to read as follows:

13 33-125B. PAY FOR SUCCESS CONTRACTING -- DUTIES OF THE STATE DEPARTMENT
14 OF EDUCATION. (1) The state department of education may enter into contracts
15 for approved services. Notwithstanding section 67-5718, Idaho Code, the de-
16 partment may issue a request for information for a contract upon identifi-
17 cation of a need for a special service, or interested parties may identify a
18 need for service within the department and submit a proposal to the depart-
19 ment to negotiate a contract. Any contract entered into pursuant to this
20 section shall provide for:

- 21 (a) An evidence-based program delivered by the service provider de-
22 signed to enhance student academic achievement;
23 (b) Mutually agreed upon grade-level performance targets and efficacy
24 standards;
25 (c) Identified source of department moneys from which savings will be
26 realized;
27 (d) An external evaluator who shall have expertise in all of the follow-
28 ing areas:
29 (i) Education;
30 (ii) Program evaluation and assessment;
31 (iii) Collection and maintenance of program data;
32 (iv) Demonstrated ability to link an individual student's data
33 from grade to grade; and
34 (v) Knowledge of the Idaho-specific academic performance scores
35 used to demonstrate efficacy of the service provider's program;
36 (e) The state's payment obligations from the money appropriated to the
37 public school support program, if the efficacy standards are met under
38 the contract;
39 (f) Terms under which the state may terminate the contract;
40 (g) An annual audit to be performed by a certified public accountant;
41 and

1 (h) A mutually agreed upon formula for the distribution of savings re-
2 alized by the service provider program.

3 An external evaluator shall approve the negotiated contract provisions re-
4 lating to efficacy standards before the department may enter into any such
5 contract.

6 (2) Investor moneys shall be adequate to cover all contract costs.

7 (3) The third party administrator shall:

8 (a) Manage all moneys pursuant to subsection (2) of this section;

9 (b) When appropriate, direct payments to be made under the terms of the
10 contract;

11 (c) Ensure an annual audit is conducted under the terms of the contract;

12 (d) Issue financial reports as required by the contract; and

13 (e) Complete all other compliance requirements of state or federal law.

14 (4) The department shall approve the local education agencies (LEA)
15 from which each cohort will be chosen. The priority for selection of LEAs
16 shall be given to:

17 (a) LEAs reporting the greatest number of students who are not profi-
18 cient to meet grade-level performance targets being used to evaluate
19 the service provider's program;

20 (b) LEAs reporting the greatest number of students on free and reduced
21 lunch; and

22 (c) LEAs in different regions of the state.

23 The selection of cohorts shall be made by mutual agreement between the ser-
24 vice provider and the approved LEA.

25 (5) The external evaluator shall:

26 (a) Determine whether the service provider has met the agreed upon ef-
27 ficacy standards under the terms of the contract by determining the out-
28 comes for each cohort based on the following criteria:

29 (i) Whether there was an increase in the number of children profi-
30 cient to meet grade-level performance targets at levels specified
31 in the contract; and

32 (ii) Calculate moneys no longer expended or distributed by the de-
33 partment for intervention or remediation as specified in the con-
34 tract;

35 (b) Annually report the service provider efficacy standards to the de-
36 partment; and

37 (c) Report the service provider efficacy standards to the third party
38 administrator for the purpose of determining whether payment should be
39 made under the terms of the contract.

40 (6) An oversight committee is hereby created for the purpose of decid-
41 ing whether or not the state department of education will enter into a nego-
42 tiation with an interested party under this section, and for the purpose of
43 monitoring contracts entered into under this section. The committee shall
44 meet as often as is necessary to fulfill its obligations under this subsec-
45 tion. The committee shall consist of the following people:

46 (a) The chief financial officer of the state department of education;

47 (b) The subject matter expert at the state department of education;

48 (c) A representative from the state controller's office;

49 (d) The house of representatives education committee chairman; and

50 (e) The senate education committee chairman.

1 (7) The state department of education shall report to the legislature
2 on or before February 1 of each year on all contracts entered into pursuant to
3 this section.

4 (8) The state board of education may promulgate rules implementing the
5 provisions of this section.

6 (9) As used in this section:

7 (a) "Cohort" means a group of individuals who enter the service
8 provider's program on the same date.

9 (b) "Department" means the state department of education.

10 (c) "External evaluator" means the entity that is responsible for de-
11 termining the efficacy of a service provider's program.

12 (d) "Investor" means an individual or entity that provides the capital
13 for the services specified in a contract.

14 (e) "Local education agency" or "LEA" means a public authority legally
15 constituted by the state as an administrative agency to provide control
16 of and direction for kindergarten through grade 12 public educational
17 institutions.

18 (f) "Service provider" means an organization that implements an evi-
19 denced-based program that conforms to the terms of the contract.

20 (g) "Third party administrator" means an SSAE-16 compliant firm or a
21 firm licensed under chapter 2, title 54, Idaho Code, that manages all
22 moneys deposited pursuant to this section and controlled by a contract.