

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 315

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO INFORMATION TECHNOLOGY SYSTEMS; AMENDING TITLE 67, IDAHO CODE,  
2 BY THE ADDITION OF A NEW CHAPTER 92, TITLE 67, IDAHO CODE, TO PROVIDE A  
3 SHORT TITLE, TO PROVIDE FOR PURPOSE AND INTENT, TO PROVIDE DEFINITIONS,  
4 TO ESTABLISH THE EDUCATION OPPORTUNITY NETWORK BOARD AND TO PROVIDE  
5 FOR BOARD DUTIES, CERTAIN REQUIREMENTS, BOARD MEMBERSHIP AND BOARD OF-  
6 FICERS, TO PROVIDE THAT THE EDUCATION OPPORTUNITY NETWORK BOARD SHALL  
7 BE A GOVERNMENTAL ENTITY AND TO ESTABLISH PROVISIONS RELATING TO SUCH,  
8 TO ESTABLISH CERTAIN POWERS AND AUTHORITY OF THE BOARD, TO ESTABLISH  
9 PROVISIONS RELATING TO ASSISTANCE TO SCHOOL DISTRICTS, TO ESTABLISH AN  
10 OVERSIGHT COMMITTEE AND PROVISIONS RELATING TO THE OVERSIGHT COMMIT-  
11 TEE, TO ESTABLISH AN INTERIM WORKING GROUP AND TO ESTABLISH PROVISIONS  
12 RELATING TO THE WORKING GROUP, TO PROVIDE REPORTING REQUIREMENTS AND TO  
13 PROVIDE FOR HONORARIUM; REPEALING SECTION 67-5745D, IDAHO CODE, RELAT-  
14 ING TO THE IDAHO EDUCATION NETWORK; REPEALING SECTION 67-5745E, IDAHO  
15 CODE, RELATING TO THE IDAHO EDUCATION NETWORK PROGRAM AND RESOURCE AD-  
16 VISORY COUNCIL; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.  
17

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

19 SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended  
20 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
21 ter 92, Title 67, Idaho Code, and to read as follows:

22 CHAPTER 92

23 STATE OPPORTUNITY NETWORK ACT

24 67-9201. SHORT TITLE. This chapter shall be known and may be cited as  
25 the "State Opportunity Network Act."

26 67-9202. PURPOSE AND INTENT. The purpose of this act is to both es-  
27 tablish a statewide information system that meets the needs of Idaho's  
28 education system and to create a separate statewide network for Idaho's  
29 state agencies and other public interests. First, in regard to the needs of  
30 Idaho's public education system, the legislature finds that Idaho benefits  
31 from a statewide information system network that is dedicated to education,  
32 particularly schools and libraries, and that such network must be imple-  
33 mented for the 2016-2017 school year. The legislature therefore creates  
34 herein the education opportunity network board, which is charged with im-  
35 plementing a statewide network for education. Secondly and separately, the  
36 legislature further finds that Idaho will benefit from a statewide coordi-  
37 nated information and technology network that provides an interconnected  
38 network for Idaho's state agencies and other public interests including,  
39 but not limited to, commerce and industry, labor, economic development,  
40 health care and resources, local government and other functions of state

1 government. The legislature therefore creates herein a working group to  
2 collaborate with stakeholders to develop and implement a comprehensive,  
3 coordinated statewide information system.

4 67-9202A. DEFINITIONS. (1) The education opportunity network (EON)  
5 is defined as the coordinated, statewide information technology system  
6 designed to provide a wide variety of communications, electronic informa-  
7 tion applications and other technologies including, but not limited to,  
8 high-bandwidth connectivity for the state's public K-12 education system,  
9 libraries, and any other E-rate eligible services as defined by the federal  
10 communications commission.

11 (2) The Idaho opportunity network (ION) is defined as the statewide co-  
12 ordinated information technology network for state agencies and other pub-  
13 lic interests including, but not limited to, commerce and industry, labor,  
14 economic development, health care and health care-related resources, local  
15 government and other functions of state government. The Idaho opportunity  
16 network shall be separate and apart from the education opportunity network  
17 and shall not provide services to the state's public K-12 education system,  
18 libraries and other E-rate eligible entities.

19 (3) The term "school district" shall also include Idaho public charter  
20 schools.

21 67-9203. EDUCATION OPPORTUNITY NETWORK BOARD -- CREATION AND DUTIES  
22 -- MEMBERSHIP -- OFFICERS. (1) There is hereby created the education op-  
23 portunity network board, hereafter referred to as the board. The board, as  
24 provided for in this chapter, is not a single department of state government  
25 unto itself, nor is it a part of any of the twenty (20) departments of state  
26 government authorized by section 20, article IV, of the constitution of the  
27 state of Idaho, or of the departments prescribed in section 67-2402, Idaho  
28 Code. It is legislative intent that the board operate and be recognized not  
29 as a state agency or department, but as a governmental entity whose creation  
30 has been authorized by the state, in the manner as other single purpose dis-  
31 tricts.

32 (2) The education opportunity network board shall implement the educa-  
33 tion opportunity network for public schools, K-12, libraries and any other  
34 E-rate eligible services. The board shall ensure that such network is opera-  
35 tional by July 1, 2016. The board shall ensure that filings for E-rate fund-  
36 ing for the network are completed and filed with appropriate authorities and  
37 in a timely fashion in order to qualify for E-rate funding consideration for  
38 fiscal year 2017. No school district shall be required to participate in a  
39 statewide network implemented by the board.

40 (3) The board shall consist of eight (8) members:

41 (a) One (1) member shall be the superintendent of public instruction or  
42 the superintendent's designee;

43 (b) One (1) member shall be the president of the state board of educa-  
44 tion or the president's designee;

45 (c) One (1) member shall be a school district superintendent from a  
46 school district with five thousand (5,000) or more students enrolled,  
47 appointed by the governor from a list of three (3) candidates submitted  
48 to the governor by the Idaho association of school administrators;

1 (d) One (1) member shall be a school district superintendent from a  
 2 school district with less than one thousand (1,000) students enrolled,  
 3 appointed by the governor from a list of three (3) candidates submitted  
 4 to the governor by the Idaho association of school administrators;

5 (e) One (1) member shall be the president of the Idaho education tech-  
 6 nology association or the president's designee;

7 (f) One (1) member shall be the state librarian or the state librarian's  
 8 designee;

9 (g) One (1) member shall be a board member of the Idaho education tech-  
 10 nology association, appointed by the president of the Idaho education  
 11 technology association; and

12 (h) One (1) member shall be the state controller or the state con-  
 13 troller's designee.

14 The board shall elect a chairman and a vice-chairman, who shall each hold  
 15 such position for two (2) year terms and who may be reelected. Members of the  
 16 board shall hold office for four (4) year terms. Vacancies shall be filled by  
 17 the superintendent of public instruction for the remaining term.

18 (4) The board shall meet at least once every two (2) months.

19 (5) The board shall work with appropriate entities to develop, coordi-  
 20 nate and implement the education opportunity network in a manner consistent  
 21 with the provisions of this chapter and may exercise the powers and authority  
 22 conferred by this chapter.

23 (6) All meetings of the board shall be held in accordance with the open  
 24 meeting laws of this state, shall be held in an open public forum, and every  
 25 reasonable effort shall be made to make such meetings televised or streamed  
 26 in video and audio format.

27 (7) The board shall contract for an annual audit of the board by an in-  
 28 dependent third party and shall accept requests for proposal to bid on such  
 29 contract.

30 (8) The board shall hire a chief executive officer, who shall serve at  
 31 the pleasure of the board. The board shall set the chief executive officer's  
 32 salary and shall annually conduct a performance review of the chief execu-  
 33 tive officer.

34 67-9203A. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The edu-  
 35 cation opportunity network board shall be a governmental entity as provided  
 36 in section 67-9203, Idaho Code. For the purposes of section 59-1302(15),  
 37 Idaho Code, the education opportunity network board shall be deemed a gov-  
 38 ernmental entity. Pursuant to the provisions of section 63-36220, Idaho  
 39 Code, sales to or purchases by the education opportunity network board are  
 40 exempt from payment of the sales and use tax. The education opportunity net-  
 41 work board and its employees are subject to the following provisions:

42 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-  
 43 rupt influence;

44 (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts  
 45 with officers;

46 (c) Chapter 7, title 59, Idaho Code, on ethics in government;

47 (d) Chapter 23, title 67, Idaho Code, on open public meetings; and

48 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records.

1 (2) The education opportunity network board may sue or be sued, pur-  
2 chase, receive, hold and convey real and personal property for purposes  
3 consistent with this chapter, and its employees, members and officers shall  
4 enjoy the immunities and protections provided by chapter 9, title 6, Idaho  
5 Code.

6 (3) The education opportunity network board shall secure insurance for  
7 liability and property loss.

8 (4) It shall be unlawful for:

9 (a) Any board member to have pecuniary interest directly or indirectly  
10 in any contract or other transaction pertaining to the maintenance or  
11 conduct of the board, or to accept any reward or compensation for ser-  
12 vices rendered as a board member except as may be otherwise provided in  
13 this subsection. No contract or agreement for services or goods under  
14 the purview of the board may be entered into by a board member or a person  
15 related to a board member by blood or marriage within the second degree  
16 of consanguinity. The receiving, soliciting or acceptance of moneys of  
17 the board for deposit in any bank or trust company, or the lending of  
18 moneys by any bank or trust company to the board, shall not be deemed to  
19 be a contract pertaining to the maintenance or conduct of the education  
20 opportunity network or the board within the meaning of this section; nor  
21 shall the payment of compensation by the board to any bank or trust com-  
22 pany for services rendered in the transaction of any banking business  
23 with the board be deemed the payment of any reward or compensation to any  
24 officer or director of any such bank or trust company within the meaning  
25 of this section.

26 (b) The board or members of the board to enter into or execute any con-  
27 tract with the spouse of any member of such board, the terms of which  
28 said contract require, or will require, the payment or delivery of any  
29 education opportunity network funds, moneys or property to such spouse,  
30 except as provided in section 18-1361 or 18-1361A, Idaho Code.

31 (5) When any relative of any board member, or relative of the spouse of a  
32 board member related by affinity or consanguinity within the second degree,  
33 is to be considered for employment by the board, such board member shall ab-  
34 stain from voting in the election of such relative and shall be absent from  
35 the meeting while such employment is being considered and determined.

36 (6) The state of Idaho shall not be liable for any obligations of the  
37 board.

38 (7) No member of the board shall be liable, and no cause of action of any  
39 nature may arise against them, for any act or omission related to the perfor-  
40 mance of their powers and duties under this chapter, unless such act or omis-  
41 sion constitutes willful or wanton misconduct. The board may provide for in-  
42 demnification of, and legal representation for, its members.

43 67-9204. POWERS AND AUTHORITY OF THE EDUCATION OPPORTUNITY NETWORK  
44 BOARD. (1) In addition to the board's powers and authority provided else-  
45 where in this chapter, the board shall have the powers and authority to:

46 (a) Perform all duties that are necessary and appropriate to implement  
47 the education opportunity network and the provisions of this chapter;

48 (b) Adopt bylaws for the regulation of its affairs and the conduct of  
49 its business;

1 (c) Take any legal action to recover any amounts lawfully owed to the  
2 board or otherwise consistent with this chapter;

3 (d) Hire staff or engage the services of persons as it determines is  
4 necessary to implement the provisions of this chapter. Such staff or  
5 persons may include, but are not limited to, an independent E-rate con-  
6 sultant and legal counsel with experience in federal communications  
7 subject matter, or persons with other specialized skills that the board  
8 determines are necessary in order to fulfill its responsibilities;

9 (e) Pursuant to state purchasing laws, the board may enter into con-  
10 tracts to effectuate and implement the education opportunity network  
11 and accept requests for proposals to bid on such contracts; and

12 (f) Develop, adopt and implement a plan of operation and other govern-  
13 ing documents to fulfill the requirements of this chapter.

14 (2) In performing the duties pursuant to this chapter, subject to the  
15 availability of funds, the board shall:

16 (a) Coordinate the development and implementation of the education op-  
17 portunity network;

18 (b) Consider statewide economic development impacts in the design and  
19 implementation of the network;

20 (c) Coordinate and support the information technology needs of public  
21 education;

22 (d) Pursuant to state purchasing laws, procure high-quality, cost-ef-  
23 fective information technologies where necessary to implement the edu-  
24 cation opportunity network;

25 (e) Pursuant to state purchasing law, procure and implement technol-  
26 ogy and equipment for the delivery of distance information and distance  
27 learning;

28 (f) Establish subcommittees or advisory committees when necessary.  
29 Members of the subcommittees shall be selected for their knowledge and  
30 experience in the technology necessary for the procurement and/or ongo-  
31 ing operation of the education opportunity network;

32 (g) Work with the private sector, where appropriate, to deliver a high-  
33 quality and cost-effective education opportunity network; and

34 (h) Cooperate with public education entities including, but not lim-  
35 ited to, the Idaho regional optical network, in implementing the educa-  
36 tion opportunity network.

37 (3) The board shall not have the power to alter its own legal structure.  
38 The board shall, however, report to the legislative oversight committee es-  
39 tablished in section 67-9204B, Idaho Code, annually, no later than September  
40 1 of each year. The board shall notify the legislative oversight committee  
41 if it believes legal barriers exist that are obstacles to the successful com-  
42 pletion of its responsibilities and duties provided for in this chapter. The  
43 board shall also report to the oversight committee where it finds opportuni-  
44 ties, not provided for in law, to advance education through technology.

45 67-9204A. ASSISTANCE TO SCHOOL DISTRICTS. (1) The education opportu-  
46 nity network board shall provide technical support for school districts.

47 (2) The board is not authorized to provide legal advice.

48 (3) The board is authorized to collaborate with districts to:

1 (a) Negotiate in conjunction with and on behalf of districts with  
2 providers for broadband and related services;

3 (b) Enter into contracts for broadband and related services on behalf  
4 of school districts;

5 (c) Enter into a statewide broadband contract that districts may par-  
6 ticipate in if they so choose; and

7 (d) Facilitate other technical services to districts including, but  
8 not limited to, E-rate application services, assistance on information  
9 technology issues, and assistance on technical issues relating to fed-  
10 eral communications commission matters.

11 (4) The board is authorized to hire staff to provide technical assis-  
12 tance to school districts as described in this section.

13 67-9204B. BROADBAND NETWORK LEGISLATIVE OVERSIGHT COMMITTEE ESTAB-  
14 LISHED -- ONGOING REVIEW AND REPORT. (1) There is hereby established the  
15 broadband network legislative oversight committee. Members of the com-  
16 mittee shall include: the chairman of the senate education committee, the  
17 chairman of the house education committee, the cochairmen of the joint fi-  
18 nance-appropriations committee, or any of their respective designees; two  
19 (2) members appointed by the president pro tempore of the senate, and two  
20 (2) members appointed by the speaker of the house of representatives. The  
21 oversight committee shall consider reports submitted by the education op-  
22 portunity network board and the interim working group established in section  
23 67-9204C, Idaho Code. The oversight committee shall submit proposed legis-  
24 lation for consideration to the joint finance-appropriations committee and  
25 other committees, as necessary, no later than January 31, 2016.

26 (2) The education opportunity network board is charged with ongoing re-  
27 view of the implementation of its enabling legislation and the operations of  
28 the board itself. The board shall report to the broadband network legisla-  
29 tive oversight committee no later than November 1, 2015. Such report shall  
30 include recommendations, if necessary, for revisions to the board's en-  
31 abling legislation, recommendations for changes in board structure, funding  
32 levels, staffing issues or other matters that the board determines should be  
33 brought to the oversight committee's attention.

34 (3) The interim working group, established pursuant to this chapter,  
35 shall report to the broadband network legislative oversight committee no  
36 later than November 1, 2015. Such report shall include recommendations for  
37 legislation to implement the provisions of the Idaho opportunity network  
38 defined in section 67-9202A, Idaho Code.

39 67-9204C. INTERIM WORKING GROUP. (1) There is hereby established the  
40 Idaho opportunity network interim working group, hereafter referred to as  
41 the working group. The working group shall develop proposed legislation to  
42 establish and implement the Idaho opportunity network as defined in section  
43 67-9202A, Idaho Code. The working group shall develop proposed legislation  
44 for submission, no later than October 1, 2015, to the broadband network  
45 legislative oversight committee established pursuant to section 67-9204B,  
46 Idaho Code. Such proposed legislation shall provide for the establishment  
47 of the Idaho opportunity network as defined in section 67-9202A, Idaho Code.  
48 The proposed legislation shall ensure that the Idaho opportunity network is

1 developed and implemented in an open and transparent fashion and that all  
2 services are obtained in compliance with state purchasing laws. Members of  
3 the working group shall meet as soon as practicable following the passage and  
4 approval of this act.

5 (2) Members of the working group shall include:

6 (a) One (1) member shall be the state controller or the state con-  
7 troller's designee;

8 (b) One (1) member shall be the director of the department of health and  
9 welfare or the director's designee;

10 (c) One (1) member shall be the director of the department of labor or  
11 the director's designee;

12 (d) One (1) member shall be the director of the Idaho transportation de-  
13 partment or the director's designee;

14 (e) One (1) member shall be the director of the Idaho state police or the  
15 director's designee;

16 (f) One (1) member shall be the adjutant general, Idaho military divi-  
17 sion, or the adjutant general's designee;

18 (g) One (1) member shall be the director of the department of commerce  
19 or the director's designee;

20 (h) One (1) member shall be the president of the state board of educa-  
21 tion or the president's designee; and

22 (i) One (1) member shall be the president of the Idaho education tech-  
23 nology association.

24 The chief executive officer of the education opportunity network board shall  
25 serve as a nonvoting ex officio member of the working group.

26 (3) The working group shall also review the policy objectives provided  
27 for in sections 67-5745, 67-5745A, 67-5745B and 67-5745C, Idaho Code, and  
28 shall develop recommendations to strengthen the enforcement of such policy  
29 objectives.

30 (4) The working group shall meet monthly unless otherwise agreed to by  
31 the group.

32 (5) The working group shall select a chairman and vice-chairman.

33 (6) The chairman of the working group shall obtain advice from techni-  
34 cal advisors and appropriate stakeholders including, but not limited to, the  
35 department of homeland security and other appropriate state departments.  
36 The working group is authorized to appoint an advisory committee to help with  
37 its work. Members of such advisory committee may be persons representing  
38 stakeholders and may have technical expertise to aid in the working group's  
39 efforts. Members of the advisory committee shall not be eligible for any  
40 honorarium or compensation, but shall be eligible for reimbursement of cer-  
41 tain actual expenses as provided for in section 67-9206, Idaho Code.

42 67-9205. REPORTING REQUIREMENTS. The education opportunity network  
43 board shall submit a written report of its activities and the condition and  
44 status of the education opportunity network to the office of the state con-  
45 troller, the governor and the chairman of the senate education committee,  
46 the house of representatives education committee and the cochairs of the  
47 joint finance-appropriations committee on or before January 31, 2016, and  
48 annually on or before each January 31 thereafter. The report shall include

1 information regarding broadband usage, speed and capability of the network,  
2 and how many and what type of entities are using the network.

3 67-9206. BOARD MEMBERS -- HONORARIUM. Members of the boards and in-  
4 terim working groups authorized pursuant to this chapter shall serve without  
5 honorarium or compensation of any kind, but shall be reimbursed for actual  
6 and necessary expenses, subject to the limits provided in section 67-2008,  
7 Idaho Code.

8 SECTION 2. That Section [67-5745D](#), Idaho Code, be, and the same is hereby  
9 repealed.

10 SECTION 3. That Section [67-5745E](#), Idaho Code, be, and the same is hereby  
11 repealed.

12 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared  
13 to be severable and if any provision of this act or the application of such  
14 provision to any person or circumstance is declared invalid for any reason,  
15 such declaration shall not affect the validity of the remaining portions of  
16 this act.

17 SECTION 5. An emergency existing therefor, which emergency is hereby  
18 declared to exist, Sections 1 and 4 of this act shall be in full force and ef-  
19 fect on and after passage and approval. Sections 2 and 3 of this act shall be  
20 in full force and effect on and after February 1, 2016.