

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 551

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO COLLEGE SAVINGS ACCOUNTS; AMENDING SECTION 33-5401, IDAHO CODE,  
2 TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
3 TION 33-5404, IDAHO CODE, TO REVISE PROVISIONS REGARDING COLLEGE SAV-  
4 INGS PROGRAM REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
5 SECTION 33-5405, IDAHO CODE, TO REVISE PROVISIONS REGARDING TAXATION TO  
6 THE BENEFICIARY; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE  
7 APPLICATION.  
8

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

10 SECTION 1. That Section 33-5401, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 33-5401. DEFINITIONS. As used in this chapter, the following terms  
13 have the following meanings unless the context clearly denotes otherwise:

14 (1) "Account" means an individual trust account or savings account es-  
15 tablished as prescribed in this chapter.

16 (2) "Account owner" means the person or state or local government or-  
17 ganization designated in the agreement governing the account as having the  
18 right to withdraw moneys from the account before the account is disbursed to  
19 or for the benefit of the designated beneficiary.

20 (3) "Board" means the state college savings program board created in  
21 section 33-5402, Idaho Code.

22 (4) "Designated beneficiary," except as provided in section 33-5404,  
23 Idaho Code, means, with respect to an account, the individual designated at  
24 the time the account is opened as the individual whose higher education ex-  
25 penses are expected to be paid from the account or, if this designated bene-  
26 ficiary is replaced in accordance with section 33-5404, Idaho Code, the re-  
27 placement beneficiary.

28 (5) "Eligible educational institution" shall have the meaning provided  
29 in 26 U.S.C. ~~section~~ 529.

30 (6) "Financial institution" means any state bank, national bank, sav-  
31 ings bank, savings and loan association, credit union, insurance company,  
32 brokerage firm, trust company, mutual fund, investment firm or other similar  
33 entity that is authorized to do business in this state.

34 (7) "Member of the family" shall have the meaning as provided in 26  
35 U.S.C. ~~section~~ 529.

36 (8) "Nonqualified withdrawal" means a withdrawal from an account  
37 withdrawal that is not one (1) of the following: subject to additional tax  
38 arising from the withdrawal under the Internal Revenue Code, as defined in  
39 section 63-3004, Idaho Code. For the purpose of section 63-3022(o), Idaho  
40 Code, the amount of a nonqualified withdrawal from an account means the en-  
41 tire amount of the withdrawal, less any portion of the withdrawal that is a  
42 qualified withdrawal.

1 ~~(a) A qualified withdrawal;~~

2 ~~(b) A withdrawal made as the result of the death or disability of the~~  
3 ~~designated beneficiary of an account;~~

4 ~~(c) A withdrawal that is made on account of a scholarship as defined~~  
5 ~~in 26 U.S.C. section 117 or an educational allowance as defined in 26~~  
6 ~~U.S.C. section 25A(g) (2);~~

7 ~~(d) A rollover or change of the designated beneficiary.~~

8 (9) "Person" means an individual, a trust, an estate, a partnership,  
9 an association, a foundation, a guardianship, a corporation, or a custodian  
10 under the Idaho uniform transfers to minors act.

11 (10) "Program" means one (1) or more college savings programs estab-  
12 lished under this chapter.

13 (11) "Qualified higher education expenses" shall have the meaning pro-  
14 vided in 26 U.S.C. ~~section~~ 529.

15 (12) "Qualified withdrawal" means a withdrawal from an account ~~to pay~~  
16 ~~the used for~~ qualified higher education expenses of the designated benefi-  
17 ciary of the account, but only if the withdrawal is made in accordance with  
18 this chapter.

19 SECTION 2. That Section 33-5404, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 33-5404. PROGRAM REQUIREMENTS. (1) The program shall be operated  
22 through the use of individual accounts. Each account may be opened by any  
23 person who desires to save for the qualified higher education expenses of  
24 a person. If approved by the board, minors may open an account which that  
25 cannot be disaffirmed pursuant to section 32-103, Idaho Code. A person may  
26 open an account by satisfying each of the following requirements:

27 (a) Completing an application in the form prescribed by the board. The  
28 application shall include the following information:

29 (i) The name, address and social security number or employer  
30 identification number of the contributor;

31 (ii) The name, address and social security number of the account  
32 owner if the account owner is not the contributor;

33 (iii) The name, address and social security number of the desig-  
34 nated beneficiary;

35 (iv) The certification relating to no excess contributions re-  
36 quired by subsection (13) of this section; and

37 (v) Any other information that the board may require;

38 (b) Paying the ~~one-time~~ onetime application fee established by the  
39 board;

40 (c) Making the minimum contribution required by the board or by opening  
41 an account; and

42 (d) Designating the type of account to be opened if more than one (1)  
43 type of account is offered.

44 (2) Any person may make contributions to an account after the account is  
45 opened.

46 (3) Contributions to accounts may be made only in cash.

47 (4) Account owners may withdraw all or part of the balance from an ac-  
48 count on sixty (60) days' notice, or a shorter period as may be authorized by  
49 the board, ~~under rules prescribed~~ and as described in the securities disclo-

1 sure or offering document approved by the board and provided to account own-  
2 ers and potential account owners.

3 (5) An account owner may change the designated beneficiary of an ac-  
4 count to an individual who is a member of the family of the former designated  
5 beneficiary in accordance with procedures established by the board.

6 (6) On the direction of an account owner, all or a portion of an account  
7 may be transferred to another account of which the designated beneficiary is  
8 a member of the family of the designated beneficiary of the transferee ac-  
9 count.

10 (7) Changes in designated beneficiaries and rollovers under this sec-  
11 tion are not permitted if the changes or rollovers would violate ~~either of~~  
12 ~~the following~~ provisions of this section relating to excess contributions or  
13 ~~to investment choice~~ direction of investments.

14 (8) Each account shall be maintained separately from each other account  
15 under the program.

16 (9) Separate records and accounting shall be maintained for each ac-  
17 count for each designated beneficiary.

18 (10) No contributor to, account owner of or designated beneficiary of  
19 any account may direct the investment of any contributions to an account or  
20 the earnings from the account.

21 (11) The board may transfer accounts held by a depository or manager to  
22 a successor depository or manager; provided, however, that the transfer to a  
23 successor depository or manager does not cause the plan to cease to be a qual-  
24 ified tuition program or subject individual accounts to taxes or penalties.

25 (12) Neither an account owner nor a designated beneficiary may use an  
26 interest in an account as security for a loan. Any pledge of an interest in an  
27 account is of no force and effect.

28 (13) The board shall ~~adopt rules to~~ prevent contributions on behalf of  
29 a designated beneficiary in excess of those necessary to pay the qualified  
30 higher education expenses of the designated beneficiaries. The board's  
31 rules, policies, guidelines, or procedures shall address the following:

32 (a) Procedures for aggregating the total balances of multiple accounts  
33 established for a designated beneficiary;

34 (b) The establishment of a maximum total balance that may be held in ac-  
35 counts for a designated beneficiary;

36 (c) The board shall review the quarterly reports received from partici-  
37 pating financial institutions and certify that the balance in all qual-  
38 ified tuition programs, as defined in section 529 of the Internal Rev-  
39 enue Code, of which that person is the designated beneficiary does not  
40 exceed the lesser of:

41 (i) A maximum college savings amount established by the board from  
42 time to time; or

43 (ii) The cost in current dollars of qualified higher education ex-  
44 penses that the contributor reasonably anticipates the designated  
45 beneficiary will incur; and

46 (d) Requirements that any excess balances with respect to a desig-  
47 nated beneficiary be promptly withdrawn in a nonqualified withdrawal or  
48 rolled over to another account in accordance with this section.

49 (14) If there is any distribution from an account to any person or for  
50 the benefit of any person during a calendar year, the distribution shall be

1 reported to the internal revenue service and the account owner or the design-  
2 nated beneficiary to the extent required by federal law.

3 (15) The program shall provide statements to each account owner at least  
4 once each year within thirty-one (31) days after the twelve (12) month period  
5 to which they relate. The statement shall identify the contributions made  
6 during a preceding twelve (12) month period, the total contributions made  
7 through the end of the period, the value of the account as of the end of this  
8 period, distributions made during this period and any other matters that the  
9 board requires be reported to the account owner.

10 (16) Statements and information returns relating to accounts shall be  
11 prepared and filed to the extent required by federal or state tax law.

12 (17) A state or local government or organization described in section  
13 501(c)(3) of the Internal Revenue Code may open and become the account owner  
14 of an account to fund scholarships for persons whose identity will be deter-  
15 mined after an account is opened.

16 (18) In the case of any account described in subsection (17) of this sec-  
17 tion, the requirement that a designated beneficiary be designated when an  
18 account is opened does not apply and each person who receives an interest  
19 in the account as a scholarship shall be treated as a designated beneficiary  
20 with respect to the interest.

21 (19) Any social security numbers, addresses or telephone numbers of  
22 individual account holders and designated beneficiaries that come into the  
23 possession of the board are confidential, are not public records and shall  
24 not be released by the board.

25 SECTION 3. That Section 33-5405, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 33-5405. TAXATION TO BENEFICIARY. The designated beneficiary, as de-  
28 fined in section 529(e)(1) of the Internal Revenue Code, from an individ-  
29 ual trust account or savings account established under this chapter is li-  
30 able for taxes that may accrue under chapter 30, title 63, Idaho Code, when a  
31 ~~qualified~~ nonqualified withdrawal is ~~made~~ received by the designe-  
32 d beneficiary.

33 SECTION 4. An emergency existing therefor, which emergency is hereby  
34 declared to exist, this act shall be in full force and effect on and after its  
35 passage and approval, and retroactively to January 1, 2020.