LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature
First Regular Session - 2021

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 294

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE AD-
DITION OF A NEW SECTION 33-1029, IDAHO CODE, TO PROVIDE FOR STATUTORY
CONSTRUCTION WITH REGARD TO NONPUBLIC SCHOOL STUDENTS; AMENDING CHAP-
TER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1030,
IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE,
BY THE ADDITION OF A NEW SECTION 33-1031, IDAHO CODE, TO ESTABLISH PRO-
VISIONS REGARDING A STRONG STUDENTS GRANT PROGRAM; AMENDING CHAPTER 10,
TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1032, IDAHO
CODE, TO ESTABLISH PROVISIONS REGARDING A STRONG STUDENTS SCHOLARSHIP
PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A
NEW SECTION 33-1033, IDAHO CODE, TO PROVIDE FOR A PARENT ADVISORY PANEL;
AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
TION 33-1034, IDAHO CODE, TO PROVIDE A LIMITATION ON PROGRAM PARTICI-
PATION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A
NEW SECTION 33-1035, IDAHO CODE, TO PROVIDE FOR A CERTAIN REPORT; AMEND-
ing CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
33-1036, IDAHO CODE, TO PROVIDE THAT PARENTS MAY INTERVENE IN CERTAIN
LEGAL ACTIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 10, Title 33, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 33-1029, Idaho Code, and to read as follows:

33-1029. STATUTORY CONSTRUCTION -- NONPUBLIC SCHOOL STUDENTS. Noth-
ing in sections 33-1030 through 33-1034, Idaho Code, shall be construed to
give the state authority to regulate the education of nonpublic school stu-
dents.

SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 33-1030, Idaho Code, and to read as follows:

33-1030. DEFINITIONS. As used in this section through section
33-1036, Idaho Code:
(1) "Assessment" means an examination or another objective evaluation
of a student's academic performance, academic engagement, or college or ca-
reer readiness.
(2) "Board" means the state board of education.
(3) "Contractor" means an individual or an entity with whom the board
enters a contract for the purpose of performing a program function under sec-
tion 33-1031 or 33-1032, Idaho Code.
(4) "Eligible education expenses" means:
(a) Computer hardware, internet access, or other technological devices
or services that are primarily used to meet a participant's educational
needs;
(b) Tuition or fees at a private school;
(c) Textbooks, curriculum, or other instructional materials, includ-
ing educational software and applications;
(d) Fees for national standardized assessments, advanced placement ex-
aminations, examinations related to college or university admissions,
or industry-recognized certification examinations;
(e) Therapies, including but not limited to occupational, behavioral,
physical, speech-language, and audiology therapies, or other services
or therapies specifically approved by the board;
(f) Educational programs offered for a fee or pursuant to contract by a
school district, public charter school, or career technical education
program to nonpublic students, provided that such students may not be
 COUNTED for purposes of calculating public school enrollment;
(g) Supplemental education services; or
(h) Other education expenses as approved by the board, upon recommen-
dation of the parent advisory panel established pursuant to section
33-1033, Idaho Code.
(5) "Eligible student" means:
(a) For purposes of section 33-1031, Idaho Code, a person in kinder-
garten through grade 12, whether a public school or nonpublic school
student; or
(b) For purposes of section 33-1032, Idaho Code, a person who:
   (i) Attended an Idaho public school for at least one hundred (100)
days in the school year immediately preceding application for a
student scholarship account; and
   (ii) Is eligible to enroll, but is not enrolled, in an Idaho public
school at the time of such application.
(6) "Grant" means an award of five hundred dollars ($500), which must be
used for eligible education expenses.
(7) "Grant distribution platform" means a device through which grant
funds or student scholarship account funds are transferred from the board to
the parents of participants.
(8) "Parent" means the parent or legal guardian of an eligible student
or a participant.
(9) "Participant" means an eligible student for whom:
   (a) A grant is awarded under section 33-1031, Idaho Code; or
   (b) A student scholarship account is established under section
33-1032, Idaho Code.
(10) "Program" means:
   (a) For purposes of section 33-1031, Idaho Code, the strong students
grant program established by that section; or
   (b) For purposes of section 33-1032, Idaho Code, the strong students
scholarship program established by that section.
(11) "Student scholarship account" or "scholarship account" means an
account established pursuant to section 33-1032, Idaho Code.
SECTION 3. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1031, Idaho Code, and to read as follows:

33-1031. STRONG STUDENTS GRANT PROGRAM. (1) There is hereby established the strong students grant program, to be administered by the board according to the provisions of this section. The purpose of the program is to provide education grants for eligible students.

(2) In order to administer the program, the board:
   (a) Shall select a third party to build a grant distribution platform, subject to the provisions of chapter 92, title 67, Idaho Code;
   (b) Shall administer or select, subject to the provisions of chapter 92, title 67, Idaho Code, a third party to administer the grant distribution platform;
   (c) May retain, subject to the provisions of chapter 92, title 67, Idaho Code, such other contractors as are needed to administer the program, if any, and delegate program functions to such contractors;
   (d) Shall establish a grant application process for parents. Applications shall be accepted beginning on July 1 of each year;
   (e) Shall, subject to appropriation, award grants. Grant awards shall be made in the following order of preference:
      (i) First to eligible students whose household has an adjusted gross income under fifty thousand dollars ($50,000), as verified by the Idaho state tax commission using the prior year's tax returns. Notification of grant awards for students in this category shall be made within thirty (30) days of application, and grant funds shall be made available for participants' use as soon as practicable, but no later than thirty (30) days after the notification of a grant award;
      (ii) Starting on September 15 of each year, to eligible students whose household has an annual gross income under seventy-five thousand dollars ($75,000), as verified by the Idaho state tax commission using the prior year's tax returns; and
      (iii) Starting on November 1 of each year, to all other eligible students on a first-come, first-served basis until all available funds are distributed, provided that no applications shall be accepted after December 1; and
   (f) May take such other actions as are necessary to implement and enforce the provisions of this section.

(3) Prior to the award of a grant, the parent of a participant shall agree to verify program compliance. The parent of a participant shall use grant funds only for eligible education expenses. If a parent is found to misuse grant funds, then neither the parent nor another parent of the student living in the same household may apply for a grant in the future for any student, provided that the parent may appeal the finding to the board.

(4) Grant funds shall be expended during the fiscal year in which they are awarded. Any unused funds at the end of the fiscal year shall revert to the state general fund.
SECTION 4. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1032, Idaho Code, and to read as follows:

33-1032. STRONG STUDENTS SCHOLARSHIP PROGRAM. (1) There is hereby established a strong students scholarship program to be administered by the board. Subject to appropriation, the board shall establish a student scholarship account for an eligible student upon application by the student's parent. Except as provided in subsection (6) of this section, applications shall be made, considered, and granted on the same schedule and in the same order of preference as provided in section 33-1031(2)(d) and (e), Idaho Code.

(2) Moneys deposited in a student scholarship account shall be equal to ninety percent (90%) of the average amount of state funds appropriated per student during the prior fiscal year, including funds appropriated pursuant to section 33-1018, Idaho Code. Prior to accessing moneys deposited in a student scholarship account, a parent must sign an agreement to:

(a) Provide the participant an education in subjects including, at a minimum, English language arts, mathematics, science, and social studies;

(b) Not enroll the participant as a full-time student in a public school;

(c) Use the moneys in the student scholarship account only for eligible education expenses and verify that such moneys are in fact used as provided in this paragraph; and

(d) Comply with all other rules and requirements of the strong students scholarship program.

(3) If the board finds that a parent has misused student scholarship account moneys, then neither the parent nor another parent of the participant living in the same household may apply for a scholarship account for any student in the future, provided that a parent may appeal the finding to the board.

(4) Moneys in a student scholarship account shall be expended during the fiscal year in which such moneys were deposited in the student scholarship account. Any moneys remaining in the student scholarship account at the end of the fiscal year shall revert to the state general fund.

(5) The board may retain contractors and delegate program functions to such contractors, subject to the provisions of chapter 92, title 67, Idaho Code. If the board retains a contractor pursuant to section 33-1031, Idaho Code, then the same contractor may be retained for purposes of this section.

(6) A scholarship account awarded pursuant to this section may be renewed after the initial award according to a reapplication process established by the board. A student does not need to have attended public school in the school year immediately preceding such reapplication. Notwithstanding the provisions of subsection (1) of this section, a participant whose parent reapplies for a student scholarship account shall receive preference over initial applicants for a student scholarship account.

(7) A participant shall be considered to satisfy the compulsory school attendance requirements provided in section 33-202, Idaho Code, as long as
the participant and the participant's parent comply with the provisions of this section.

(8) The board shall notify the parent of a child with disabilities applying for a student scholarship account that participating in the strong students scholarship program is a parental placement for purposes of 20 U.S.C. 1412. The board shall further notify such parent of the rights that parentally placed students possess under the individuals with disabilities education act, state law, and any applicable state rule or federal regulation.

SECTION 5. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1033, Idaho Code, and to read as follows:

33-1033. PARENT ADVISORY PANEL. (1) For purposes of this section:
(a) "Executive director" means the executive director of the office of the state board of education.
(b) "Program funds" means funds distributed to parents pursuant to sections 33-1031 or 33-1032, Idaho Code.

(2) There is hereby established in the office of the state board of education a parent advisory panel, which shall make recommendations to the board:
(a) As described in section 33-1030 (4) (h), Idaho Code; and
(b) On how to implement, administer, and improve the programs described in sections 33-1031 and 33-1032, Idaho Code.

(3) The parent advisory panel shall consist of seven (7) members appointed by the executive director. Such members shall be parents of students who have applied for program funds or who, for the initial appointment of the panel, have indicated their intent to apply for program funds, according to a process established by the executive director. Members of the panel shall represent different regions of the state. Members shall serve one (1) year terms at the pleasure of the executive director and may be reappointed if they meet the eligibility criteria described in this subsection. The executive director or the executive director's designee shall serve as the non-voting chair of the parent advisory panel.

(4) At the request of the board, the parent advisory panel shall meet, in person or virtually, to discuss and make recommendations as described in subsection (2) of this section.

(5) If a parent appeals a finding that program funds were used for a purpose other than eligible education expenses, then the panel shall meet to consider the appeal and recommend a decision on the appeal to the board.

SECTION 6. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1034, Idaho Code, and to read as follows:

33-1034. LIMITATION ON PROGRAM PARTICIPATION. The same student may not receive in the same fiscal year both a grant pursuant to section 33-1031, Idaho Code, and a scholarship account pursuant to section 33-1032, Idaho Code.
SECTION 7. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1035, Idaho Code, and to read as follows:

33-1035. REPORT. By December 15 of each year, the board shall report to the governor and the senate and house of representatives education committees:

1. The total funds appropriated for the strong students grant program and the strong students scholarship program in the current fiscal year and the prior fiscal year;
2. The number of applicants for each program in the current fiscal year and the prior fiscal year;
3. The number of grants and scholarships awarded in the current fiscal year and the prior fiscal year, and how grant funds and scholarship funds were used by participants;
4. Any contracts entered pursuant to sections 33-1031 and 33-1032, Idaho Code; and
5. Other matters concerning either program that are:
   a. Considered relevant by the board; or
   b. Specifically requested for inclusion in the report by the governor or by any member of the senate or house of representatives.

SECTION 8. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1036, Idaho Code, and to read as follows:

33-1036. PARENTS MAY INTERVENE IN CERTAIN LEGAL ACTIONS. If any provision of sections 33-1030 through 33-1034, Idaho Code, is challenged in state court on the claim that the provision violates the United States constitution or the constitution of the state of Idaho, then the parent of a student eligible for or participating in the strong students grant program or the strong students scholarship program shall be permitted to intervene in such lawsuit for the purpose of defending the program's constitutionality. However, for purposes of judicial administration, a court may require that all intervening parents file a joint brief, as long as they are not required to join any brief filed on behalf of the state or any of its agencies, officers, or employees.

SECTION 9. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.