

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 164

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A
2 NEW CHAPTER 68, TITLE 33, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
3 THE IDAHO EDUCATION OPPORTUNITY PROGRAM, TO ESTABLISH THE IDAHO EDUCA-
4 TION OPPORTUNITY PROGRAM FUND, TO DEFINE TERMS, TO PROVIDE FOR CERTAIN
5 ACCOUNTS, TO PROVIDE FOR FUNDING PROCEDURES AND RENEWAL, AND TO PROVIDE
6 FOR ADMINISTRATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE
7 ADDITION OF A NEW SECTION 63-3022W, IDAHO CODE, TO ESTABLISH PROVISIONS
8 FOR AN INCOME TAX DEDUCTION FOR PRIVATE SCHOOL TUITION; PROVIDING SEV-
9 ERABILITY; AND PROVIDING AN EFFECTIVE DATE.
10

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

12 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended
13 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
14 ter 68, Title 33, Idaho Code, and to read as follows:

15 CHAPTER 68

16 IDAHO EDUCATION OPPORTUNITY PROGRAM

17 33-6801. IDAHO EDUCATION OPPORTUNITY PROGRAM -- IDAHO EDUCATION OP-
18 PORTUNITY FUND. (1) There is hereby established the Idaho education opportu-
19 nity program (IEOP), to be administered by the state department of education
20 according to the provisions of this chapter.

21 (2) To administer this program, the state department of education
22 shall:

23 (a) Establish an IEOP application process; and

24 (b) Subject to appropriation, award IEOP grants under this program
25 to qualifying students based on the household adjusted gross income
26 of a qualifying student and as a percentage of the average distribu-
27 tion to the school district for one (1) student as provided in section
28 33-6803(4), Idaho Code.

29 (3)(a) There is hereby established in the state treasury the Idaho
30 education opportunity program fund, to be administered by the state
31 department of education. Moneys in the fund shall be continuously ap-
32 propriated for the purpose of funding student accounts pursuant to this
33 chapter. Funds shall consist of:

34 (i) Legislative appropriations;

35 (ii) Donations and contributions made to the fund; and

36 (iii) Interest earned on idle moneys in the fund.

37 (b) The public education stabilization fund may not be utilized to fund
38 the Idaho education opportunity program.

39 33-6802. DEFINITIONS. For the purposes of this chapter:

1 (1) "Average distribution" means a calculation of eligible funds
2 for the IEOP divided by the student enrollment counts pursuant to section
3 33-1027, Idaho Code. "Eligible funds for the IEOP" shall mean all moneys
4 appropriated by the legislature from state funds for the educational support
5 program and other program distributions, including health insurance and
6 discretionary funding, less the appropriation amounts identified for the
7 listed programs: border contracts pursuant to section 33-1002(2)(d), Idaho
8 Code, Idaho safe and drug free schools pursuant to section 63-2506, Idaho
9 Code, advanced opportunities pursuant to section 33-1002(2)(m), Idaho Code,
10 and school facilities fund pursuant to section 33-911, Idaho Code.

11 (2) "Eligible postsecondary institution" means a community college,
12 a university under the jurisdiction of the state board of education or the
13 board of regents of the university of Idaho, or an accredited private post-
14 secondary institution.

15 (3) "Obscene material" means any depiction that is harmful to minors
16 pursuant to section 18-1514 6., Idaho Code.

17 (4) "Parent" means the parent or legal guardian of a qualified student.

18 (5) "Personalized student education plan" means a plan prepared by or
19 on behalf of a qualified student to describe how funds from the IEOP would be
20 utilized to provide the qualifying student with a thorough education in at
21 least the subjects of reading, writing, grammar, mathematics, social stud-
22 ies, and science.

23 (6) "Public school" means any public school within any public school
24 district organized under the laws of this state, including specially char-
25 tered school districts, and any public charter school organized under the
26 laws of this state.

27 (7) "Qualified expenses" means expenses on behalf of a qualified stu-
28 dent for:

29 (a) Tuition or fees at a qualified school, vocational and life skills
30 program, or career technical education program approved by the state
31 department of education;

32 (b) Textbooks required by a qualified school curricula and supplemen-
33 tary materials;

34 (c) Reasonable and efficient transportation to and from a qualified
35 school or local field trips no more than thirty (30) miles from the qual-
36 ified school;

37 (d) Any necessary equipment for classes, such as assistive technology
38 for qualified students with disabilities or required electronic equip-
39 ment;

40 (e) Educational therapies from a licensed or accredited practitioner
41 or provider, including and up to any amount not covered by insurance or
42 medicaid if the expense is partially paid by a health insurance policy
43 or medicaid for the qualified student;

44 (f) Fees for nationally normed assessment tests, advanced placement
45 examinations, or any exam related to college or university admission;

46 (g) Fees to manage the IEOP account. These fees may not exceed three and
47 one half percent (3.5%) of total funds distributed in a single academic
48 year;

49 (h) Services provided by a public school, including individual classes
50 and extracurricular programs. A school may not count a student under

1 this paragraph for enrollment purposes but may charge the student a rea-
2 sonable fee for the service;

3 (i) Uniforms purchased from or through a qualified school or uniform
4 provider approved by the qualified school;

5 (j) Tutoring by a qualified tutor who is not a family member within the
6 second degree of consanguinity;

7 (k) Internet access if the student or the parent of the student does not
8 have internet access. If internet access is purchased with these funds,
9 the services provided may not be used to access or view obscene mate-
10 rial; and

11 (l) Other technological devices, including but not limited to calcula-
12 tors, microscopes, telescopes, and printers. This does not include en-
13 tertainment and other primarily noneducational devices such as televi-
14 sions, telephones, video game consoles and accessories, or home theater
15 and audio equipment.

16 (8) "Qualified school" means any accredited nongovernmental primary or
17 secondary school that is located in this state or any eligible postsecondary
18 institution.

19 (9) "Qualified student" means a student who is a resident of Idaho,
20 is of age as defined in section 33-201, Idaho Code, resides within a school
21 district in this state, and is eligible to enroll in a public kindergarten
22 program or any grades 1 through 12. Students eligible to enroll in any grade
23 1 through 12 must have been enrolled in a public school and attended for at
24 least ninety (90) school days to be a qualified student unless the student
25 participated in the Idaho education opportunity program in kindergarten,
26 the student was not enrolled in any school prior to enrolling in grade 1, or
27 the student has relocated to the state of Idaho from another state and was
28 enrolled in a public school in that state prior to relocating to Idaho. The
29 student may not be simultaneously enrolled in a public school or a kinder-
30 garten program while receiving a grant pursuant to this chapter. This
31 definition shall not include a student who is homeschooled.

32 (10) "Special needs student" means a student that is eligible to enroll
33 in an Idaho school district in any grade from kindergarten through grade 12
34 who is receiving services under an individualized education program pur-
35 suant to 20 U.S.C. 1400 et seq.

36 33-6803. IDAHO EDUCATION OPPORTUNITY PROGRAM ACCOUNTS. (1) IEOP ac-
37 counts are established to provide options for students' education in this
38 state. To enroll a student for an IEOP account and to continue to receive
39 funds each school year, the parent of the qualified student must apply by
40 June 15 of the year funds are sought to be provided and sign an agreement to:

41 (a) Use the IEOP account money to provide an education to the qualify-
42 ing student in at least the subjects of reading, writing, grammar, math-
43 ematics, social studies, and science. Moneys may be used to provide a
44 thorough education in more subjects as long as the qualified student is
45 receiving an education in the subjects listed in this paragraph;

46 (b) Not enroll the qualified student in an Idaho public school and to
47 relieve the school district from all obligations to educate the quali-
48 fied student;

1 (c) Use moneys deposited in the qualified student's IEOP account only
2 for qualified expenses pursuant to section 33-6802(7), Idaho Code; and

3 (d) Not to use funds for new electronic equipment such as a laptop for
4 the qualified student more than one (1) time every five (5) years.

5 (2) The state department of education shall respond to a properly com-
6 pleted application submitted pursuant to subsection (1) of this section
7 within thirty (30) days of the application's submission.

8 (3) The state department of education shall determine the average dis-
9 tribution pursuant to section 33-6804(1), Idaho Code, and shall post the av-
10 erage distribution on its official website by June 1 each year.

11 (4) (a) After a parent agrees to the terms stipulated in this section,
12 the state department of education shall transfer funds into the qual-
13 ified student's individual IEOP account in accordance with section
14 33-6804, Idaho Code, as follows:

15 (i) For students who are not special needs students, an amount of
16 funds equal to:

17 1. Eighty percent (80%) of the money distributed for the av-
18 erage distribution to a school district for one (1) student,
19 if the student's parents' adjusted gross income is less than
20 seventy-five thousand dollars (\$75,000).

21 2. Sixty percent (60%) of the money distributed for the av-
22 erage distribution to a school district for one (1) student,
23 if the student's parents' adjusted gross income is greater
24 than or equal to seventy-five thousand dollars (\$75,000) and
25 less than one hundred thousand dollars (\$100,000).

26 3. Forty percent (40%) of the money distributed for the av-
27 erage distribution to a school district for one (1) student,
28 if the student's parents' adjusted gross income is greater
29 than or equal to one hundred thousand dollars (\$100,000)
30 and less than one hundred twenty-five thousand dollars
31 (\$125,000).

32 4. Twenty percent (20%) of the money distributed for the av-
33 erage distribution to a school district for one (1) student,
34 if the student's parents' adjusted gross income is greater
35 than or equal to one hundred twenty-five thousand dollars
36 (\$125,000).

37 (ii) For students who are special needs students, an amount of
38 funds equal to one hundred percent (100%) of the money distributed
39 for the average distribution to a school district for one (1) stu-
40 dent.

41 (iii) For all qualified students, an amount, subject to appropri-
42 ation, to cover any required fees to manage the IEOP account pur-
43 suant to section 33-6802(7)(g), Idaho Code.

44 (b) The public school district in which the student resides at the time
45 of application or renewal, for each qualifying student approved for an
46 IEOP grant under paragraph (a)(i) of this subsection, and not special
47 needs students as identified in paragraph (a)(ii) of this subsection,
48 shall receive a distribution of twenty percent (20%) of the average dis-
49 tribution.

1 (c) A student shall not be eligible to receive additional funding after
2 the student graduates from an Idaho qualified school or the student is
3 no longer a qualified student as defined in 33-6802, Idaho Code.

4 (d) Unused IEOP funds remaining in a student's IEOP account following
5 completion of each academic year following kindergarten through grade
6 11 may be rolled over for the next qualified academic year if the qual-
7 ified student provides evidence that the student has achieved grade
8 level or demonstrated one (1) full year of academic growth. Following
9 high school graduation, the funds remaining in the individual qualified
10 student's IEOP account may continue to be used for qualified expenses at
11 an eligible postsecondary institution as long as the account is prop-
12 erly renewed pursuant to section 33-6804, Idaho Code.

13 (e) The fund distributions pursuant to this subsection shall be cal-
14 culated from all state appropriations for public schools and public
15 charter schools, including moneys available in the public school income
16 fund minus the funds appropriated for educational services for the deaf
17 and blind pursuant to section 33-3408, Idaho Code, and statewide ser-
18 vices as appropriated in the central services division.

19 (5) The school district in which the qualified student resides shall
20 allow a qualified student, at no cost, to participate in the SAT, ISAT, or
21 IRI programs to determine personal academic growth and achievement. The re-
22 sults shall not be aggregated within the school district academic progress
23 reports.

24 (6) All decisions relating to philosophy or doctrine, selection of
25 books, teaching materials and curriculum, and methods, timing, and place in
26 the provision or evaluation of home-based instruction shall be the respon-
27 sibility of the parent except for matters specifically referred to in this
28 chapter.

29 33-6804. FUNDING PROCEDURES -- RENEWAL.

30 (1) (a) Funds shall be deposited into the individual qualified stu-
31 dent's IEOP account as follows:

32 (i) Fifty percent (50%) of the total funds to be deposited shall
33 be deposited on August 15 of the year in which the qualifying stu-
34 dent is admitted to the IEOP; and

35 (ii) The remaining fifty percent (50%) shall be distributed in
36 two (2) separate installments equaling twenty-five percent (25%)
37 of the total funds available. The first installment shall be
38 distributed in November, and the second installment shall be dis-
39 tributed in February. Distributions shall occur no later than the
40 fifteenth day of the corresponding month.

41 (b) If appropriated funds allow and a qualifying student has moved to
42 Idaho after an academic year has started and is enrolled in the IEOP,
43 then the student may apply to the state department of education and
44 shall receive half of the total amount of the distributions made during
45 the current academic year.

46 (c) If appropriated funds are insufficient to fund all qualified appli-
47 cants, then IEOP funds shall be distributed in the following order of
48 priority:

1 (i) First priority to qualified students who meet the criteria
2 provided in section 33-6803(4) (a) (ii), Idaho Code;

3 (ii) Second priority to qualified students who meet the criteria
4 provided in section 33-6803(4) (a) (i)1., Idaho Code;

5 (iii) Third priority to qualified students who meet the criteria
6 provided in section 33-6803(4) (a) (i)2., Idaho Code;

7 (iv) Fourth priority to qualified students who meet the criteria
8 provided in section 33-6803(4) (a) (i)3., Idaho Code; and

9 (v) Fifth priority to qualified students who meet the criteria
10 provided in section 33-6803(4) (a) (i)4., Idaho Code.

11 (d) Money deposited into a qualified student's IEOP account and money
12 expended from a qualified student's IEOP account for qualified expenses
13 pursuant to the provisions of this chapter shall not be considered tax-
14 able income.

15 (e) Money from an IEOP account may not be refunded, rebated, or shared
16 with the parents of an eligible student or an eligible student in any
17 manner, except that funds may be remitted or refunded to an IEOP account
18 in accordance with procedures established by the state department of
19 education.

20 (2) To continue to receive funds, a parent of a qualified student who
21 has received an IEOP grant award shall file an application with the state de-
22 partment of education to renew the student's account on an annual basis as
23 follows:

24 (a) The application for renewal shall be submitted to the state depart-
25 ment of education by June 15 prior to the academic year funds are sought
26 to be deposited. The application for renewal shall include a certifi-
27 cation that the parent consents to the requirements listed in section
28 33-6803, Idaho Code.

29 (b) For a qualified student with a personalized student education
30 plan that does not include full-time attendance at a qualified school,
31 the application for renewal shall include evidence demonstrating that
32 the student is at grade level or has improved by one (1) grade level
33 through a nationally normed assessment test, which may include the ISAT
34 or IRI assessment programs provided to a student pursuant to section
35 33-6803(5), Idaho Code. Such evidence shall include an affidavit exe-
36 cuted by a parent of the student stating that the student has completed
37 a nationally normed assessment test, the results of such indicate that
38 the student is at grade level or has improved by one (1) grade level, and
39 a copy of the test results are attached to the affidavit.

40 (c) For a qualified student who is attending a qualified school, the
41 application for renewal shall include an affidavit executed by a rep-
42 resentative of the qualified school stating that the student has com-
43 pleted a nationally normed assessment test, and the parents of the stu-
44 dent have been provided a copy of the test results, and a copy of the test
45 results are attached to the affidavit.

46 (d) If a parent does not renew the qualified student's IEOP account for
47 a period of two (2) academic years, the state department of education
48 shall notify the parent by mail that, unless a renewal is filed, the ac-
49 count will be closed in sixty (60) days; provided that a parent, or a
50 student who has graduated from high school and is eighteen (18) years of

1 age or older, may apply to the state department of education to extend
2 this time limit by up to four (4) years if the qualified student will be
3 unable to use the remaining funds during the two (2) year window due to
4 community service commitments, military service commitments, or reli-
5 gious service commitments. Moneys remaining in a closed account shall
6 return to the general fund.

7 33-6805. ADMINISTRATION. (1) The state department of education may
8 contract with private financial management firms to manage the IEOP ac-
9 counts.

10 (2) The state department of education shall conduct random audits of
11 IEOP accounts on a quarterly basis and may conduct additional audits as nec-
12 essary to ensure compliance with the terms of this chapter. The state de-
13 partment of education may contract with a third party to conduct such audits.

14 (3) The state department of education shall coordinate with and pro-
15 vide relevant information to the state tax commission concerning IEOP ac-
16 counts and student and parent financial information to assist with audit-
17 ing the private school tuition deduction provided in section 63-3022W, Idaho
18 Code. The state tax commission shall provide information concerning house-
19 hold adjusted gross income to the state department of education to assist in
20 determining the amount of funds a qualified student is eligible to receive
21 pursuant to section 33-6803(4), Idaho Code.

22 (4) The state department of education may remove any parent or quali-
23 fied student from eligibility from the IEOP if the parent or qualified stu-
24 dent fails to comply with the terms of this chapter or if the parent or quali-
25 fied student does not respond and take corrective action within fifteen (15)
26 days. A decision to remove eligibility or withhold funds may be appealed by a
27 process established by the state department of education.

28 (5) This chapter does not permit any government agency to exercise con-
29 trol or supervision over any nonpublic school or homeschooling. A qualified
30 school that accepts a payment from a parent pursuant to this chapter is not
31 an agent of the state or federal government. A qualified school shall not be
32 required to alter its creed, practices, admissions policy, or curriculum in
33 order to accept qualified students whose tuition or fees are paid through an
34 IEOP account pursuant to this chapter in order to participate as a qualified
35 school.

36 SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 63-3022W, Idaho Code, and to read as follows:

39 63-3022W. PRIVATE SCHOOL TUITION AND FEES -- RULEMAKING. (1) For tax-
40 able years commencing January 1, 2026, there shall be allowed for individual
41 taxpayers a deduction to Idaho taxable income an amount equal to the cost
42 of tuition and fees paid by the taxpayer for a qualified dependent child
43 of the taxpayer who is attending a qualified school as defined in section
44 33-6802(8), Idaho Code, offering instruction in grades kindergarten through
45 grade 12 during the taxable year. A school shall be deemed accredited pur-
46 suant to this section if it has been accredited according to the accrediting
47 standards promulgated by the Idaho department of education, the Idaho state

1 board of education, or a secular or religious accrediting association recog-
2 nized by the Idaho department of education.

3 (2) As used in this section, a "qualified dependent child" also in-
4 cludes the plural term and means one (1) or more individuals who:

5 (a) Qualifies as a dependent of the taxpayer under section 152, Inter-
6 nal Revenue Code;

7 (b) Is actually claimed as a dependent on the taxpayer's Idaho income
8 tax return;

9 (c) Is a child of the taxpayer, a stepchild of the taxpayer, an individ-
10 ual for whom the taxpayer has been appointed guardian, or a descendant
11 of a child of a taxpayer; and

12 (d) Resides in Idaho for at least one hundred eighty (180) days dur-
13 ing the taxable year. If the qualified dependent child resides in Idaho
14 less than one hundred eighty (180) days, the taxpayer shall be allowed a
15 partial deduction, on a pro rata basis.

16 (3) The deduction to taxable income allowed by this section shall be
17 in the amount of the actual tuition paid by the taxpayer to an Idaho kinder-
18 garten through grade 12 private school, subject to subsection (2) (d) of this
19 section, and shall not include any money received or paid on behalf of a stu-
20 dent pursuant to the Idaho education opportunity program provided chapter
21 68, title 33, Idaho Code.

22 (4) The deduction to taxable income allowed by this section shall be
23 claimed in a manner prescribed by the state tax commission. The deduction
24 provided in this section shall be claimed on only one (1) tax return for any
25 individual qualified dependent child. In the case of divorced parents or
26 parents who do not live together, if the qualified dependent child is in the
27 custody of one (1) or both of the child's parents for more than one-half of a
28 calendar year, such child is the qualified dependent child of the custodial
29 parent for the taxable year beginning during such calendar year. However,
30 the child may be the qualified dependent child of the noncustodial parent if
31 either of the following requirements are met:

32 (a) A court of competent jurisdiction has unconditionally awarded, in
33 writing, to the noncustodial parent the tax benefits associated with
34 the child pursuant to section 32-706, Idaho Code, and the noncustodial
35 parent attaches a copy of the court order to the noncustodial parent's
36 income tax return for the taxable year; or

37 (b) The custodial parent signs a written declaration that such custo-
38 dial parent will not claim the deduction of this section with respect to
39 such child for any taxable year beginning in such calendar year, and the
40 noncustodial parent attaches such written declaration to the noncusto-
41 dial parent's income tax return for the taxable year beginning during
42 such calendar year.

43 (5) The state tax commission shall establish rules, subject to legisla-
44 tive approval, to implement the provisions of this section.

45 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
46 to be severable and if any provision of this act or the application of such
47 provision to any person or circumstance is declared invalid for any reason,
48 such declaration shall not affect the validity of the remaining portions of
49 this act.

1 SECTION 4. This act shall be in full force and effect on and after Jan-
2 uary 1, 2026.