

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 286

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A
2 NEW CHAPTER 57, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PRO-
3 VIDE DEFINITIONS, TO ESTABLISH PROVISIONS RELATING TO A TAX CREDIT FOR
4 CONTRIBUTIONS MADE TO A SCHOLARSHIP GRANTING ORGANIZATION, TO ESTAB-
5 LISH PROVISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF SCHOL-
6 ARSHIP GRANTING ORGANIZATIONS, TO ESTABLISH PROVISIONS RELATING TO THE
7 DUTIES AND RESPONSIBILITIES OF THE STATE DEPARTMENT OF EDUCATION, TO
8 ESTABLISH PROVISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF
9 THE IDAHO STATE TAX COMMISSION, TO PROVIDE FOR RULES, TO ESTABLISH PRO-
10 VISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF PARTICIPATING
11 SCHOOLS, TO PROVIDE FOR LIMITATION OF REGULATORY AUTHORITY AND TO PRO-
12 VIDE THAT THE AMOUNT OF A SCHOLARSHIP SHALL NOT BE TREATED AS INCOME OR
13 AS A RESOURCE FOR CERTAIN PURPOSES.
14

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

16 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended
17 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
18 ter 57, Title 33, Idaho Code, and to read as follows:

19 CHAPTER 57

20 IDAHO ELEMENTARY AND SECONDARY SCHOOL SCHOLARSHIP ACT

21 33-5701. SHORT TITLE. This act shall be known and may be cited as the
22 "Idaho Elementary and Secondary School Scholarship Act."

23 33-5702. DEFINITIONS. The following terms have the following mean-
24 ings for the purposes of this act:

25 (1) "Commission" means the Idaho state tax commission.

26 (2) "Department" means the state department of education.

27 (3) "Educational scholarships" means grants to students to cover all or
28 part of the tuition and fees at a qualified nonpublic school located in the
29 state of Idaho.

30 (4) "Eligible student" means a student who:

31 (a) Is a member of a household whose total annual income during the year
32 before he or she receives an educational scholarship under this program
33 does not exceed an amount equal to one hundred fifty percent (150%) of
34 the income standard used to qualify for a free or reduced price lunch
35 under the national free or reduced price lunch program as described in
36 42 U.S.C. section 1751, et seq. Once a student has received a scholar-
37 ship under this program, the student will remain eligible until he or
38 she graduates from high school or reaches twenty-two (22) years of age,
39 whichever occurs first;

- 1 (b) Is at least five (5) years of age and less than twenty-two (22) years
2 of age;
- 3 (c) Attended a public school in the preceding semester, is entering
4 kindergarten or first grade, or is starting school in Idaho for the
5 first time; and
- 6 (d) Resides in Idaho and attends a school located in Idaho while receiv-
7 ing an educational scholarship.
- 8 (5) "Parent" includes a guardian, custodian or other person with au-
9 thority to act on behalf of the child.
- 10 (6) "Program" means the Idaho elementary and secondary school scholar-
11 ship program.
- 12 (7) "Qualified school" means a nonpublic elementary and/or secondary
13 school in Idaho that is not a homeschool, that voluntarily agrees to enroll
14 an eligible student and that complies with all of the requirements of the
15 program.
- 16 (8) "Scholarship granting organization" means an organization that
17 complies with the requirements of this program and provides educational
18 scholarships to students attending qualified schools of their parents'
19 choice.

20 33-5703. SCHOLARSHIP PROGRAM -- TAX CREDIT. Beginning with the tax
21 year commencing January 1, 2013, and for eligible contributions made on and
22 after that date:

23 (1) A taxpayer who files a state income tax return pursuant to section
24 63-3024, 63-3025 or 63-3025A, Idaho Code, and is not a dependent of another
25 taxpayer may claim a credit for a contribution made to a scholarship granting
26 organization.

27 (2) The credit may be claimed by an individual taxpayer or a married
28 couple filing jointly in an amount equal to the total contributions made to
29 an approved scholarship granting organization during the taxable year for
30 which the credit is claimed.

31 (3) An individual taxpayer or a married couple filing jointly may carry
32 forward a tax credit under this program for three (3) years.

33 (4) A credit may be claimed by any taxpayer that is a legal business en-
34 tity including limited and general partnerships, corporations and limited
35 liability companies in an amount equal to the total contributions made to
36 an approved scholarship granting organization for educational scholarships
37 during the taxable year for which the credit is claimed up to fifty percent
38 (50%) of the business entity's tax liability.

39 (5) A business taxpayer may carry forward a tax credit under this pro-
40 gram for three (3) years.

41 (6) The credit authorized by this section shall not be used to reduce
42 the tax liability of any taxpayer to less than zero.

43 (7) In no event shall the aggregate amount of tax credits allowed pur-
44 suant to this section exceed ten million dollars (\$10,000,000) per tax year.
45 In any tax year following 2014, the amount of credit provided for pursuant to
46 this section shall be revised from ten million dollars (\$10,000,000) to re-
47 flect any percentage change in the consumer price index from the immediately
48 preceding year.

1 (8) The commission shall ensure that the total program cap allowable
2 under this act is not exceeded in any calendar year.

3 (a) Prior to accepting a donation under this act, an approved scholar-
4 ship granting organization shall confirm with the commission that the
5 total program cap has not been reached.

6 (b) The commission shall, within fourteen (14) days of the request for
7 confirmation provided for in paragraph (a) of this subsection, provide
8 scholarship granting organizations with written confirmation that the
9 total program cap has or has not been reached.

10 (c) An approved scholarship granting organization shall then have
11 thirty (30) days to accept the donation and provide a commission ap-
12 proved receipt for the donation to both the donor and the commission.

13 (d) The commission shall allow the tax credits on a first-come, first-
14 served basis.

15 33-5704. SCHOLARSHIP GRANTING ORGANIZATIONS -- DUTIES AND RESPONSI-
16 BILITIES. (1) Each scholarship granting organization shall:

17 (a) Notify the state department of education of its intent to provide
18 educational scholarships to eligible students attending qualified
19 schools.

20 (b) Be located in Idaho and demonstrate to the department that it has
21 been granted exemption from the federal income tax as an organization
22 described in section 501(c)(3) of the Internal Revenue Code.

23 (c) Provide a commission approved receipt to taxpayers and to the com-
24 mission for contributions made to the organization.

25 (d) Ensure that at least ninety percent (90%) of its annual revenue
26 from donations is spent on educational scholarships and that all rev-
27 enue from interest or investments is spent on educational scholarships;
28 however, up to twenty-five percent (25%) of annual revenue may be car-
29 ried forward for the next fiscal year. Revenue received by scholarship
30 granting organizations for which no tax credit was received by the donor
31 is not required to be used for scholarships or tuition grants.

32 (e) Provide educational scholarships to eligible students attending
33 qualified schools without limiting availability only to students of one
34 (1) school.

35 (f) Be prohibited from awarding or restricting the award of a scholar-
36 ship to a specific eligible student at the request of a donor.

37 (g) Ensure that educational scholarship recipients meet all eligibil-
38 ity requirements outlined in this act.

39 (h) Distribute periodic scholarship payments as checks made out to a
40 student's parent or guardian; and the checks will be delivered to the
41 qualified school where the student is enrolled. The parent or guardian
42 to whom a scholarship award is granted must restrictively endorse the
43 scholarship award to the school for deposit into the account of the
44 qualified school.

45 (i) Ensure that scholarships are portable during the school year and
46 can be used at any qualified school that accepts the eligible student
47 according to a parent's wishes. If a student moves to a new qualified
48 school during a school year, the scholarship amount may be prorated.

1 (j) Demonstrate financial accountability by submitting a financial in-
2 formation report for the organization that complies with generally ac-
3 cepted accounting principles that was conducted by a certified public
4 accountant.

5 (k) Not provide educational scholarships for students to attend any
6 school with paid staff or board members, or relatives thereof, in common
7 with the scholarship granting organization.

8 (l) Ensure that the maximum scholarship provided under this program is
9 equal to the lesser of the following:

10 (i) The sum of the tuition and fees the eligible student or the
11 parent of the eligible student would otherwise be obligated to pay
12 to attend a qualified school; or

13 (ii) An amount not greater than the per student tuition support
14 provided to the school district in which the eligible student re-
15 sides.

16 (m) Be permitted to transfer scholarship funds to another approved
17 scholarship granting organization that complies with this act.

18 (2) An approved scholarship granting organization shall publicly re-
19 port to the state department of education each year the following informa-
20 tion prepared by a certified public accountant regarding its grants in the
21 previous calendar year:

22 (a) The name and address of the scholarship granting organization;

23 (b) The total number and total dollar amount of contributions received
24 during the previous calendar year;

25 (c) The total number and total dollar amount of educational scholar-
26 ships awarded during the previous calendar year; and

27 (d) The name and address of all schools receiving scholarships pursuant
28 to the provisions of this act.

29 Upon request, scholarship granting organizations shall provide the depart-
30 ment with documentation demonstrating that educational scholarship recipi-
31 ents meet the eligibility requirements outlined in this act. All personal
32 information reported under this subsection shall be confidential taxpayer
33 information.

34 (3) Prior to accepting a donation under this act, an approved scholar-
35 ship granting organization shall confirm with the commission that the total
36 program cap has not been reached.

37 33-5705. STATE DEPARTMENT OF EDUCATION -- DUTIES AND RESPONSIBILI-
38 TIES. (1) The state department of education shall adopt only those rules and
39 procedures necessary and consistent with this act in order to implement the
40 program.

41 (2) The state department of education shall approve a scholarship
42 granting organization for participation in the program established pursuant
43 to the provisions of this act if the scholarship granting organization sub-
44 stantially complies with the provisions of section 33-5704, Idaho Code. The
45 department shall provide a current list of all approved scholarship granting
46 organizations on its website.

47 (3) The department shall provide on its website a standardized format
48 for scholarship granting organizations to report the information required
49 in section 33-5704, Idaho Code.

1 (4) The department shall have the authority to conduct either a finan-
2 cial review or audit of a scholarship granting organization if possessing
3 evidence of fraud.

4 (5) The department may bar a scholarship granting organization from
5 participating in the program if the department establishes that the schol-
6 arship granting organization has intentionally and substantially failed to
7 comply with the requirements provided for in section 33-5704, Idaho Code.

8 (6) The department shall provide scholarship granting organizations
9 with written notice of such failure to comply with any requirements of this
10 act by certified mail and allow ninety (90) days from the receipt of such no-
11 tice to correct all deficiencies.

12 (7) Upon failure to correct all deficiencies within ninety (90) days,
13 the department may require such scholarship granting organizations to be re-
14 moved from the list of approved scholarship granting organizations and bar
15 such scholarship granting organizations from participating in the program.

16 (8) If the department bars a scholarship granting organization from the
17 program, it shall notify affected scholarship students and their parents of
18 this decision as quickly as possible.

19 33-5705A. IDAHO STATE TAX COMMISSION -- DUTIES AND RESPONSIBILI-
20 TIES. (1) The Idaho state tax commission shall adopt only those rules and
21 procedures necessary and consistent with this act in order to implement the
22 program.

23 (2) The commission shall ensure that the total program cap allowable
24 under this act is not exceeded.

25 (3) The commission shall provide a standardized format for a receipt to
26 be issued by a scholarship granting organization to a taxpayer to indicate
27 the value of a contribution received. The commission shall require a tax-
28 payer to provide a copy of this receipt when claiming the Idaho elementary
29 and secondary school scholarship tax credit.

30 33-5706. PARTICIPATING SCHOOLS -- DUTIES AND RESPONSIBILITIES. All
31 participating nonpublic schools that accept educational scholarships under
32 this act shall:

33 (1) Be required to operate in Idaho;

34 (2) Hold a valid occupancy permit if required by their municipality;

35 (3) Certify that they will comply with federal nondiscrimination re-
36 quirements outlined in 42 U.S.C. section 1981, as it existed on January 1,
37 2013;

38 (4) Be accredited or in the process of becoming accredited by either the
39 state board or a national or regional accreditation agency;

40 (5) Administer either the state assessment test or a norm-referenced
41 test to participating eligible students;

42 (6) Provide academic accountability to parents of students in the pro-
43 gram by regularly reporting to the parents on the student's progress;

44 (7) Comply with all state laws that apply to nonpublic schools regard-
45 ing criminal background checks for employees and that exclude from employ-
46 ment any people not permitted by state law to work in a nonpublic school; and

47 (8) Comply with all health and safety laws or codes that apply to non-
48 public schools.

1 33-5707. AUTONOMY OF QUALIFIED SCHOOLS. The creation of the Idaho el-
2 ementary and secondary school scholarship act does not expand the regula-
3 tory authority of the state, the state's officers or a school district to im-
4 pose additional regulation of nonpublic schools beyond those necessary to
5 enforce the requirements of the program.

6 33-5708. SCHOLARSHIP NOT TREATED AS INCOME. The amount of a scholar-
7 ship provided to an eligible individual under this act shall not be treated
8 as income or a resource for the purposes of qualifying for any other federal
9 or state grant program administered by the state or a political subdivision.