

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 294

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW SECTION 33-1029, IDAHO CODE, TO PROVIDE FOR STATUTORY  
3 CONSTRUCTION WITH REGARD TO NONPUBLIC SCHOOL STUDENTS; AMENDING CHAP-  
4 TER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1030,  
5 IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE,  
6 BY THE ADDITION OF A NEW SECTION 33-1031, IDAHO CODE, TO ESTABLISH PRO-  
7 VISIONS REGARDING A STRONG STUDENTS GRANT PROGRAM; AMENDING CHAPTER 10,  
8 TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1032, IDAHO  
9 CODE, TO ESTABLISH PROVISIONS REGARDING A STRONG STUDENTS SCHOLARSHIP  
10 PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A  
11 NEW SECTION 33-1033, IDAHO CODE, TO PROVIDE FOR A PARENT ADVISORY PANEL;  
12 AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
13 TION 33-1034, IDAHO CODE, TO PROVIDE A LIMITATION ON PROGRAM PARTICI-  
14 PATION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A  
15 NEW SECTION 33-1035, IDAHO CODE, TO PROVIDE FOR A CERTAIN REPORT; AMEND-  
16 ING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
17 33-1036, IDAHO CODE, TO PROVIDE THAT PARENTS MAY INTERVENE IN CERTAIN  
18 LEGAL ACTIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.  
19

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

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

24 33-1029. STATUTORY CONSTRUCTION -- NONPUBLIC SCHOOL STUDENTS. Noth-  
25 ing in sections 33-1030 through 33-1034, Idaho Code, shall be construed to  
26 give the state authority to regulate the education of nonpublic school stu-  
27 dents.

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

31 33-1030. DEFINITIONS. As used in this section through section  
32 33-1036, Idaho Code:

33 (1) "Assessment" means an examination or another objective evaluation  
34 of a student's academic performance, academic engagement, or college or ca-  
35 reer readiness.

36 (2) "Board" means the state board of education.

37 (3) "Contractor" means an individual or an entity with whom the board  
38 enters a contract for the purpose of performing a program function under sec-  
39 tion 33-1031 or 33-1032, Idaho Code.

40 (4) "Eligible education expenses" means:

- 1 (a) Computer hardware, internet access, or other technological devices  
2 or services that are primarily used to meet a participant's educational  
3 needs;
- 4 (b) Tuition or fees at a private school;
- 5 (c) Textbooks, curriculum, or other instructional materials, includ-  
6 ing educational software and applications;
- 7 (d) Fees for national standardized assessments, advanced placement ex-  
8 aminations, examinations related to college or university admissions,  
9 or industry-recognized certification examinations;
- 10 (e) Therapies, including but not limited to occupational, behavioral,  
11 physical, speech-language, and audiology therapies, or other services  
12 or therapies specifically approved by the board;
- 13 (f) Educational programs offered for a fee or pursuant to contract by a  
14 school district, public charter school, or career technical education  
15 program to nonpublic students, provided that such students may not be  
16 counted for purposes of calculating public school enrollment;
- 17 (g) Supplemental education services; or
- 18 (h) Other education expenses as approved by the board, upon recommen-  
19 dation of the parent advisory panel established pursuant to section  
20 33-1033, Idaho Code.
- 21 (5) "Eligible student" means:
- 22 (a) For purposes of section 33-1031, Idaho Code, a person in kinder-  
23 garten through grade 12, whether a public school or nonpublic school  
24 student; or
- 25 (b) For purposes of section 33-1032, Idaho Code, a person who:
- 26 (i) Attended an Idaho public school for at least one hundred (100)  
27 days in the school year immediately preceding application for a  
28 student scholarship account; and
- 29 (ii) Is eligible to enroll, but is not enrolled, in an Idaho public  
30 school at the time of such application.
- 31 (6) "Grant" means an award of five hundred dollars (\$500), which must be  
32 used for eligible education expenses.
- 33 (7) "Grant distribution platform" means a device through which grant  
34 funds or student scholarship account funds are transferred from the board to  
35 the parents of participants.
- 36 (8) "Parent" means the parent or legal guardian of an eligible student  
37 or a participant.
- 38 (9) "Participant" means an eligible student for whom:
- 39 (a) A grant is awarded under section 33-1031, Idaho Code; or
- 40 (b) A student scholarship account is established under section  
41 33-1032, Idaho Code.
- 42 (10) "Program" means:
- 43 (a) For purposes of section 33-1031, Idaho Code, the strong students  
44 grant program established by that section; or
- 45 (b) For purposes of section 33-1032, Idaho Code, the strong students  
46 scholarship program established by that section.
- 47 (11) "Student scholarship account" or "scholarship account" means an  
48 account established pursuant to section 33-1032, Idaho Code.

1 SECTION 3. That Chapter 10, Title 33, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 33-1031, Idaho Code, and to read as follows:

4 33-1031. STRONG STUDENTS GRANT PROGRAM. (1) There is hereby estab-  
5 lished the strong students grant program, to be administered by the board  
6 according to the provisions of this section. The purpose of the program is to  
7 provide education grants for eligible students.

8 (2) In order to administer the program, the board:

9 (a) Shall select a third party to build a grant distribution platform,  
10 subject to the provisions of chapter 92, title 67, Idaho Code;

11 (b) Shall administer or select, subject to the provisions of chapter  
12 92, title 67, Idaho Code, a third party to administer the grant distri-  
13 bution platform;

14 (c) May retain, subject to the provisions of chapter 92, title 67, Idaho  
15 Code, such other contractors as are needed to administer the program, if  
16 any, and delegate program functions to such contractors;

17 (d) Shall establish a grant application process for parents. Applica-  
18 tions shall be accepted beginning on July 1 of each year;

19 (e) Shall, subject to appropriation, award grants. Grant awards shall  
20 be made in the following order of preference:

21 (i) First to eligible students whose household has an adjusted  
22 gross income under fifty thousand dollars (\$50,000), as verified  
23 by the Idaho state tax commission using the prior year's tax re-  
24 turns. Notification of grant awards for students in this category  
25 shall be made within thirty (30) days of application, and grant  
26 funds shall be made available for participants' use as soon as  
27 practicable, but no later than thirty (30) days after the notifi-  
28 cation of a grant award;

29 (ii) Starting on September 15 of each year, to eligible students  
30 whose household has an annual gross income under seventy-five  
31 thousand dollars (\$75,000), as verified by the Idaho state tax  
32 commission using the prior year's tax returns; and

33 (iii) Starting on November 1 of each year, to all other eligible  
34 students on a first-come, first-served basis until all available  
35 funds are distributed, provided that no applications shall be ac-  
36 cepted after December 1; and

37 (f) May take such other actions as are necessary to implement and en-  
38 force the provisions of this section.

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

45 (4) Grant funds shall be expended during the fiscal year in which they  
46 are awarded. Any unused funds at the end of the fiscal year shall revert to  
47 the state general fund.

1 SECTION 4. That Chapter 10, Title 33, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 33-1032, Idaho Code, and to read as follows:

4 33-1032. STRONG STUDENTS SCHOLARSHIP PROGRAM. (1) There is hereby  
5 established a strong students scholarship program to be administered by the  
6 board. Subject to appropriation, the board shall establish a student schol-  
7 arship account for an eligible student upon application by the student's  
8 parent. Except as provided in subsection (6) of this section, applications  
9 shall be made, considered, and granted on the same schedule and in the same  
10 order of preference as provided in section 33-1031(2) (d) and (e), Idaho  
11 Code.

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

17 (a) Provide the participant an education in subjects including, at a  
18 minimum, English language arts, mathematics, science, and social stud-  
19 ies;

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

22 (c) Use the moneys in the student scholarship account only for eligible  
23 education expenses and verify that such moneys are in fact used as pro-  
24 vided in this paragraph; and

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

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

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

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

40 (6) A scholarship account awarded pursuant to this section may be re-  
41 newed after the initial award according to a reapplication process estab-  
42 lished by the board. A student does not need to have attended public school  
43 in the school year immediately preceding such reapplication. Notwithstand-  
44 ing the provisions of subsection (1) of this section, a participant whose  
45 parent reapplies for a student scholarship account shall receive preference  
46 over initial applicants for a student scholarship account.

47 (7) A participant shall be considered to satisfy the compulsory school  
48 attendance requirements provided in section 33-202, Idaho Code, as long as

1 the participant and the participant's parent comply with the provisions of  
2 this section.

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

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

13 33-1033. PARENT ADVISORY PANEL. (1) For purposes of this section:

14 (a) "Executive director" means the executive director of the office of  
15 the state board of education.

16 (b) "Program funds" means funds distributed to parents pursuant to sec-  
17 tion 33-1031 or 33-1032, Idaho Code.

18 (2) There is hereby established in the office of the state board of  
19 education a parent advisory panel, which shall make recommendations to the  
20 board:

21 (a) As described in section 33-1030(4)(h), Idaho Code; and

22 (b) On how to implement, administer, and improve the programs described  
23 in sections 33-1031 and 33-1032, Idaho Code.

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

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

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

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

43 33-1034. LIMITATION ON PROGRAM PARTICIPATION. The same student may  
44 not receive in the same fiscal year both a grant pursuant to section 33-1031,  
45 Idaho Code, and a scholarship account pursuant to section 33-1032, Idaho  
46 Code.

1 SECTION 7. That Chapter 10, Title 33, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 33-1035, Idaho Code, and to read as follows:

4 33-1035. REPORT. By December 15 of each year, the board shall report to  
5 the governor and the senate and house of representatives education commit-  
6 tees:

7 (1) The total funds appropriated for the strong students grant program  
8 and the strong students scholarship program in the current fiscal year and  
9 the prior fiscal year;

10 (2) The number of applicants for each program in the current fiscal year  
11 and the prior fiscal year;

12 (3) The number of grants and scholarships awarded in the current fis-  
13 cal year and the prior fiscal year, and how grant funds and scholarship funds  
14 were used by participants;

15 (4) Any contracts entered pursuant to sections 33-1031 and 33-1032,  
16 Idaho Code; and

17 (5) Other matters concerning either program that are:

18 (a) Considered relevant by the board; or

19 (b) Specifically requested for inclusion in the report by the governor  
20 or by any member of the senate or house of representatives.

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

24 33-1036. PARENTS MAY INTERVENE IN CERTAIN LEGAL ACTIONS. If any provi-  
25 sion of sections 33-1030 through 33-1034, Idaho Code, is challenged in state  
26 court on the claim that the provision violates the United States constitu-  
27 tion or the constitution of the state of Idaho, then the parent of a student  
28 eligible for or participating in the strong students grant program or the  
29 strong students scholarship program shall be permitted to intervene in such  
30 lawsuit for the purpose of defending the program's constitutionality. How-  
31 ever, for purposes of judicial administration, a court may require that all  
32 intervening parents file a joint brief, as long as they are not required to  
33 join any brief filed on behalf of the state or any of its agencies, officers,  
34 or employees.

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

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