

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 447

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE  
2 ADDITION OF A NEW SECTION 63-3029N, IDAHO CODE, TO ESTABLISH PROVISIONS  
3 REGARDING THE IDAHO PARENTAL CHOICE TAX CREDIT; AMENDING CHAPTER 1, TI-  
4 TLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-120, IDAHO CODE,  
5 TO ESTABLISH PROVISIONS REGARDING THE IDAHO PARENTAL CHOICE GRANT;  
6 AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
7 TION 67-1230, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE IDAHO  
8 PARENTAL CHOICE GRANT FUND; PROVIDING SEVERABILITY; AND DECLARING AN  
9 EMERGENCY, PROVIDING RETROACTIVE APPLICATION, AND PROVIDING EFFECTIVE  
10 DATES.  
11

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

13 SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is  
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
15 ignated as Section 63-3029N, Idaho Code, and to read as follows:

16 63-3029N. IDAHO PARENTAL CHOICE TAX CREDIT. (1) There is hereby estab-  
17 lished the Idaho parental choice tax credit.

18 (2) It is the intent of the legislature that parents and legal guardians  
19 in this state be able to choose educational services that meet the needs of  
20 their individual children. The legislature affirms that parents and legal  
21 guardians are best suited to make choices to help children in this state  
22 reach their full potential and achieve a brighter future.

23 (3) As used in this section and section 63-120, Idaho Code:

24 (a) "Academic instruction" means instruction that includes, at least,  
25 English language arts, mathematics, science, and social studies.

26 (b) "Eligible student" means a full-time resident of Idaho, five (5) to  
27 eighteen (18) years of age.

28 (c) "Nonpublic school" means a private school that provides academic  
29 instruction to eligible students. Such academic instruction may be  
30 provided in person, online, virtually, or through any combination  
31 thereof. "Nonpublic school" also means a microschool or learning pod  
32 that provides academic instruction as long as the academic instruction  
33 in such microschool or learning pod is provided by a teacher certifi-  
34 cated pursuant to chapter 12, title 33, Idaho Code.

35 (d) "Qualified expenses" means kindergarten through grade 12 tuition  
36 and fees related to: attending a nonpublic school, tutoring, taking  
37 nationally standardized assessments, taking assessments used to de-  
38 termine college admission, taking advanced placement examinations,  
39 and taking preparatory courses for national assessments. "Qualified  
40 expenses" also means costs for textbooks, curriculum and other edu-  
41 cational materials used for kindergarten through grade 12 academic  
42 instruction, and transportation costs to and from a facility incurred

1 for the purposes of receiving kindergarten through grade 12 academic  
2 instruction, including the use of privately owned vehicles, which re-  
3 imbursement shall use the mileage rate applicable to state employee  
4 travel in effect at the time the travel occurs, public transportation  
5 services, and ridesharing fees.

6 (4) The Idaho parental choice tax credit shall be administered as pro-  
7 vided in this section. For the tax year 2024 and subsequent tax years, there  
8 shall be allowed a refundable tax credit against the tax imposed by this  
9 chapter for any parent or legal guardian who incurs qualified expenses up  
10 to five thousand dollars (\$5,000) on behalf of an eligible student who is a  
11 qualifying child as that term is defined in section 63-3029L, Idaho Code,  
12 except that the credit afforded under this section shall apply to children  
13 up to and including eighteen (18) years of age who would have qualified under  
14 section 63-3029L, Idaho Code, but for their age, who are properly claimed on  
15 the parent's or legal guardian's full-time Idaho resident individual income  
16 tax return. Funds from a grant received under section 63-120, Idaho Code,  
17 that are expended on qualified expenses qualify for this credit. Funds re-  
18 ceived from a grant under section 33-1031, Idaho Code, and other government  
19 educational grant programs do not qualify for this credit.

20 (5) The refundable tax credit limit under subsection (4) of this sec-  
21 tion is increased to seven thousand five hundred dollars (\$7,500) for eligi-  
22 ble students that are also considered children with disabilities requiring  
23 ancillary personnel as defined in section 33-2001(1) and (2), Idaho Code.  
24 Eligibility for this increased credit shall be determined based on the diag-  
25 nosis or other determination made by an Idaho licensed health care provider.

26 (6) The refundable tax credit in this section shall not constitute  
27 Idaho taxable income.

28 (7) The state tax commission shall prescribe forms for the purpose of  
29 claiming the credit authorized by the Idaho parental choice tax credit.

30 (8) Parents or legal guardians claiming the credit shall:

31 (a) Claim only the credit for qualified expenses as defined in this sec-  
32 tion for an eligible student;

33 (b) Ensure no other person claims a credit for the eligible student. In  
34 the event more than one (1) parent claims a credit under this section for  
35 the same eligible student in the same year, the provisions of section  
36 63-3029L(2), Idaho Code, shall be used to determine which parent is en-  
37 titled to receive the credit;

38 (c) Not claim the credit for any semester in which a student was en-  
39 rolled full-time in a public school, public charter school, public vir-  
40 tual charter school, public magnet school or part-time public kinder-  
41 garten; and

42 (d) Retain receipts and invoices of qualified expenses until the  
43 statute of limitations on amending a tax return expires pursuant to the  
44 provisions of section 63-3068, Idaho Code, after the filing of a return  
45 to substantiate the amounts paid each tax year the credit is claimed and  
46 shall submit such receipts and invoices to the state tax commission upon  
47 request.

48 (9) If the credit exceeds the tax imposed by this chapter, the excess  
49 credit amount shall be refunded to the taxpayer.

1 (10) The total amount of tax credits authorized for all taxpayers un-  
2 der this section shall not exceed forty million dollars (\$40,000,000) in any  
3 given tax year. In the event claims for tax credits allowed by this section  
4 exceed that amount in the aggregate, the credits shall be allowed in full to  
5 the first returns properly filed, on a first-come, first-served basis, un-  
6 til such amount is reached. Taxpayers who claim the credit on a return filed  
7 after such amount is reached shall not receive a credit, and the state shall  
8 have no liability to the taxpayer therefor. In 2026, the legislature shall  
9 review and evaluate whether this annual maximum amount is sufficient to ad-  
10 dress the needs of the program.

11 (11) The state tax commission shall have the authority to conduct audits  
12 of receipts and invoices for qualified expenses submitted pursuant to this  
13 section to ensure compliance.

14 (12) The state tax commission shall deny or recapture credits claimed  
15 by a taxpayer for expenditures not authorized by the provisions of this sec-  
16 tion.

17 (13) The state tax commission shall, at least weekly, but as close  
18 to real time as practicable, make available on its website the cumulative  
19 amount of credits claimed under this section until the annual maximum limit  
20 is reached. The state tax commission also shall keep records of the total  
21 amount of credits claimed that exceed the annual maximum limit in order to  
22 inform the evaluation of the program by the legislature in 2026 and beyond.

23 (14) This section does not permit any government agency to exercise con-  
24 trol or supervision over any nonpublic school. A nonpublic school that ac-  
25 cepts a payment as a result of a refundable tax credit pursuant to this sec-  
26 tion is not an agent of the state or federal government. A nonpublic school  
27 shall not be required to alter its creed, practices, admissions policy, or  
28 curriculum in order to accept students whose payment of tuition or fees stems  
29 from a refundable tax credit under this section.

30 SECTION 2. That Chapter 1, Title 63, Idaho Code, be, and the same is  
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
32 ignated as Section 63-120, Idaho Code, and to read as follows:

33 63-120. IDAHO PARENTAL CHOICE GRANT. (1) There is hereby created the  
34 Idaho parental choice grant program to be administered by the state tax com-  
35 mission.

36 (2) (a) This section shall be subject to the definitions and legislative  
37 intent described in section 63-3029N, Idaho Code.

38 (b) The legislature further finds that because some parents and legal  
39 guardians cannot initially afford qualified expenses for eligible stu-  
40 dents before the receipt of the nonrefundable tax credit allowed pur-  
41 suant to section 63-3029N, Idaho Code, it is the purpose of this grant to  
42 enable parents and legal guardians who also qualify for the earned in-  
43 come tax credit pursuant to 26 U.S.C. 32 to seek an initial grant to pay  
44 for all or a portion of qualified expenses for an eligible student for  
45 the student's first year in nonpublic school. This grant is in addition  
46 to the credit afforded under section 63-3029N, Idaho Code, and may be  
47 used solely to pay for qualified educational expenses for eligible stu-  
48 dents in the tax year in which the grant is received.

1 (3) For calendar year 2024 and subsequent years, there shall be al-  
2 lowed an Idaho parental choice grant to an Idaho parent or legal guardian  
3 that qualified for the federal earned income tax credit on such parent's or  
4 legal guardian's most recently filed income tax return, and who will incur  
5 qualified expenses up to five thousand dollars (\$5,000) on behalf of an el-  
6 igible student who is a qualifying child as that term is defined in section  
7 63-3029L, Idaho Code, that can be properly claimed on the parent's or legal  
8 guardian's full-time Idaho resident individual income tax return, except  
9 that the grant afforded under this section applies to children up to and  
10 including eighteen (18) years of age who would have qualified under section  
11 63-3029L, Idaho Code, but for their age.

12 (4) The grant limit under subsection (3) is increased to seven thousand  
13 five hundred dollars (\$7,500) for eligible students that are also considered  
14 children with disabilities requiring ancillary personnel as defined in sec-  
15 tion 33-2001(1) and (2), Idaho Code. Eligibility for this increased grant  
16 shall be determined based on the diagnosis or other determination made by an  
17 Idaho licensed health care provider.

18 (5) This grant shall be made by the state tax commission to parents or  
19 legal guardians of eligible students that apply for the grant on a first-  
20 come, first-served basis in an amount that does not exceed the anticipated  
21 qualified expenses they indicate they will incur.

22 (6) The Idaho parental grant provided for in this section shall not con-  
23 stitute taxable income.

24 (7) The state tax commission shall prescribe application forms for the  
25 purpose of applying for the grant authorized by this section. A successful  
26 applicant shall receive the grant within sixty (60) days of submitting the  
27 application.

28 (8) The parent or legal guardian of an eligible student receiving a  
29 grant shall:

30 (a) Use the grant only for qualified expenses as described in section  
31 63-3029N(3), Idaho Code, for a qualifying child as defined in section  
32 63-3029L, Idaho Code, that can be properly claimed on the parent's or  
33 legal guardian's full-time Idaho resident individual income tax re-  
34 turn;

35 (b) Use the grant for qualified expenses in the year in which the grant  
36 is received;

37 (c) Retain receipts and invoices of qualified expenses for three (3)  
38 years after submission of the grant application to substantiate the  
39 amounts paid and shall submit such receipts and invoices to the state  
40 tax commission upon request;

41 (d) Return all grant funds not used for qualified expenses in the same  
42 year in which the grant is received; and

43 (e) Be precluded from being awarded a grant for the same eligible stu-  
44 dent in subsequent years.

45 (9) The total amount of state funds authorized in this section shall not  
46 exceed ten million dollars (\$10,000,000) in any given tax year. The state  
47 tax commission shall keep real time cumulative records of the amount of grant  
48 funds obligated under this section during the year and shall post the amount  
49 on its website at least weekly until the annual maximum limit is reached. The  
50 state tax commission also shall keep records of the total amount of grants

1 for which it has received applications that exceed the annual maximum limit  
 2 in order to inform the evaluation of the program by the legislature in 2026  
 3 and beyond. In 2026, the legislature shall review and evaluate whether the  
 4 annual maximum amount is appropriate to address the needs of the program.

5 (10) The state tax commission shall have the authority to conduct audits  
 6 of grant recipients to ensure compliance and shall recapture grants from  
 7 grant recipients not used consistently with the requirements of this sec-  
 8 tion. If a grant recipient earns a parental choice tax credit by spending  
 9 the grant proceeds on qualified expenses in the year the grant is received,  
 10 the recipient shall use the proceeds of the credit in the year the credit is  
 11 received only to pay for qualified expenses for that eligible student. If a  
 12 grant recipient earns a credit for an eligible student in subsequent years  
 13 that is not expended on qualified expenses for that eligible student in the  
 14 year it is received, the amount of the credit shall be repaid to or recaptured  
 15 by the state tax commission and deposited in the general fund.

16 (11) The state tax commission shall have the authority to refer sus-  
 17 pected cases of intentional and substantial misuse of grant funds to the  
 18 attorney general for investigation and prosecution.

19 (12) The state tax commission shall ensure that parents or legal  
 20 guardians of eligible students receive notice in the application that par-  
 21 ticipation in the program is a parental placement under 20 U.S.C. 1412,  
 22 Individuals with Disabilities Education Act (IDEA), along with an expla-  
 23 nation of the rights that parentally placed students possess under IDEA,  
 24 including eligibility for equitable services, and any applicable state laws  
 25 and regulations.

26 (13) This section does not permit any government agency to exercise con-  
 27 trol or supervision over any nonpublic school. A nonpublic school that ac-  
 28 cepts a payment from grant funds pursuant to this section is not an agent of  
 29 the state or federal government. A nonpublic school shall not be required to  
 30 alter its creed, practices, admissions policy, or curriculum in order to ac-  
 31 cept students who pay tuition or fees from the grants under this section.

32 SECTION 3. That Chapter 12, Title 67, Idaho Code, be, and the same is  
 33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 34 ignated as Section 67-1230, Idaho Code, and to read as follows:

35 67-1230. IDAHO PARENTAL CHOICE GRANT FUND. (1) There is hereby estab-  
 36 lished in the state treasury the Idaho parental choice grant fund, to be ad-  
 37 ministered by the state tax commission. Moneys in the fund shall:

38 (a) Consist of the following:

- 39 (i) Legislative appropriations and transfers;
- 40 (ii) Donations and contributions made to the fund;
- 41 (iii) Reversions of unused grant funds pursuant to section 63-120,  
 42 Idaho Code; and
- 43 (iv) Interest earned on idle moneys in the fund;

44 (b) Be continuously appropriated for the purpose described in para-  
 45 graph (c) of this subsection; and

46 (c) Be used to pay grants awarded under the Idaho parental choice grant  
 47 program in section 63-120, Idaho Code.

1           (2) The contributions to the fund shall be used for award of grants  
2 without regard to the identity of the donors to the fund nor the recipient of  
3 the grant.

4           SECTION 4. SEVERABILITY. The provisions of this act are hereby declared  
5 to be severable and if any provision of this act or the application of such  
6 provision to any person or circumstance is declared invalid for any reason,  
7 such declaration shall not affect the validity of the remaining portions of  
8 this act.

9           SECTION 5. An emergency existing therefor, which emergency is hereby  
10 declared to exist, Section 1 of this act shall be in full force and effect  
11 on and after its passage and approval, and retroactively to January 1, 2024.  
12 Sections 2 and 3 of this act shall be in full force and effect on and after  
13 July 1, 2024.