

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 743

BY WAYS AND MEANS 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; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE,
9 BY THE ADDITION OF A NEW SECTION 67-1230A, IDAHO CODE, TO ESTABLISH PRO-
10 VISIONS REGARDING THE TRANSFER OF FUNDS FROM THE BOND LEVY EQUALIZATION
11 FUND; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY, PROVIDING
12 RETROACTIVE APPLICATION, AND PROVIDING EFFECTIVE DATES.
13

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

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

18 63-3029N. IDAHO PARENTAL CHOICE TAX CREDIT. (1) There is hereby estab-
19 lished the Idaho parental choice tax credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (b) Ensure no other person claims a credit for the eligible student. In
36 the event more than one (1) parent claims a credit under this section for
37 the same eligible student in the same year, the provisions of section
38 63-3029L(2), Idaho Code, shall be used to determine which parent is en-
39 titled to receive the credit;

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

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

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

3 (10) The total amount of tax credits authorized for all taxpayers un-
4 der this section shall not exceed sixty million dollars (\$60,000,000) in any
5 given tax year. In the event claims for tax credits allowed by this section
6 exceed that amount in the aggregate, the credits shall be allowed in full to
7 the first returns properly filed, on a first-come, first-served basis, until
8 such amount is reached; except that taxpayers who have received a grant pur-
9 suant to 63-120, Idaho Code, shall have priority over taxpayers who have not
10 received such grant for the three (3) tax years following the year that the
11 taxpayer received such grant. The state tax commission shall set a deadline
12 for priority taxpayers to file applications to receive the credit for the up-
13 coming tax year to guarantee the taxpayer's priority status. A priority tax-
14 payer shall still be eligible to receive the credit if such taxpayer's appli-
15 cation is filed outside of the deadline, but the taxpayer shall be subject
16 to the first-come, first-served eligibility basis. Taxpayers who claim the
17 credit on a return filed after the sixty million dollar (\$60,000,000) amount
18 is reached shall not receive a credit, and the state shall have no liability
19 to the taxpayer therefor. In 2026, the legislature shall review and evaluate
20 whether this annual maximum amount is sufficient to address the needs of the
21 program.

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

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

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

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

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

44 63-120. IDAHO PARENTAL CHOICE GRANT. (1) There is hereby created the
45 Idaho parental choice grant program to be administered by the state tax com-
46 mission.

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

1 (b) The legislature further finds that because some parents and legal
2 guardians cannot initially afford qualified expenses for eligible stu-
3 dents before the receipt of the nonrefundable tax credit allowed pur-
4 suant to section 63-3029N, Idaho Code, it is the purpose of this grant to
5 enable parents and legal guardians who also qualify for the earned in-
6 come tax credit pursuant to 26 U.S.C. 32 to seek an initial grant to pay
7 for all or a portion of qualified expenses for an eligible student for
8 the student's first year in nonpublic school. This grant is in addition
9 to the credit afforded under section 63-3029N, Idaho Code, and may be
10 used solely to pay for qualified educational expenses for eligible stu-
11 dents in the tax year in which the grant is received.

12 (3) For calendar year 2024 and subsequent years, there shall be al-
13 lowed an Idaho parental choice grant to an Idaho parent or legal guardian
14 that qualified for the federal earned income tax credit on such parent's or
15 legal guardian's most recently filed income tax return, and who will incur
16 qualified expenses up to five thousand dollars (\$5,000) on behalf of an el-
17 igible student who is a qualifying child as that term is defined in section
18 63-3029L, Idaho Code, that can be properly claimed on the parent's or legal
19 guardian's full-time Idaho resident individual income tax return, except
20 that the grant afforded under this section applies to children up to and
21 including eighteen (18) years of age who would have qualified under section
22 63-3029L, Idaho Code, but for their age.

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

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

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

35 (7) The state tax commission shall prescribe application forms for the
36 purpose of applying for the grant authorized by this section. A successful
37 applicant shall receive the grant within sixty (60) days of submitting the
38 application.

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

41 (a) Use the grant only for qualified expenses as described in section
42 63-3029N(3), Idaho Code, for a qualifying child as defined in section
43 63-3029L, Idaho Code, that can be properly claimed on the parent's or
44 legal guardian's full-time Idaho resident individual income tax re-
45 turn;

46 (b) Use the grant for qualified expenses in the year in which the grant
47 is received;

48 (c) Retain receipts and invoices of qualified expenses for three (3)
49 years after submission of the grant application to substantiate the

1 amounts paid and shall submit such receipts and invoices to the state
2 tax commission upon request;

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

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

7 (9) The total amount of state funds authorized in this section shall not
8 exceed ten million dollars (\$10,000,000) in any given tax year. The state
9 tax commission shall keep real time cumulative records of the amount of grant
10 funds obligated under this section during the year and shall post the amount
11 on its website at least weekly until the annual maximum limit is reached. The
12 state tax commission also shall keep records of the total amount of grants
13 for which it has received applications that exceed the annual maximum limit
14 in order to inform the evaluation of the program by the legislature in 2026
15 and beyond. In 2026, the legislature shall review and evaluate whether the
16 annual maximum amount is appropriate to address the needs of the program.

17 (10) The state tax commission shall have the authority to conduct audits
18 of grant recipients to ensure compliance and shall recapture grants from
19 grant recipients not used consistently with the requirements of this sec-
20 tion. If a grant recipient earns a parental choice tax credit by spending
21 the grant proceeds on qualified expenses in the year the grant is received,
22 the recipient shall use the proceeds of the credit in the year the credit is
23 received only to pay for qualified expenses for that eligible student. If a
24 grant recipient earns a credit for an eligible student in subsequent years
25 that is not expended on qualified expenses for that eligible student in the
26 year it is received, the amount of the credit shall be repaid to or recaptured
27 by the state tax commission and deposited in the general fund.

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

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

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

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

47 67-1230. IDAHO PARENTAL CHOICE GRANT FUND. (1) There is hereby estab-
48 lished in the state treasury the Idaho parental choice grant fund, to be ad-
49 ministered by the state tax commission. Moneys in the fund shall:

- 1 (a) Consist of the following:
2 (i) Legislative appropriations and transfers;
3 (ii) Donations and contributions made to the fund;
4 (iii) Reversions of unused grant funds pursuant to section 63-120,
5 Idaho Code; and
6 (iv) Interest earned on idle moneys in the fund;
7 (b) Be continuously appropriated for the purpose described in para-
8 graph (c) of this subsection; and
9 (c) Be used to pay grants awarded under the Idaho parental choice grant
10 program in section 63-120, Idaho Code.
11 (2) The contributions to the fund shall be used for award of grants
12 without regard to the identity of the donors to the fund nor the recipient of
13 the grant.

14 SECTION 4. That Chapter 12, Title 67, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 67-1230A, Idaho Code, and to read as follows:

17 67-1230A. TRANSFER OF FUNDS FROM THE BOND LEVY EQUALIZATION FUND. In
18 addition to any other appropriation provided by law, there is hereby appro-
19 priated, and the office of the state controller shall transfer, the unobli-
20 gated cash balance remaining in the bond levy equalization fund established
21 pursuant to section 33-906A, Idaho Code, to the Idaho parental choice grant
22 fund established pursuant to section 67-1230, Idaho Code.

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

28 SECTION 6. An emergency existing therefor, which emergency is hereby
29 declared to exist, Section 1 of this act shall be in full force and effect
30 on and after its passage and approval, and retroactively to January 1, 2024.
31 Section 2 of this act shall be in full force and effect on and after July 1,
32 2024. Sections 3, 4, and 5 of this act shall be in full force and effect on and
33 after passage and approval.