

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 39

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER
2 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029N,
3 IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE IDAHO PARENTAL CHOICE
4 TAX CREDIT; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION
5 OF A NEW SECTION 67-1230, IDAHO CODE, TO PROVIDE FOR THE IDAHO PARENTAL
6 CHOICE TAX CREDIT ADVANCE PAYMENT FUND; PROVIDING SEVERABILITY; AND
7 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.
8

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

10 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that
11 parents in this state be able to choose educational services that meet the
12 needs of their individual children. The Legislature affirms that parents
13 have a fundamental right, recognized in section 32-1010, Idaho Code, to nur-
14 ture and direct their children's education. The Legislature further finds
15 that because some parents cannot initially afford qualified expenses, par-
16 ents whose taxable income does not exceed three hundred percent (300%) of the
17 federal poverty level may request an advance payment of the Idaho parental
18 choice tax credit to pay for all or a portion of an eligible student's quali-
19 fied expenses.

20 SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 63-3029N, Idaho Code, and to read as follows:

23 63-3029N. IDAHO PARENTAL CHOICE TAX CREDIT. (1) There is hereby estab-
24 lished the Idaho parental choice tax credit.

25 (2) For the purpose of this section:

26 (a) "Academic instruction" means kindergarten through grade 12 in-
27 struction that is not provided by a parent and includes, at a minimum,
28 English language arts, mathematics, science, and social studies. Such
29 academic instruction may be provided in person, online, virtually, or
30 through any combination thereof.

31 (b) "Eligible student" means:

32 (i) A full-time resident of Idaho who is five (5) to eighteen (18)
33 years of age and who is not enrolled in any Idaho public school
34 district, specially chartered school district, public charter
35 school, or any other Idaho public school organized pursuant to
36 Idaho Code; or

37 (ii) A child with disabilities requiring ancillary personnel
38 as defined in section 33-2001, Idaho Code, who is five (5) to
39 twenty-one (21) years of age and who is not enrolled in any Idaho
40 public school district, specially chartered school district,

1 public charter school, or any other Idaho public school organized
2 pursuant to Idaho Code.

3 (c) "Federal poverty level" means the federal poverty guidelines pub-
4 lished and updated annually by the United States department of health
5 and human services.

6 (d) "Parent" means an eligible student's parent, legal guardian, or
7 foster parent, if such foster parent is licensed and in good standing
8 pursuant to chapter 12, title 39, Idaho Code.

9 (e) "Qualified expenses" means expenses on behalf of an eligible stu-
10 dent for tuition or fees related to academic instruction, tutoring,
11 nationally standardized assessments, assessments used to determine
12 college admission, advance placement examinations, industry-recog-
13 nized certification exams, and preparatory courses for nationally
14 standardized assessments. "Qualified expenses" also means costs for
15 textbooks, curricula, and other educational materials used for aca-
16 demic instruction, and transportation costs to and from a facility
17 incurred for the purposes of receiving academic instruction, including
18 public transportation, ridesharing, and the use of privately owned ve-
19 hicles, for which reimbursement shall use the mileage rate applicable
20 to state employee travel in effect at the time the travel occurs. "Qual-
21 ified expenses" shall not include expenses paid with funds received
22 from a grant under section 33-1031, Idaho Code, or reimbursement pur-
23 suant to section 33-4603, Idaho Code.

24 (3) The Idaho parental choice tax credit shall be administered as pro-
25 vided in this section. For tax year 2025 and subsequent tax years, there
26 shall be allowed a refundable tax credit up to five thousand dollars (\$5,000)
27 against the tax imposed by this chapter for any parent:

28 (a) Who incurs qualified expenses up to five thousand dollars (\$5,000)
29 during the tax year on behalf of an eligible student who is a dependent
30 and is properly claimed on the parent's full-time Idaho resident indi-
31 vidual income tax return; and

32 (b) Who timely and properly files an application.

33 (4) The state tax commission shall prescribe forms for the purpose of
34 applying for and claiming the credit authorized by this section. The forms
35 shall identify the civil and criminal penalties provided in sections 63-3046
36 and 63-3075, Idaho Code, for providing false and fraudulent tax information
37 and shall require the parents to affirm under oath that the information sub-
38 mitted in the form is true and accurate. Beginning in January 2026, and each
39 year thereafter, the application period shall open on January 15 and shall
40 remain open for a period of sixty (60) days. The state tax commission shall
41 notify parents whether they will receive a credit award. Such notification
42 must be within thirty (30) days of the close of the application period.

43 (5) The state tax commission shall calculate the total amount of cred-
44 its claimed in completed applications that qualify under subsection (3) of
45 this section. If the total amount does not exceed the annual maximum limit
46 provided in subsection (12) of this section, the state tax commission shall
47 re-open the application period to receive new applications. Such applica-
48 tions shall be accepted until August 15 or until the annual maximum limit is
49 reached, whichever is first.

1 (6) Credits shall be issued on a yearly basis. For applications re-
2 ceived in 2026, the state tax commission shall give priority to parents whose
3 modified adjusted gross income as indicated on their most recently filed tax
4 return does not exceed three hundred percent (300%) of the federal poverty
5 level. Starting in the 2027 application period, the state tax commission
6 shall give priority status to applications from parents who received a
7 credit in the prior year, followed by parents whose taxable income as indi-
8 cated on their most recently filed tax return does not exceed three hundred
9 percent (300%) of the federal poverty level.

10 (7) The refundable tax credit limit under subsection (3) of this sec-
11 tion shall be increased to seven thousand five hundred dollars (\$7,500) for
12 eligible students up to twenty-one (21) years of age who are also considered
13 children with disabilities requiring ancillary personnel as defined in sec-
14 tion 33-2001, Idaho Code. Parents claiming an increased credit under this
15 subsection shall document the student's diagnosis or other determination
16 made by an Idaho licensed health care provider or the student's eligibility
17 for services under an individualized education program in accordance with
18 the federal individuals with disabilities education act.

19 (8) The refundable tax credit provided in this section, including the
20 advance payment, shall not constitute Idaho taxable income.

21 (9) The application forms pursuant to subsection (4) of this section
22 shall permit parents to elect a onetime advance payment of the credit for
23 each eligible student. When a parent elects to receive an advance payment
24 pursuant to this subsection, the credit shall be issued in one (1) install-
25 ment, to be paid within sixty (60) days of notifying a parent of such credit
26 award but not later than August 30. The state tax commission shall approve
27 advance payments only for eligible students whose parents' modified ad-
28 justed gross income as indicated on their most recently filed tax return
29 does not exceed three hundred percent (300%) of the federal poverty level.
30 Advance payments made under this subsection may be spent only on qualified
31 expenses for which the parent may claim a credit under the provisions of this
32 section.

33 (10) Parents claiming the Idaho parental choice tax credit shall:

34 (a) Claim the credit for only qualified expenses as defined in this sec-
35 tion incurred on behalf of an eligible student;

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

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

45 (11) If the credit exceeds the tax imposed by this chapter, the excess
46 credit amount shall be refunded to the taxpayer. The state tax commission
47 shall design the tax return forms to account for advance payment of the
48 credit when calculating the tax imposed by this chapter.

49 (12) The total amount of tax credits authorized for all taxpayers under
50 this section shall not exceed fifty million dollars (\$50,000,000) each tax

1 year. In the event the total amount of claims for tax credits allowed by this
2 section exceeds fifty million dollars (\$50,000,000), the credits shall be
3 allowed in full to parents whose applications were properly and timely filed
4 and who have priority status under subsection (6) of this section, followed
5 by the remaining parents who filed complete applications on a first-come,
6 first-served basis, until the annual maximum limit is reached. The state tax
7 commission shall create and maintain a waiting list demonstrating who would
8 be eligible on a first-come, first-served basis if the annual maximum limit
9 for credits allowed under this section is increased.

10 (13) (a) Beginning with the first regular session of the sixty-ninth
11 Idaho legislature in 2027, the state tax commission shall provide an
12 annual report to the governor, the senate local government and taxation
13 committee, the house revenue and taxation committee, and the joint fi-
14 nance-appropriations committee that shall include:

15 (i) The total amount of tax credits provided each year under this
16 section;

17 (ii) The number of parents who applied each year for the Idaho
18 parental choice tax credit;

19 (iii) The amount of the average tax credit allowed;

20 (iv) The adjusted gross income of households applying for the
21 Idaho parental tax credit;

22 (v) The geographic area of parents applying for the credit;

23 (vi) The number of eligible students on the waiting list for each
24 year; and

25 (vii) A list of the categories of qualified expenses for which
26 recipients used the tax credit, which shall include the dollar
27 amounts for each category outlined in subsection (2) (e) of this
28 section.

29 (b) The report shall not include any personally identifying informa-
30 tion of eligible students, their parents, or their households.

31 (14) Any taxpayer receiving an advance payment or claiming a tax credit
32 without submission of a timely and properly prescribed form shall be ineli-
33 gible to receive such payment or claim such credit. The state tax commission
34 shall deny or recapture credits claimed by a parent for expenditures not au-
35 thorized by the provisions of this section. If a parent has received an ad-
36 vance payment for an eligible student in a previous year, the parent shall
37 not claim the credit for qualified expenses incurred in a year that a stu-
38 dent ceases to qualify as an eligible student, except for any portion of the
39 credit that exceeds the amount of the advance payment received. If a student
40 ceases to qualify as an eligible student and the parent has already received
41 the credit for that year, an amount of the credit, not exceeding the amount
42 of the advance payment received, shall be repaid to or recovered by the state
43 tax commission and deposited into the general fund.

44 (15) Parents who claim the credit on a tax return without receiving
45 prior approval of an application may not receive a credit, and the state
46 shall have no liability to such parent.

47 (16) The state tax commission shall, in as close to real time as practi-
48 cable, make available on its website the annual maximum limit, the cumula-
49 tive amount of credits claimed in applications under this section, and the

1 cumulative amount of advance payments issued under this section until the
2 annual maximum limit is reached.

3 (17) The state tax commission shall also keep records of the total ap-
4 plications for credits and total claim of credits that exceed the annual max-
5 imum limit.

6 (18) The state tax commission shall ensure that parents of eligible
7 students receive notice in the application that participation in the program
8 is a parental placement under 20 U.S.C. 1412 of the federal individuals with
9 disabilities education act, along with an explanation of the rights that
10 parentally placed students possess under the federal individuals with dis-
11 abilities education act, including eligibility for equitable services, and
12 any applicable state laws and regulations.

13 (19) The provisions of this section shall not be construed to permit
14 any government agency to exercise control or supervision over any nonpublic
15 school or to give the state authority to regulate the education of nonpublic
16 school students. A nonpublic school that enrolls a student whose parent
17 directs a refundable tax credit to the school pursuant to this section is not
18 an agent of the state or federal government. A nonpublic school shall not
19 be required to alter its creed, practices, admissions policy, or curriculum
20 in order to accept students whose payment of tuition or fees stems from a
21 refundable tax credit under this section.

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

25 67-1230. IDAHO PARENTAL CHOICE TAX CREDIT ADVANCE PAYMENT FUND. (1)
26 There is hereby established in the state treasury the Idaho parental choice
27 tax credit advance payment fund, to be administered by the state tax commis-
28 sion.

29 (2) Moneys in the fund shall:

30 (a) Consist of the following:

31 (i) Legislative appropriations and transfers;

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

33 (iii) Reversions of unused, paid back, or recovered advance pay-
34 ment funds; and

35 (iv) Interest earned on idle moneys in the fund; and

36 (b) Be continuously appropriated to pay advance payments awarded un-
37 der the Idaho parental choice tax credit program established in section
38 63-3029N, Idaho Code.

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

44 SECTION 5. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after its
46 passage and approval, and retroactively to January 1, 2025.