

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 519

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3004, IDAHO CODE, TO REVISE A PRO-  
2 VISION REGARDING THE APPLICATION OF THE INTERNAL REVENUE CODE; AMENDING  
3 SECTION 63-3029B, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE IN-  
4 COME TAX CREDIT FOR CAPITAL INVESTMENT; AMENDING SECTION 63-3029G,  
5 IDAHO CODE, TO REVISE PROVISIONS REGARDING CREDITS FOR RESEARCH ACTIV-  
6 TIES CONDUCTED IN THIS STATE AND CERTAIN CARRYFORWARD PROVISIONS; 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. That Section 63-3004, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 63-3004. INTERNAL REVENUE CODE. The term "Internal Revenue Code"  
13 means the Internal Revenue Code as amended and in effect on the first day of  
14 January ~~2025~~ 2026, except that Internal Revenue Code section 85 is applied  
15 as in effect on January 1, 2020.

16 SECTION 2. That Section 63-3029B, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the elec-  
19 tion of the taxpayer, there shall be allowed, subject to the applicable limi-  
20 tations provided herein as a credit against the income tax imposed by chapter  
21 30, title 63, Idaho Code, an amount equal to the sum of:

- 22 (a) The tax credit carryovers; and  
23 (b) The tax credit for the taxable year.

24 (2) The maximum allowable amount of the credit for the current taxable  
25 year shall be three percent (3%) of the amount of qualified investments made  
26 during the taxable year.

27 (3) As used in this section, "qualified investment" means certain prop-  
28 erty that:

- 29 (a) (i) Is eligible for the federal investment tax credit, as de-  
30 fined in sections 46(c) and 48 of the Internal Revenue Code, sub-  
31 ject to the limitations provided for certain regulated companies  
32 in section 46(f) of the Internal Revenue Code, and is not a motor  
33 vehicle under eight thousand (8,000) pounds gross weight; or  
34 (ii) Is qualified broadband equipment, as defined in section  
35 63-3029I, Idaho Code;  
36 (b) Is acquired, constructed, reconstructed, erected or placed into  
37 service after December 31, 1981; and  
38 (c) Has a situs in Idaho, as determined pursuant to subsection (9) of  
39 this section.

1 (4) (a) For qualified investments placed in service in 2003 and there-  
2 after, a taxpayer, other than a person whose rate of charge or rate of  
3 return or both is regulated or limited according to federal or state  
4 law, may elect, in lieu of the credit provided by this section, a two  
5 (2) year exemption from all taxes on personal property on the qualified  
6 investment. The exemption from personal property tax shall apply to the  
7 year the election is filed as provided in this section and the immedi-  
8 ately following year. The election provided by this paragraph is avail-  
9 able only to a taxpayer whose Idaho taxable income, before application  
10 of net operating losses carried back or forward, in the second preceding  
11 taxable year in which the investment is placed in service is negative.

12 (b) The election shall be made in the form prescribed by the state tax  
13 commission and shall include a specific description and location of  
14 all qualified investments placed into service and located in the ju-  
15 risdiction of the assessing authority, a designation of the specific  
16 assets for which the exemption is claimed, and such other information  
17 as the state tax commission may require. The election must be made  
18 by including the election form with the listing of personal property  
19 required by section 63-302, Idaho Code, or, in the case of operating  
20 property assessed under chapter 4, title 63, Idaho Code, with the op-  
21 erator's statement required by section 63-404, Idaho Code. Once made,  
22 the election is irrevocable. If no election is made, the election is not  
23 otherwise available. A copy of the election form must also be attached  
24 to the original income tax return due for the taxable year in which the  
25 claim was made.

26 (c) The state tax commission and the various county assessors are au-  
27 thorized to exchange information as necessary to properly coordinate  
28 the exemption provided in this subsection. Information disclosed to  
29 county officials under this subsection may be used only to determine the  
30 validity or amount of a taxpayer's entitlement to the exemption pro-  
31 vided in this section and is not otherwise subject to public disclosure  
32 as provided in section 74-107, Idaho Code.

33 (d) In the event that an investment in regard to which the election un-  
34 der this subsection was made is determined by the state tax commission:

- 35 (i) To not be a qualified investment;
- 36 (ii) To have ceased to qualify during the recapture period; or
- 37 (iii) To be otherwise not qualified for the election;

38 the taxpayer shall be subject to recapture of the property tax benefit.

39 (e) The benefit to be recaptured in paragraph (d) of this subsection  
40 shall be computed in the manner required in subsection (7) of this sec-  
41 tion, and such recapture amount shall be subject to assessment in the  
42 same manner as a deficiency in tax under this chapter. For purposes of  
43 calculating the recapture, the property tax benefit shall be:

- 44 (i) In the case of locally assessed property located in a single  
45 county or nonapportioned centrally assessed property, the market  
46 value of exempted property times the average property tax levy  
47 for that county in the year or years for which the exemption was  
48 claimed; or

- 49 (ii) In the case of other centrally assessed property and property  
50 located in more than one (1) county, the market value of exempted

1           property times the average urban property tax levy of the state  
2           as determined by the state tax commission in each of the years for  
3           which the exemption was claimed.

4           (f) In the event that a recapture of the exemption is required under  
5           this subsection, the person claiming the exemption shall report the  
6           event to the state tax commission in the manner the state tax commission  
7           may by rule require. The report shall be due no later than the due date  
8           of that person's income tax return under this chapter for the taxable  
9           year in which the event occurs. The recapture amount is due and payable  
10          with the report. Any amount of recapture not paid is a deficiency within  
11          the meaning of section 63-3044, Idaho Code.

12          (g) All moneys collected by the state tax commission pursuant to this  
13          subsection, which amounts are continuously appropriated for this pur-  
14          pose, shall be deposited with the state treasurer and placed in the  
15          state refund account, as provided by section 63-3067, Idaho Code, to be  
16          remitted to the county within which the property was located that was  
17          not a qualified investment or ceased to qualify during the recapture  
18          period. The county shall distribute this remittance to all appropriate  
19          taxing districts based on the proportion each appropriate taxing dis-  
20          trict's levy is to the total of all the levies of the taxing districts  
21          for the tax code area where the property was located for each year the  
22          exemption was granted. If any taxing district is dissolved or disincor-  
23          porated, the proportionate share of the remittance to be distributed to  
24          that taxing district shall be deposited in the county current expense  
25          fund.

26          (h) For purposes of the limitation provided by section 63-802, Idaho  
27          Code, moneys received pursuant to this subsection shall be treated as  
28          property tax revenue by taxing districts.

29          (5) Notwithstanding the provisions of subsections (1) and (2) of this  
30          section, the amount of the credit allowed shall not exceed fifty percent  
31          (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer  
32          shall be the tax after deducting the credit allowed by section 63-3029, Idaho  
33          Code.

34          (6) If the sum of credit carryovers from the credit allowed by subsec-  
35          tion (2) of this section and the amount of credit for the taxable year from  
36          the credit allowed by subsection (2) of this section exceed the limitation  
37          imposed by subsection (5) of this section for the current taxable year, the  
38          excess attributable to the current taxable year's credit shall be an invest-  
39          ment credit carryover to the fourteen (14) succeeding taxable years as long  
40          as the qualified investment property for which the unused credit was granted  
41          otherwise remains a qualified investment as determined under subsection (3)  
42          of this section in each of the taxable years during the recapture period.  
43          In the case of a group of corporations filing a combined report under sec-  
44          tion 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code,  
45          credit earned by one (1) member of the group but not used by that member may  
46          be used by another member of the group, subject to the provisions of subsec-  
47          tion (5) of this section, instead of carried over. The entire amount of un-  
48          used credit shall be carried forward to the earliest of the succeeding years,  
49          wherein the oldest available unused credit shall be used first. For a com-  
50          bined group of corporations, credit carried forward may be claimed by any

1 member of the group, unless the member who earned the credit is no longer in-  
2 cluded in the combined group.

3 (7) Any recapture of the credit allowed by subsection (2) of this sec-  
4 tion on property disposed of or ceasing to qualify, prior to the close of  
5 the recapture period, shall be determined according to the applicable recap-  
6 ture provisions of the Internal Revenue Code. In the case of a unitary group  
7 of corporations, the increase in tax due to the recapture of investment tax  
8 credit must be reported by the member of the group who earned the credit re-  
9 gardless of which member claimed the credit against tax.

10 (8) For the purpose of determining whether property placed in service  
11 is a "qualified investment" as defined in subsection (3) of this section, the  
12 provisions of section 49 of the Internal Revenue Code shall be disregarded.  
13 "Qualified investment" shall not include any amount for which a deduction is  
14 allowed under section 168(k) or section 179 of the Internal Revenue Code in  
15 computing Idaho taxable income.

16 (9) For purposes of this section, property has a situs in Idaho during a  
17 taxable year if it is used in Idaho at any time during the taxable year. Prop-  
18 erty not used in Idaho during a taxable year does not have a situs in Idaho  
19 in the taxable year during which the property is not used in Idaho or in any  
20 subsequent taxable year. The Idaho situs of property must be established by  
21 records maintained by the taxpayer that are created reasonably contempora-  
22 neously with the use of the property.

23 (10) In the case of property used both in and outside Idaho, the taxpayer  
24 electing to claim the credit provided in this section must elect to compute  
25 the qualified investment in property with a situs in Idaho for all such in-  
26 vestments first qualifying during that year in one (1), but only one (1), of  
27 the following ways:

28 (a) The amount of each qualified investment in a specific asset shall  
29 be separately computed based on the percentage of the actual use of the  
30 property in Idaho by using a measure of the use, such as total miles or  
31 total machine hours, that most accurately reflects the beneficial use  
32 during the taxable year in which it is first acquired, constructed,  
33 reconstructed, erected, or placed into service; provided that the as-  
34 set is placed in service more than ninety (90) days before the end of  
35 the taxable year. In the case of assets acquired, constructed, recon-  
36 structed, erected, or placed into service within ninety (90) days prior  
37 to the end of the taxable year in which the investment first qualifies,  
38 the measure of the use of that asset within Idaho for that year shall be  
39 based on the percentage of use in Idaho during the first ninety (90) days  
40 of use of the asset; or

41 (b) The investment in qualified property used both inside and out-  
42 side Idaho during the taxable year in which it is first acquired,  
43 constructed, reconstructed, erected, or placed into service shall be  
44 multiplied by the percent of the investment that would be included in  
45 the numerator of the Idaho property factor determined pursuant to sec-  
46 tion 63-3027, Idaho Code, for the same year; provided that the asset is  
47 placed in service more than ninety (90) days before the end of the tax-  
48 able year. In the case of assets acquired, constructed, reconstructed,  
49 erected, or placed into service within ninety (90) days prior to the end  
50 of the taxable year in which the investment first qualifies, the invest-

1 ment in qualified property used both inside and outside Idaho shall be  
 2 multiplied by the percent of the investment that would be included in  
 3 the numerator of the Idaho property factor determined pursuant to sec-  
 4 tion 63-3027, Idaho Code, during the first ninety (90) days of use of the  
 5 asset.

6 (11) Any amounts claimed by a taxpayer as a deduction pursuant to sec-  
 7 tion 174 of the Internal Revenue Code that constitute qualified investments,  
 8 as defined in subsection (3) of this section, shall not be eligible for the  
 9 credit provided in this section.

10 ~~(11)~~ (12) References to sections 46, 48 and 49 of the Internal Revenue  
 11 Code mean those sections as they existed in the Internal Revenue Code of 1986  
 12 prior to November 5, 1990.

13 SECTION 3. That Section 63-3029G, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE --  
 16 CARRYFORWARD.

17 (1) (a) Subject to the limitations of this section, there shall be al-  
 18 lowed to a taxpayer a nonrefundable credit against taxes imposed by sec-  
 19 tions 63-3024, 63-3025, and 63-3025A, Idaho Code, for increasing re-  
 20 search activities in Idaho.

21 (b) The credit allowed by paragraph (a) of this subsection shall be the  
 22 sum of:

23 (i) Five percent (5%) of the excess of qualified research expenses  
 24 for research conducted in Idaho over the base amount; and

25 (ii) Five percent (5%) basic research payments allowable under  
 26 section 41(e) of the Internal Revenue Code for basic research con-  
 27 ducted in Idaho.

28 (c) The credit allowed by paragraph (a) of this subsection shall be com-  
 29 puted without regard to the calculation of the alternative incremental  
 30 credit provided for in section 41(c) (4) of the Internal Revenue Code or  
 31 the alternative simplified credit provided for in section 41(c) (5) of  
 32 the Internal Revenue Code.

33 (2) As used in this section:

34 (a) The terms "qualified research expenses," "qualified research,"  
 35 "basic research payments" and "basic research" shall be as defined in  
 36 section 41 of the Internal Revenue Code, except that the research must  
 37 be conducted in Idaho.

38 (b) The term "base amount" shall mean an amount calculated as provided  
 39 in section 41(c) and (h) of the Internal Revenue Code, except that:

40 (i) A taxpayer's gross receipts include only those gross receipts  
 41 attributable to sources within this state as provided in subsec-  
 42 tions (12) and (13) of section 63-3027, Idaho Code; and

43 (ii) Notwithstanding section 41(c) of the Internal Revenue Code,  
 44 for purposes of calculating the base amount, a taxpayer:

45 (A) May elect to be treated as a start-up company as provided  
 46 in section 41(c) (3) (B) of the Internal Revenue Code, regard-  
 47 less of whether the taxpayer meets the requirements of sec-  
 48 tion 41(c) (3) (B) (i) (I) or (II) of the Internal Revenue Code;  
 49 and

1 (B) May not revoke an election to be treated as a start-up  
2 company.

3 (3) The credit allowed by subsection (1)(a) of this section together  
4 with any credits carried forward under subsection (5) of this section  
5 shall not exceed the amount of tax due under sections 63-3024, 63-3025, and  
6 63-3025A, Idaho Code, after allowance for all other credits permitted by  
7 this chapter. When credits earned in more than one (1) taxable year are  
8 available, the oldest credits shall be applied first.

9 (4) In the case of a group of corporations filing a combined report  
10 under section 63-3027(22), Idaho Code, credit earned by one (1) member of  
11 the group but not used by that member may be used by another member of the  
12 group. For a combined group of corporations, any member of the group may  
13 claim credit carried forward unless the member who earned the credit is no  
14 longer included in the combined group.

15 (5) The credit allowed by subsection (1)(a) of this section shall be  
16 claimed for the taxable year during which the taxpayer qualifies for the  
17 credit. If the credit exceeds the limitation under subsection (3) of this  
18 section, the excess amount may be carried forward for a period that does  
19 not exceed the next fourteen (14) taxable years. Any amounts claimed by a  
20 taxpayer as a deduction pursuant to section 174 of the Internal Revenue Code  
21 that constitute qualified research expenses, qualified research, basic re-  
22 search payments, or basic research, as those terms are defined in subsection  
23 (2) of this section, shall not be eligible for the credit provided in this  
24 section.

25 (6) In addition to other needed rules, the state tax commission may  
26 promulgate rules prescribing, in the case of S corporations, partnerships,  
27 trusts, or estates, a method of attributing the credit under this section to  
28 the shareholders, partners, or beneficiaries in proportion to their share of  
29 the income from the S corporation, partnership, trust, or estate.

30 SECTION 4. An emergency existing therefor, which emergency is hereby  
31 declared to exist, this act shall be in full force and effect on and after its  
32 passage and approval, and retroactively to January 1, 2025.