

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 93

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 300% of the federal poverty level
17 may request an advance payment of the Idaho parental choice tax credit to pay
18 for all or a portion of an eligible student's qualified expenses.

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

22 63-3029N. IDAHO PARENTAL CHOICE TAX CREDIT. (1) There is hereby estab-
23 lished the Idaho parental choice tax credit.

24 (2) For the purpose of this section:

25 (a) "Academic instruction" means kindergarten through grade 12 in-
26 struction that includes, at a minimum, English language arts, mathemat-
27 ics, science, and social studies.

28 (b) "Eligible student" means:

29 (i) A full-time resident of Idaho who is five (5) to eighteen (18)
30 years of age; or

31 (ii) A child with disabilities requiring ancillary personnel as
32 defined in section 33-2001, Idaho Code, who is five (5) to twenty-
33 one (21) years of age.

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

37 (d) "Nonpublic school" means a private school, microschool, or learn-
38 ing pod that provides academic instruction to eligible students, which
39 academic instruction may be provided in person, online, virtually, or
40 through any combination thereof, and such academic instruction is:

41 (i) Provided by an accredited school; or

1 (ii) Documented in a portfolio of evidence or learning record that
2 indicates the student's growth. Records of the instruction shall
3 be retained sufficient to establish that the instruction meets
4 the requirements of paragraph (a) of this subsection and shall be
5 available in the case of any audit by the state tax commission.

6 (e) "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 (f) "Qualified expenses" means kindergarten through grade 12 tuition
10 or fees for attending a nonpublic school, tutoring, nationally stan-
11 dardized assessments, assessments used to determine college admission,
12 advance placement examinations, industry-recognized certification ex-
13 ams, and preparatory courses for nationally standardized assessments.
14 "Qualified expenses" also means costs for textbooks, curricula used for
15 kindergarten through grade 12 academic instruction, and transporta-
16 tion costs to and from a facility incurred for the purposes of receiving
17 kindergarten through grade 12 academic instruction, including public
18 transportation, ridesharing, and the use of privately owned vehicles,
19 for which reimbursement shall use the mileage rate applicable to state
20 employee travel in effect at the time the travel occurs. "Qualified ex-
21 penses" shall not include expenses paid with funds received from a grant
22 under section 33-1031, Idaho Code, or reimbursement pursuant to section
23 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 per eligible student against the tax imposed by this chapter for any parent:

28 (a) Who incurs qualified expenses of up to five thousand dollars
29 (\$5,000) per eligible student during the tax year, if each eligible
30 student is a dependent and is properly claimed on the parent's full-time
31 Idaho resident individual 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. The forms shall also require any
39 parent who has previously received a credit authorized by this section to
40 certify and attach evidence that the parent completed the satisfaction and
41 engagement survey required under subsection (14) of this section. Begin-
42 ning in January 2026, and each year thereafter, the application period shall
43 open on January 15 and shall remain open for a period of sixty (60) days. The
44 state tax commission shall notify parents whether they will receive a credit
45 award. Such notification must be within thirty (30) days of the close of the
46 application period.

47 (5) The state tax commission shall calculate the total amount of cred-
48 its claimed in completed applications that qualify under subsection (3) of
49 this section. If the total amount does not exceed the annual maximum limit
50 provided in subsection (12) of this section, the state tax commission shall

1 re-open the application period to receive new applications. Such applica-
2 tions shall be accepted until August 15 or until the annual maximum limit is
3 reached, whichever is first.

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

13 (7) The refundable tax credit limit under subsection (3) of this sec-
14 tion shall be increased to seven thousand five hundred dollars (\$7,500) for
15 each eligible student up to twenty-one (21) years of age who is also con-
16 sidered a child with disabilities requiring ancillary personnel as defined
17 in section 33-2001, Idaho Code. Parents claiming an increased credit under
18 this subsection shall document the student's diagnosis or other determina-
19 tion made by an Idaho licensed health care provider or the student's eligi-
20 bility for services under an individualized education program in accordance
21 with the federal individuals with disabilities education act.

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

24 (9) The application forms pursuant to subsection (4) of this section
25 shall permit parents to elect a onetime advance payment of the credit for
26 each eligible student. When a parent elects to receive an advance payment
27 pursuant to this subsection, the credit shall be issued in one (1) install-
28 ment, to be paid within sixty (60) days of notifying a parent of such credit
29 award but not later than August 30. The state tax commission shall approve
30 advance payments only for eligible students whose parents' modified ad-
31 justed gross income as indicated on their most recently filed tax return
32 does not exceed three hundred percent (300%) of the federal poverty level.
33 Advance payments made under this subsection may be spent only on qualified
34 expenses for which the parent may claim a credit under the provisions of this
35 section. In order to enable parents whose modified adjusted gross income
36 does not exceed three hundred percent (300%) of the federal poverty level to
37 pay for a student's education, an advance payment that is expended on quali-
38 fied expenses for an eligible student may be claimed for such expenditure in
39 that year and a parental choice tax credit shall be allowed on a parent's tax
40 return for that year, subject to the remaining requirements of this chapter.

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

42 (a) Claim the credit for only qualified expenses incurred on behalf of
43 an eligible student;

44 (b) Not claim the credit for any semester in which a student was
45 enrolled full-time or part-time in a public school, public char-
46 ter school, public virtual charter school, public magnet school, or
47 part-time public kindergarten.

48 (c) Not claim the credit for any tuition or fees related to academic in-
49 struction provided by the parent to such parent's eligible student;

1 (d) Ensure no other parent claims a credit for an eligible student. In
2 the event more than one (1) parent claims a credit under this section for
3 the same eligible student in the same year, the provisions of section
4 63-3029L(2), Idaho Code, shall be used to determine which parent is en-
5 titled to receive the credit; and

6 (e) Fill out and submit the satisfaction and engagement survey provided
7 for in subsection (14) of this section. No parent shall be eligible to
8 receive a credit under the provisions of this section in a subsequent
9 year if such parent has not submitted such survey for the last year that
10 such parent received the credit.

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

15 (12) The total amount of tax credits authorized for all taxpayers under
16 this section shall not exceed fifty million dollars (\$50,000,000) each tax
17 year. In the event the total amount of claims for tax credits allowed by this
18 section exceeds fifty million dollars (\$50,000,000), the credits shall be
19 allowed in full to parents whose applications were properly and timely filed
20 and who have priority status under subsection (6) of this section, followed
21 by the remaining parents who filed complete applications on a first-come,
22 first-served basis, until the annual maximum limit is reached. The state tax
23 commission shall create and maintain a waiting list demonstrating who would
24 be eligible on a first-come, first-served basis if the annual maximum limit
25 for credits allowed under this section is increased.

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

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

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

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

36 (iv) The number of credits distributed to parents with an adjusted
37 gross income below three hundred percent (300%) of the federal
38 poverty level;

39 (v) The number of parents who applied each year for the advance
40 payment pursuant to subsection (9) of this section, the number of
41 advance payments awarded, and the median amount of the advance
42 payments awarded;

43 (vi) The geographic area of parents applying for the credit;

44 (vii) The number of eligible students on the waiting list for each
45 year; and

46 (viii) A list of the categories of qualified expenses for which
47 recipients used the tax credit, which shall include the dollar
48 amounts for each category listed in subsection (2) (f) of this sec-
49 tion.

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

3 (14) Beginning in 2026, and each year thereafter, the legislative ser-
4 vices office shall deliver to each parent who has received a tax credit under
5 the provisions of this section a parent satisfaction and engagement survey
6 to evaluate the performance of the nonpublic school that the eligible stu-
7 dent attended. The survey shall include but not be limited to the quality of
8 school leadership, school safety, student engagement, quality of academic
9 instruction, and quality of learning outcomes. The state tax commission
10 shall provide the legislative services office with contact information to
11 identify each parent receiving a credit and any other information required
12 for the legislative services office to properly deliver the surveys required
13 under this subsection, and shall deliver the surveys to the parents no later
14 than January 15 each year. Each parent shall complete the survey and submit
15 the completed survey to the legislative services office no later than March
16 15. Beginning in 2027, the legislative services office shall submit a report
17 to the governor, the senate local government and taxation committee, the
18 house revenue and taxation committee, and the joint finance-appropriations
19 committee that shall include a summary of the survey results.

20 (15) Any taxpayer receiving an advance payment or claiming a tax credit
21 without submission of a timely and properly prescribed form shall be ineli-
22 gible to receive such payment or claim such credit. The state tax commission
23 shall deny or recapture credits claimed by a parent for expenditures not au-
24 thorized by the provisions of this section. If a parent has received an ad-
25 vance payment for an eligible student in a previous year, the parent shall
26 not claim the credit for qualified expenses incurred in a year that a stu-
27 dent ceases to qualify as an eligible student, except for any portion of the
28 credit that exceeds the amount of the advance payment received. If a student
29 ceases to qualify as an eligible student and the parent has already received
30 the credit for that year, an amount of the credit, not exceeding the amount
31 of the advance payment received, shall be repaid to or recovered by the state
32 tax commission and deposited into the general fund.

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

36 (17) The state tax commission shall, in as close to real time as practi-
37 cable, make available on its website the annual maximum limit, the cumula-
38 tive amount of credits claimed in applications under this section, and the
39 cumulative amount of advance payments issued under this section until the
40 annual maximum limit is reached.

41 (18) The state tax commission shall also keep records of the total ap-
42 plications for credits and total claim of credits that exceed the annual max-
43 imum limit.

44 (19) The state tax commission shall ensure that parents of eligible
45 students receive notice in the application that participation in the program
46 is a parental placement under 20 U.S.C. 1412 of the federal individuals with
47 disabilities education act, along with an explanation of the rights that
48 parentally placed students possess under the federal individuals with dis-
49 abilities education act, including eligibility for equitable services, and
50 any applicable state laws and regulations.

1 (20) The provisions of this section shall not be construed to permit
2 any government agency to exercise control or supervision over any nonpublic
3 school or to give the state authority to regulate the education of nonpublic
4 school students. A nonpublic school that enrolls a student whose parent
5 directs a refundable tax credit to the school pursuant to this section is not
6 an agent of the state or federal government. A nonpublic school shall not
7 be required to alter its creed, practices, admissions policy, or curriculum
8 in order to accept students whose payment of tuition or fees stems from a
9 refundable tax credit under this section.

10 SECTION 3. That Chapter 12, Title 67, 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 67-1230, Idaho Code, and to read as follows:

13 67-1230. IDAHO PARENTAL CHOICE TAX CREDIT ADVANCE PAYMENT FUND. (1)
14 There is hereby established in the state treasury the Idaho parental choice
15 tax credit advance payment fund, to be administered by the state tax commis-
16 sion.

17 (2) Moneys in the fund shall:

18 (a) Consist of the following:

19 (i) Legislative appropriations and transfers;

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

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

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

24 (b) Be continuously appropriated to pay advance payments awarded un-
25 der the Idaho parental choice tax credit program established in section
26 63-3029N, Idaho Code.

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

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