

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 271

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO FIRST-TIME HOME BUYERS; AMENDING CHAPTER 30, TITLE 63, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 63-3022V, IDAHO CODE, TO PROVIDE  
3 FOR FIRST-TIME HOME BUYER SAVINGS ACCOUNTS; AMENDING SECTION 26-216,  
4 IDAHO CODE, TO REVISE PROVISIONS REGARDING CUSTODIAL ACCOUNTS; AMEND-  
5 ING SECTION 26-2151, IDAHO CODE, TO REVISE PROVISIONS REGARDING CREDIT  
6 UNIONS ACTING AS CUSTODIANS OR FIDUCIARIES UNDER CERTAIN TRUST INSTRU-  
7 MENTS OR CUSTODIAL AGREEMENTS; AND DECLARING AN EMERGENCY AND PROVIDING  
8 RETROACTIVE APPLICATION.  
9

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

11 SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
13 ignated as Section 63-3022V, Idaho Code, and to read as follows:

14 63-3022V. DEDUCTION FOR FIRST-TIME HOME BUYERS. (1) As used in this  
15 section:

16 (a) "Account holder" means an individual who lives in Idaho, who is a  
17 first-time home buyer, and who establishes, individually or jointly,  
18 a first-time home buyer savings account. A married individual living  
19 in Idaho who is also a first-time home buyer, filing separately, may  
20 be an account holder if the account is established separately from the  
21 person's spouse. Married individuals filing jointly are considered the  
22 account holder if they both live in Idaho and one is a first-time home  
23 buyer.

24 (b) "Commission" means the Idaho state tax commission.

25 (c) "Depository" means a state or national bank, a savings and loan as-  
26 sociation, or a credit union, or a trust company authorized to act as a  
27 fiduciary, authorized to do business in Idaho.

28 (d) "Eligible home costs" means:

29 (i) The down payment for the purchase of a single-family residence  
30 in Idaho; or

31 (ii) A cost, fee, tax, or payment incurred by, charged to, or as-  
32 signed to an account holder for the purchase of a single-family  
33 residence in Idaho and listed on the statement of receipts and dis-  
34 bursements for the sale, including any statement prescribed by 12  
35 CFR 1026.38, as amended.

36 "Eligible home costs" also includes any United States veterans adminis-  
37 tration funding fee incurred by, charged to, or assigned to a designated  
38 beneficiary in connection with a veterans administration home loan  
39 guaranty program.

40 (e) "First-time home buyer" means an individual who lives in Idaho and  
41 who does not own, either individually or jointly, a single-family or

1 multifamily residence and who has not owned or purchased, either indi-  
2 vidually or jointly, a single-family residence in Idaho.

3 (f) "First-time home buyer savings account" means an account estab-  
4 lished in Idaho with a depository to pay the eligible home costs of the  
5 account holder or reimbursing the account holder's eligible home costs  
6 in connection with a qualified home purchase.

7 (g) "Qualified home purchase" means, with respect to a first-time home  
8 buyer savings account, the purchase of a single-family residence in  
9 Idaho by the account holder on the date or after the date the account  
10 holder first opened a first-time home buyer savings account.

11 (h) "Single-family residence" means a residential dwelling owned and  
12 occupied, or under contract to be constructed, by an account holder as  
13 the account holder's principal residence, including but not limited to  
14 a manufactured home, mobile home, condominium unit, or townhome.

15 (2) For taxable years commencing on and after January 1, 2019, annual  
16 contributions and interest earned on a first-time home buyer savings account  
17 may be deducted from the taxable income of the account holder. Annual deduc-  
18 tions shall not exceed three thousand dollars (\$3,000) per year for an indi-  
19 vidual or six thousand dollars (\$6,000) per year for a married couple filing  
20 jointly. Annual contributions to a first-time home buyer savings account  
21 may exceed the amount deductible under this section.

22 (3) The account holder shall be the beneficiary of the first-time home  
23 buyer savings account. The designation shall be made on forms provided by  
24 the commission during the year following the date on which the account is es-  
25 tablished.

26 (4) Funds held in a first-time home buyer savings account may be with-  
27 drawn by the account holder at any time. Withdrawals for the purpose of pay-  
28 ing eligible home costs shall not be subject to the tax imposed in this chap-  
29 ter. The burden of proving that a withdrawal from a first-time home buyer  
30 savings account was made for an eligible home cost is solely upon the account  
31 holder. Other withdrawals shall be subject to the following:

32 (a) The withdrawal of funds by the account holder for purposes other  
33 than the payment of eligible home costs shall be subject to taxes other-  
34 wise due.

35 (b) The direct transfer of funds from a first-time home buyer savings  
36 account to another first-time home buyer savings account at a differ-  
37 ent depository shall not be considered a withdrawal for purposes of this  
38 section. Charges relating to the administration and maintenance of the  
39 account by the depository are not withdrawals for purposes of this sec-  
40 tion.

41 (c) Funds deposited in a first-time home buyer savings account that  
42 are deposited in error or unintentionally and that are withdrawn within  
43 sixty (60) days of being deposited shall be treated as if the amounts had  
44 not been deposited in the first-time home buyer savings account.

45 (d) Funds withdrawn from a first-time home buyer savings account that  
46 are withdrawn in error or unintentionally and that are redeposited into  
47 a first-time home buyer savings account within sixty (60) days of being  
48 withdrawn shall be treated as if the amounts had not been withdrawn from  
49 the first-time home buyer savings account.

1 (e) Upon the death of an account holder, the account principal, as  
 2 well as any interest accumulated thereon, shall be distributed without  
 3 penalty to a beneficiary or beneficiaries designated by the account  
 4 holder.

5 (5) In the case of first-time home buyer savings accounts, account  
 6 holders shall provide to the state tax commission, in the routine fashion  
 7 used for all interest-bearing accounts, the same information that is pro-  
 8 vided for any interest-bearing bank account and shall also include an attes-  
 9 tation under the penalty of perjury that the account holder is a first-time  
 10 home buyer as defined in this section. To minimize the burden of reporting,  
 11 the information shall be provided in the format in which information is  
 12 provided for any interest-bearing bank account to the state tax commission.  
 13 Depositories shall report withdrawals within ninety (90) days on a form pro-  
 14 vided by the commission. Account holders shall provide on any state income  
 15 tax form in which they take a deduction for a first-time home buyer savings  
 16 account the account number of their first-time home buyer savings account  
 17 and the depository at which the account is held.

18 (6) First-time home buyer savings accounts shall be nontransferable to  
 19 any person who is not the account holder.

20 (7) The commission shall promulgate rules to administer the provisions  
 21 of this section.

22 SECTION 2. That Section 26-216, Idaho Code, be, and the same is hereby  
 23 amended to read as follows:

24 26-216. CUSTODIAL ACCOUNTS. Any bank, not having trust powers, may  
 25 act as custodian, and may receive reasonable compensation for so acting, ~~of~~  
 26 ~~any custodial account created or organized in the United States and forming~~  
 27 ~~part of a stock bonus, pension, or profit sharing plan which qualifies or~~  
 28 ~~qualified for specific tax treatment under section 401(d), section 403(b)~~  
 29 ~~or section 408(a) of the Internal Revenue Code of 1954 as defined in section~~  
 30 ~~63-3004, Idaho Code, if the funds of such trust under any written trust in-~~  
 31 ~~strument or custodial agreement in connection with a tax-advantaged savings~~  
 32 plan authorized under the Internal Revenue Code or chapter 30, title 63,  
 33 Idaho Code, including but not limited to first-time home buyer savings ac-  
 34 counts if the funds of such trust are subject to the custodial agreement and  
 35 are invested only in savings accounts or deposits in such bank or in obliga-  
 36 tions or securities issued by such bank. All funds held in such eustodial  
 37 fiduciary capacity by any such bank may be commingled for appropriate pur-  
 38 poses of investment, but individual records shall be kept by the custodian  
 39 for each participant and shall show in proper detail all transactions en-  
 40 gaged in under the authority of this section.

41 SECTION 3. That Section 26-2151, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 26-2151. CREDIT UNION AS TRUSTEE. A credit union ~~may act as trustee, is~~  
 44 authorized to act as custodian or fiduciary for members of the credit union  
 45 and may receive reasonable compensation for so acting, ~~of any trust created~~  
 46 or organized in the United States and forming part of a stock bonus, pension,  
 47 or profit-sharing plan which qualifies or qualified for specific tax treat-

1 ~~ment under section 401(d), section 403(b), or section 408(a) of the Inter-~~  
2 ~~nal Revenue Code of 1954, as amended, under any written trust instrument or~~  
3 ~~custodial agreement in connection with a tax-advantaged savings plan autho-~~  
4 ~~rized under the Internal Revenue Code or chapter 30, title 63, Idaho Code,~~  
5 ~~including but not limited to first-time home buyer savings accounts if the~~  
6 ~~funds of such trust are subject to the custodial agreement and are invested~~  
7 ~~only in savings accounts or deposits in such credit union or in obligations~~  
8 ~~or securities issued by such credit union. All funds held in such fiduciary~~  
9 ~~capacity by any such association credit union may be commingled for appro-~~  
10 ~~priate purposes of investment, but individual records shall be kept by the~~  
11 ~~fiduciary for each participant and shall show in proper detail all transac-~~  
12 ~~tions engaged in under the authority of this section.~~

13 SECTION 4. An emergency existing therefor, which emergency is hereby  
14 declared to exist, this act shall be in full force and effect on and after its  
15 passage and approval, and retroactively to January 1, 2019.