

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 234

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3029A, IDAHO CODE, TO ESTABLISH  
2 PROVISIONS REGARDING A TAX CREDIT RATE FOR CONTRIBUTIONS TO CERTAIN  
3 SCHOLARSHIPS, SUBJECT TO LIMITATIONS AND TO MAKE TECHNICAL CORREC-  
4 TIONS; AMENDING SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 3,  
5 CHAPTER 78, LAWS OF 2016, TO ESTABLISH PROVISIONS REGARDING A TAX CREDIT  
6 RATE FOR CONTRIBUTIONS TO CERTAIN SCHOLARSHIPS, SUBJECT TO LIMITATIONS  
7 AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.  
8

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

10 SECTION 1. That Section 63-3029A, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITA-  
13 TION. At the election of the taxpayer, there shall be allowed, subject to  
14 the applicable limitations provided herein, as a credit against the income  
15 tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty  
16 percent (50%) of the aggregate amount of charitable contributions made by  
17 such taxpayer during the year to a nonprofit corporation, fund, foundation,  
18 trust, or association organized and operated exclusively for the benefit of  
19 institutions of higher learning located within the state of Idaho, includ-  
20 ing a university-related research park, to nonprofit private or public in-  
21 stitutions of elementary, secondary, or higher education or their founda-  
22 tions located within the state of Idaho, to a nonprofit corporation, fund,  
23 foundation, trust or association which is: (i) organized and operated ex-  
24 clusively for the benefit of elementary or secondary education institutions  
25 located within the state of Idaho; (ii) officially recognized and designated  
26 by resolution of the applicable governing board as any such elementary or  
27 secondary education institution's sole designated supporting organization;  
28 and (iii) qualified to be exempt from federal taxation under the terms of  
29 section 501(c)(3) of the Internal Revenue Code, for the express purpose of  
30 supplementing and enhancing a thorough system of public schools as defined  
31 in section 33-1612, Idaho Code, or supplementing and enhancing the private  
32 school which is the beneficiary, to Idaho education public broadcast system  
33 foundations within the state of Idaho, to the Idaho state historical soci-  
34 ety or its foundation, to the council for the deaf and hard of hearing, to  
35 the developmental disabilities council, to the commission for the blind and  
36 visually impaired, to the commission on Hispanic affairs, to the state in-  
37 dependent living council, to the Idaho commission for libraries and to pub-  
38 lic libraries or their foundations and library districts or their founda-  
39 tions located within the state of Idaho, to the Idaho STEM action center, to  
40 nonprofit public or private museums or their foundations located within the  
41 state of Idaho and to dedicated accounts within the Idaho community founda-

1 tion inc. that exclusively support the charitable purposes otherwise quali-  
2 fying for the tax credit authorized under the provisions of this section.

3 (1) In the case of a taxpayer other than a corporation, the amount al-  
4 lowable as a credit under this section for any taxable year shall not exceed  
5 fifty percent (50%) of such taxpayer's total income tax liability imposed by  
6 section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500),  
7 whichever is less.

8 (2) In the case of a corporation, the amount allowable as a credit un-  
9 der this section for any taxable year shall not exceed ten percent (10%) of  
10 such corporation's total income or franchise tax liability imposed by sec-  
11 tions 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dol-  
12 lars (\$5,000), whichever is less.

13 (3) (a) Provided however, contributions to a scholarship-granting  
14 organization managing or disbursing funds held in a dedicated account  
15 to provide scholarships for children living at or below one hundred  
16 eighty-five percent (185%) of the federal poverty level, children with  
17 disabilities as defined in section 33-2001, Idaho Code, at-risk youth  
18 as defined by rule of the state board of education, or children with  
19 a parent who is a member of the military and is on active duty or who  
20 was in the military and was killed in the line of duty, to attend pri-  
21 vate elementary or secondary education institutions, and which meet  
22 the requirements of this section, are not subject to the allowable  
23 credit limits described in subsection (1) or (2) of this section if  
24 the contributions qualify for the credit provided in paragraph (c) of  
25 this subsection. The state board of education shall designate one (1)  
26 scholarship-granting organization to administer such scholarships  
27 throughout the state. Scholarships shall be for an annual amount of up  
28 to seventy percent (70%) of the average state per pupil funding. Schol-  
29 arships may be renewable or granted for multiple years as long as funds  
30 are available.

31 (b) Qualifying contributions may not inure to the benefit of the donor,  
32 the donor's child, the donor's grandchild or another member of the  
33 donor's family within the second degree of consanguinity, and donors  
34 may not direct contributions to a particular beneficiary. Scholarships  
35 may be used only to allow eligible children to attend institutions ap-  
36 proved by rule of the state board of education for this purpose.

37 (c) Notwithstanding any other provision of law, nonrefundable credit  
38 for individual and corporate contributions for the purposes of this  
39 subsection shall be equal to eighty percent (80%) of the amount con-  
40 tributed, subject to the limitations in this paragraph. Credit for  
41 individual and corporate contributions that exceed the limits de-  
42 scribed in subsection (1) or (2) of this section shall be allowed on  
43 a first-come, first-served basis, up to a total statewide maximum  
44 aggregate limit for such excess credits of fifteen million dollars  
45 (\$15,000,000) in any calendar year. The state tax commission by rule  
46 shall develop a process to allow taxpayers to request from the state tax  
47 commission allocation of excess credit in a calendar year by establish-  
48 ing a date-ordered roster of such requests, identifying the taxpayer  
49 and the amount of a request. The roster shall be kept up to date and  
50 shall be a public record. The state tax commission shall confirm to a

1 taxpayer on a first-come, first-served basis whether a contribution  
2 that otherwise qualifies for a credit under this section, if made, will  
3 also qualify for the excess credit afforded by this subsection. To  
4 maintain its place on the roster and qualify for the excess credit,  
5 within sixty (60) days of receiving the commission's confirmation, the  
6 taxpayer must provide the commission with proof of contribution to a  
7 qualifying scholarship-granting organization. The purpose of this  
8 roster is to inform a taxpayer whether a contribution qualifies for  
9 this excess credit and to ensure that the aggregate amount of all excess  
10 credits does not exceed the annual maximum allowed under this subsec-  
11 tion.

12 For the purposes of this section, "contribution" means monetary dona-  
13 tions reduced by the value of any benefit received in return such as food, en-  
14 tertainment or merchandise.

15 For the purposes of this section, "institution of higher learning"  
16 means only an educational institution located within this state meeting all  
17 of the following requirements:

18 (a) It maintains a regular faculty and curriculum and has a regularly  
19 enrolled body of students in attendance at the place where its educa-  
20 tional activities are carried on.

21 (b) It regularly offers education above the twelfth grade.

22 (c) It is accredited by the northwest commission on colleges and uni-  
23 versities.

24 For the purposes of this section, a "nonprofit institution of secondary  
25 or higher education" means a private nonprofit secondary or higher educa-  
26 tional institution located within the state of Idaho, which is accredited  
27 by the northwest commission on colleges and universities, or accredited by a  
28 body approved by the state board of education. A "nonprofit private insti-  
29 tution of elementary education" means a private nonprofit elementary educa-  
30 tional institution located within the state of Idaho and accredited by the  
31 state board of education pursuant to section 33-119, Idaho Code.

32 For the purposes of this section, "organized and operated exclusively  
33 for the benefit of elementary or secondary education institutions" means  
34 having an explicit provision in the supporting organization's bylaws or  
35 other governing document that expressly identifies the elementary or sec-  
36 ondary schools, or one (1) or more school districts, in the state of Idaho  
37 that will be the exclusive beneficiary of the distributions of the nonprofit  
38 corporation, fund, foundation, trust or association.

39 For the purposes of this section, a nonprofit corporation, fund, foun-  
40 dation, trust or association that invests contributions in an endowment or  
41 otherwise shall be subject to the standards of care imposed under section  
42 33-5003, Idaho Code.

43 SECTION 2. That Section 63-3029A, Idaho Code, as amended by Section 3,  
44 Chapter 78, Laws of 2016, be, and the same is hereby amended to read as fol-  
45 lows:

46 63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITA-  
47 TION. At the election of the taxpayer, there shall be allowed, subject to the  
48 applicable limitations provided herein, as a credit against the income tax

1 imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent  
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3 payer during the year to a nonprofit corporation, fund, foundation, trust,  
4 or association organized and operated exclusively for the benefit of insti-  
5 tutions of higher learning located within the state of Idaho, including a  
6 university-related research park, to nonprofit private or public institu-  
7 tions of elementary, secondary, or higher education or their foundations lo-  
8 cated within the state of Idaho, to Idaho education public broadcast system  
9 foundations within the state of Idaho, to the Idaho state historical soci-  
10 ety or its foundation, to the council for the deaf and hard of hearing, to  
11 the developmental disabilities council, to the commission for the blind and  
12 visually impaired, to the commission on Hispanic affairs, to the state in-  
13 dependent living council, to the Idaho commission for libraries and to pub-  
14 lic libraries or their foundations and library districts or their founda-  
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17 state of Idaho and to dedicated accounts within the Idaho community founda-  
18 tion inc. that exclusively support the charitable purposes otherwise quali-  
19 fying for the tax credit authorized under the provisions of this section.

20 (1) In the case of a taxpayer other than a corporation, the amount al-  
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22 fifty percent (50%) of such taxpayer's total income tax liability imposed by  
23 section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500),  
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34 disabilities as defined in section 33-2001, Idaho Code, at-risk youth  
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36 a parent who is a member of the military and is on active duty or who  
37 was in the military and was killed in the line of duty, to attend pri-  
38 vate elementary or secondary education institutions, and which meet  
39 the requirements of this section, are not subject to the allowable  
40 credit limits described in subsection (1) or (2) of this section if  
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42 this subsection. The state board of education shall designate one (1)  
43 scholarship-granting organization to administer such scholarships  
44 throughout the state. Scholarships shall be for an annual amount of up  
45 to seventy percent (70%) of the average state per pupil funding. Schol-  
46 arships may be renewable or granted for multiple years as long as funds  
47 are available.

48 (b) Qualifying contributions may not inure to the benefit of the donor,  
49 the donor's child, the donor's grandchild or another member of the  
50 donor's family within the second degree of consanguinity, and donors

1 may not direct contributions to a particular beneficiary. Scholarships  
2 may be used only to allow eligible children to attend institutions ap-  
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48 state board of education pursuant to section 33-119, Idaho Code.

49 For the purposes of this section, a nonprofit corporation, fund, foun-  
50 dation, trust or association that invests contributions in an endowment or

1 otherwise shall be subject to the standards of care imposed under section  
2 33-5003, Idaho Code.

3 SECTION 3. The provisions of Section 2 of this act shall be in full force  
4 and effect on and after January 1, 2020.