

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 220

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAX CREDITS FOR CHARITABLE CONTRIBUTIONS; AMENDING SECTION 63-3029A, IDAHO CODE, TO REVISE CRITERIA AS TO HOW CERTAIN NONPROFIT CORPORATIONS, FUNDS, FOUNDATIONS, TRUSTS OR ASSOCIATIONS QUALIFY FOR THE INCOME TAX CREDIT, TO REMOVE A REFERENCE TO THE STATE BOARD OF EDUCATION, TO REVISE A DEFINITION, TO PROVIDE A CORRECT NAME, TO PROVIDE AN ADDITIONAL DEFINITION AND TO PROVIDE STANDARDS OF CARE FOR CERTAIN ENTITIES; REPEALING SECTION 3, CHAPTER 354, LAWS OF 2010, RELATING TO THE REPEAL OF A CERTAIN CODE SECTION; REPEALING SECTION 63-3029A, IDAHO CODE, AS ENACTED BY SECTION 4, CHAPTER 354, LAWS OF 2010, RELATING TO INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS AND LIMITATIONS; AMENDING SECTION 5, CHAPTER 354, LAWS OF 2010, TO REMOVE AN EFFECTIVE DATE; AMENDING SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 1 OF THIS ACT, TO REMOVE A DEFINITION AND TO REMOVE REFERENCE TO A NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST OR ASSOCIATION FOR EDUCATIONAL PURPOSES; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

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

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated by resolution of the applicable governing board as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c)(3) of the Internal Revenue Code, for the express purpose of supplementing and enhancing a thorough system of public schools as defined in section 33-1612, Idaho Code, or supplementing and enhancing the private school which is the beneficiary, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical soci-

ety or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to nonprofit public or private museums or their foundations located within the state of Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

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

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

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

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

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

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

(c) It is accredited by the ~~northwest association of schools and~~ commission on colleges, or by the state board of education and universities.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the ~~northwest association of schools and~~ commission on colleges and universities, or accredited by a body approved by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and ~~approved~~ accredited by the state board of education pursuant to section 33-119, Idaho Code.

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

1        For the purposes of this section, a nonprofit corporation, fund, foun-  
 2 dation, trust or association that invests contributions in an endowment or  
 3 otherwise shall be subject to the standards of care imposed under section  
 4 33-5003, Idaho Code.

5        SECTION 2. That Section 3, Chapter 354, Laws of 2010, be, and the same is  
 6 hereby repealed.

7        SECTION 3. That Section 63-3029A, Idaho Code, as enacted by Section 4,  
 8 Chapter 354, Laws of 2010, be, and the same is hereby repealed.

9        SECTION 4. That Section 5, Chapter 354, Laws of 2010, be, and the same is  
 10 hereby amended to read as follows:

11        SECTION 5. This act shall be in full force and effect on and after  
 12 January 1, 2011. ~~Sections 3 and 4 of this act shall be in full force~~  
 13 ~~and effect on and after January 1, 2016.~~

14        SECTION 5. That Section 63-3029A, Idaho Code, as amended by Section 1 of  
 15 this act, be, and the same is hereby amended to read as follows:

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

1 the charitable purposes otherwise qualifying for the tax credit authorized  
2 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 For the purposes of this section, "contribution" means monetary dona-  
14 tions reduced by the value of any benefit received in return such as food, en-  
15 tertainment or merchandise.

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

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

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

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

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

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

40 For the purposes of this section, a nonprofit corporation, fund, foun-  
41 dation, trust or association that invests contributions in an endowment or  
42 otherwise shall be subject to the standards of care imposed under section  
43 33-5003, Idaho Code.

44 SECTION 6. An emergency existing therefor, which emergency is hereby  
45 declared to exist, Sections 1 through 4 of this act shall be in full force  
46 and effect on and after passage and approval, and retroactively to January  
47 1, 2015. Section 5 of this act shall be in full force and effect on and after  
48 January 1, 2020.