

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 273

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A  
2 NEW CHAPTER 61, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO ESTAB-  
3 LISH PROVISIONS REGARDING GUIDED EDUCATION MANAGEMENT SCHOLARSHIPS,  
4 TO DEFINE TERMS, TO PROVIDE ELIGIBILITY REQUIREMENTS FOR SCHOLARSHIPS,  
5 TO ESTABLISH PROVISIONS REGARDING SCHOLARSHIP GRANTING ORGANIZATIONS,  
6 TO ESTABLISH PROVISIONS REGARDING A CERTAIN FUND, TO PROVIDE QUALIFIED  
7 EDUCATION EXPENSES, TO ESTABLISH PROVISIONS REGARDING EDUCATION SER-  
8 VICE PROVIDERS, TO ESTABLISH PROVISIONS REGARDING STUDENT RECORDS, TO  
9 PROVIDE SEVERABILITY AND TO PROVIDE THAT SCHOLARSHIP GRANTING ORGA-  
10 NIZATIONS AND THEIR BOARD MEMBERS AND STAFF ARE NOT LIABLE FOR CERTAIN  
11 ACTS, OMISSIONS, DEBTS, OR OBLIGATIONS; AMENDING SECTION 63-3029A,  
12 IDAHO CODE, TO REVISE PROVISIONS REGARDING INCOME TAX CREDITS; AMENDING  
13 SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 33, LAWS  
14 OF 2018, TO REVISE PROVISIONS REGARDING INCOME TAX CREDITS; AND PROVID-  
15 ING AN EFFECTIVE DATE.  
16

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

18 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended  
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
20 ter 61, Title 33, Idaho Code, and to read as follows:

21 CHAPTER 61

22 GUIDED EDUCATION MANAGEMENT ACT

23 33-6101. SHORT TITLE. This chapter shall be known and may be cited as  
24 the "Guided Education Management Act."

25 33-6102. GUIDED EDUCATION MANAGEMENT SCHOLARSHIPS. (1) Families of  
26 eligible students may apply to a scholarship granting organization to re-  
27 ceive a guided education management (GEM) scholarship consisting of moneys  
28 from the organization's GEM fund to pay for qualified education expenses in  
29 accordance with the procedures and criteria set forth in this chapter.

30 (2) GEM scholarships shall be awarded by a scholarship granting organi-  
31 zation to the families of eligible students on a first-come basis as long as  
32 funds are available in the GEM fund. No individual scholarship shall exceed  
33 the average state per-pupil funding in any given year, except that scholar-  
34 ships for particular recipients may include any additional weighted amounts  
35 that the state would have provided to a public school for such a student.  
36 Scholarships may be renewable or granted for multiple years as long as funds  
37 are available.

38 33-6103. DEFINITIONS. As used in this chapter:

1 (1) "Education service provider" means a provider of education ser-  
 2 vices, which services are determined by a scholarship granting organization  
 3 to be qualified education expenses and are made available to recipients of  
 4 guided education management (GEM) scholarships.

5 (2) "Eligible student" means a child who meets the criteria set forth in  
 6 section 33-6104, Idaho Code.

7 (3) "Guided education management fund" or "GEM fund" means a fund  
 8 created pursuant to section 33-6106, Idaho Code, to provide moneys for GEM  
 9 scholarships.

10 (4) "Guided education management scholarship" or "GEM scholarship"  
 11 means moneys from the guided education management fund awarded by a scholar-  
 12 ship granting organization to an eligible student to be spent on qualified  
 13 education expenses pursuant to this chapter.

14 (5) "Qualified education expenses" means education services provided  
 15 by an education service provider or education goods approved for purchase  
 16 with GEM scholarship funds pursuant to section 33-6107, Idaho Code.

17 (6) "Scholarship granting organization" means a nonprofit corporation  
 18 administering GEM scholarships pursuant to section 33-6105, Idaho Code.

19 33-6104. ELIGIBILITY TO RECEIVE A GEM SCHOLARSHIP. (1) Families of  
 20 eligible students may apply to a scholarship granting organization to re-  
 21 ceive a GEM scholarship, comprised of moneys from the organization's GEM  
 22 fund, to pay for qualified education expenses pursuant to this chapter.

23 (2) To be eligible, at the time of application, a student shall be under  
 24 the age of nineteen (19) years and shall have been enrolled in an Idaho public  
 25 school the prior school year or entering kindergarten or first grade. An el-  
 26 igible student shall also meet one (1) or more of the following criteria:

27 (a) Have an annual family income at or below one hundred eighty-five  
 28 percent (185%) of the federal poverty guideline;

29 (b) Be a child with a disability as defined in section 33-2001, Idaho  
 30 Code;

31 (c) Be an at-risk youth, as defined in rule of the state board of educa-  
 32 tion; or

33 (d) Have a parent who is a member of the military on active duty or who  
 34 was a member of the military killed in the line of duty. If a scholarship  
 35 recipient's parent is killed in the line of duty, the recipient shall  
 36 continue to be eligible to receive the GEM scholarship.

37 (3) If awarded a GEM scholarship, recipients may but are not required to  
 38 enroll full time in a private school. Recipients shall not enroll full time  
 39 in a public school.

40 (4) GEM scholarship recipients may choose to cease participation at any  
 41 time. A violation of the provisions of this chapter may result in loss of el-  
 42 igibility. Any unspent scholarship moneys shall remain in the GEM fund.

43 33-6105. SCHOLARSHIP GRANTING ORGANIZATIONS. (1) Up to three (3) non-  
 44 profit corporations approved by the state controller may serve as a schol-  
 45 arship granting organization to administer GEM scholarships. The nonprofit  
 46 corporation must satisfy the following minimum requirements:

47 (a) Be a nonprofit corporation with corporate headquarters in Idaho;

1 (b) If an organization in operation for three (3) or more years, have a  
2 minimum annual operating budget of one million dollars (\$1,000,000) and  
3 three (3) years of audited financial statements with unqualified opin-  
4 ions or, if an organization in operation for less than three (3) years,  
5 have a minimum annual operating budget of one million five hundred thou-  
6 sand dollars (\$1,500,000); and

7 (c) Have an educational mission as set forth in organizing documents  
8 submitted to the Idaho secretary of state and qualify for an exemption  
9 pursuant to 26 U.S.C. 501(c) (3).

10 (2) To administer the GEM scholarship program, a scholarship granting  
11 organization shall:

12 (a) Develop and implement a marketing plan to raise awareness about GEM  
13 scholarships among financial donors and families of eligible students;

14 (b) Develop an application process for families of eligible students to  
15 apply to receive a GEM scholarship;

16 (c) Verify the eligibility of each applicant and award GEM scholarships  
17 to eligible applicants on a first-come basis;

18 (d) Provide parents of GEM scholarship recipients with a written ex-  
19 planation of the allowable uses of GEM scholarship moneys, the respon-  
20 sibilities of parents, the duties of the scholarship granting organiza-  
21 tion, and the role of any private financial management firms;

22 (e) Provide parents of GEM scholarship recipients with information  
23 about qualified education expenses and, if requested, assist in se-  
24 lecting one (1) or more goods or services to best meet the individual  
25 recipient's needs;

26 (f) Implement a commercially viable, cost-effective, and par-  
27 ent-friendly system for publicly rating, reviewing, and sharing infor-  
28 mation about education service providers;

29 (g) Annually renew a student's GEM scholarship if funds are available  
30 and the student has complied with the scholarship granting organiza-  
31 tion's rules and requirements. If insufficient funds are available to  
32 renew all GEM scholarships, priority shall be given to students who have  
33 been GEM scholarship recipients for the longest period of time; and

34 (h) Develop a transparent process for a GEM scholarship recipient to  
35 cease participation at the recipient's choice or due to loss of eligi-  
36 bility.

37 (3) A scholarship granting organization shall provide parents of stu-  
38 dents with a disability with notice that participating in the GEM program is  
39 a parental placement under 20 U.S.C. 1412, along with an explanation of the  
40 rights that parentally placed students possess under the federal individu-  
41 als with disabilities education act, P.L. 101-476, and any applicable state  
42 laws and rules.

43 (4) A scholarship granting organization shall submit to an independ-  
44 ent annual audit of the organization or its relevant accounts and records  
45 pertaining to tax-credit eligible donations, conducted by an independent  
46 certified public accountant in accordance with generally accepted auditing  
47 standards. The audit report shall include a report on financial statements  
48 presented in accordance with generally accepted accounting principles and  
49 shall be made available to the public.

1 (5) A scholarship granting organization shall produce an annual re-  
 2 port, available on its website, demonstrating compliance with this chapter  
 3 and providing:

4 (a) The number and counties of GEM scholarship applicants;

5 (b) The number and dollar amounts of GEM scholarships awarded; and

6 (c) A list of the educational goods and services on which GEM scholar-  
 7 ship recipients spent their awarded funds.

8 (6) Parents of GEM scholarship recipients shall sign an agreement with  
 9 the scholarship granting organization certifying that as long as the student  
 10 is the recipient of a GEM scholarship, the parent will:

11 (a) Provide the student with an education in subjects required pursuant  
 12 to section 33-202, Idaho Code;

13 (b) Abstain from enrolling the student full time in a public school; and

14 (c) Comply with the rules and requirements of the scholarship granting  
 15 organization.

16 The executed agreement shall satisfy the compulsory school attendance re-  
 17 quirements set forth in section 33-202, Idaho Code.

18 33-6106. GEM FUND. (1) Each scholarship granting organization shall  
 19 establish a separate fund, known as a GEM fund, used exclusively for the  
 20 purpose of funding GEM scholarships awarded by the scholarship granting  
 21 organization. Moneys are payable into the fund from private contributions,  
 22 gifts, grants, and any other sources permitted by law. An amount equal to no  
 23 more than five percent (5%) of total scholarships awarded by the scholarship  
 24 granting organizations annually may be used by the scholarship granting or-  
 25 ganization for the cost of administering the GEM scholarship program.

26 (2) A scholarship granting organization shall remain informed about  
 27 moneys existing in the GEM fund and ensure that scholarships are not awarded  
 28 in excess of available funds. The scholarship granting organization shall  
 29 develop a transparent process to allocate moneys from the GEM fund to educa-  
 30 tion service providers or toward the purchase of other qualified education  
 31 expenses for the benefit of GEM scholarship recipients.

32 (3) Any unused funds shall remain in or revert to the GEM fund to benefit  
 33 future GEM scholarships.

34 33-6107. QUALIFIED EDUCATION EXPENSES. (1) GEM scholarships shall be  
 35 used to provide eligible students with access to a variety of educational  
 36 opportunities. A scholarship granting organization shall use moneys from  
 37 the GEM fund to pay for qualified education expenses for eligible students.  
 38 Qualified education expenses include:

39 (a) Tuition, fees, and uniforms at an accredited private school;

40 (b) Tuition and fees for a nonpublic online learning program;

41 (c) Tutoring or education support services provided by an individual or  
 42 a tutoring facility;

43 (d) Textbooks, curriculum, or other instructional materials includ-  
 44 ing, without limitation, any supplemental materials or associated on-  
 45 line instruction required by either a curriculum or an education ser-  
 46 vice provider;

47 (e) Computers or other technology devices used primarily to meet the  
 48 student's educational needs;

1 (f) Fees for national standardized assessments, advanced placement ex-  
2 aminations, examinations related to college or university admission,  
3 and tuition and fees for preparatory courses for any such assessments or  
4 examinations;

5 (g) Educational services and therapies from a licensed or accredited  
6 practitioner or provider including, but not limited to, occupational,  
7 behavioral, physical, speech-language, and audiology therapies;

8 (h) Fees for summer education programs and specialized after-school  
9 education programs, but not after-school child care;

10 (i) Reasonable fees for transportation, not to exceed ten percent (10%)  
11 of the recipient's annual scholarship;

12 (j) Services contracted for and provided by a public school district or  
13 public charter school including, but not limited to, individual classes  
14 and extracurricular activities and programs;

15 (k) Tuition, fees, instructional materials, and examination fees at a  
16 career or technical school; and

17 (l) Tuition and fees at an institution of higher education.

18 (2) GEM scholarships may not inure to the benefit of the recipient's  
19 parent or other immediate family member. Any refund for goods or services  
20 purchased with GEM scholarships shall be returned to the GEM fund.

21 (3) A scholarship granting organization shall maintain an updated  
22 list, available on its website, of education providers serving GEM scholar-  
23 ship recipients.

24 (4) A scholarship granting organization may prohibit GEM scholarship  
25 recipients from spending GEM funds on a good or service that the scholarship  
26 granting organization determines has:

27 (a) Intentionally and substantially misrepresented information or  
28 failed to refund any overpayments in a timely manner; or

29 (b) Routinely failed to provide students with high-quality educational  
30 goods or services.

31 (5) There is no right to appeal a determination made pursuant to subsec-  
32 tion (4) of this section.

33 33-6108. EDUCATION SERVICE PROVIDERS. (1) To be eligible to accept  
34 payments from the GEM fund to provide education services to GEM scholarship  
35 recipients, an education service provider shall:

36 (a) Submit notice to the scholarship granting organization that the  
37 provider wishes to serve GEM scholarship recipients;

38 (b) Provide the scholarship granting organization with a receipt for  
39 all qualifying educational expenses;

40 (c) Certify that the provider will not discriminate based on race,  
41 color, ethnicity, or national origin; and

42 (d) Agree to submit any employee who will have unsupervised contact  
43 with GEM scholarship recipients to a criminal background check.

44 (2) Nothing in this chapter shall be deemed to limit the independence  
45 or autonomy of an education service provider or to qualify the actions of an  
46 education service provider as the actions of state government.

47 (3) Education service providers shall be given maximum freedom to pro-  
48 vide for the educational needs of GEM scholarship recipients without govern-  
49 mental control.

1 (4) Nothing in this chapter shall be construed to expand the regulatory  
2 authority of the state, its officers, or any public school district to impose  
3 additional regulation of education service providers beyond that necessary  
4 to enforce the requirements of the GEM scholarship program.

5 (5) This chapter does not permit any government agency to exercise con-  
6 trol or supervision over any education service provider.

7 (6) An education service provider that accepts a payment pursuant to  
8 this chapter is not an agent of the state or federal government.

9 (7) An education service provider shall not be required to alter its  
10 creed, practices, admissions policy, or curriculum in order to accept GEM  
11 scholarship recipients.

12 33-6109. STUDENT RECORDS. A public school or school district that pre-  
13 viously enrolled a GEM scholarship recipient shall provide an education ser-  
14 vice provider that has enrolled a GEM scholarship recipient with a complete  
15 copy of the student's school records, while complying with the family educa-  
16 tional rights and privacy act of 1974, 20 U.S.C. 1232g.

17 33-6110. SEVERABILITY -- LIABILITY. (1) If any provision of this chap-  
18 ter, or the application thereof, is determined to be invalid by a court, such  
19 invalidity shall not affect other provisions or applications of this chapter  
20 that can be given effect without the invalid provision or application, and to  
21 this end the provisions of this chapter are declared to be severable.

22 (2) A scholarship granting organization and its staff and board members  
23 shall have no liability for the acts, omissions, debts, or other obligations  
24 of an education service provider or GEM scholarship recipient.

25 SECTION 2. That Section 63-3029A, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITA-  
28 TION. At the election of the taxpayer, there shall be allowed, subject to  
29 the applicable limitations provided herein, as a credit against the income  
30 tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty  
31 percent (50%) of the aggregate amount of charitable contributions made by  
32 such taxpayer during the year to a nonprofit corporation, fund, foundation,  
33 trust, or association organized and operated exclusively for the benefit  
34 of institutions of higher learning located within the state of Idaho, in-  
35 cluding a university-related research park, to nonprofit private or public  
36 institutions of elementary, secondary, or higher education or their founda-  
37 tions located within the state of Idaho, to a nonprofit corporation, fund,  
38 foundation, trust or association which is: (i) organized and operated ex-  
39 clusively for the benefit of elementary or secondary education institutions  
40 located within the state of Idaho; (ii) officially recognized and designated  
41 by resolution of the applicable governing board as any such elementary or  
42 secondary education institution's sole designated supporting organization;  
43 and (iii) qualified to be exempt from federal taxation under the terms of  
44 section 501(c)(3) of the Internal Revenue Code, for the express purpose of  
45 supplementing and enhancing a thorough system of public schools as defined  
46 in section 33-1612, Idaho Code, or supplementing and enhancing the private  
47 school which is the beneficiary, to Idaho education public broadcast sys-

1 tem foundations within the state of Idaho, to the Idaho state historical  
2 society or its foundation, to the council for the deaf and hard of hearing,  
3 to the developmental disabilities council, to the commission for the blind  
4 and visually impaired, to the commission on Hispanic affairs, to the state  
5 independent living council, to the Idaho commission for libraries and to  
6 public libraries or their foundations and library districts or their foun-  
7 dations located within the state of Idaho, to the Idaho STEM action center,  
8 to nonprofit public or private museums or their foundations located within  
9 the state of Idaho, to residency programs accredited by the accreditation  
10 council for graduate medical education or the American osteopathic associa-  
11 tion or their designated nonprofit support organizations based in Idaho and  
12 devoted to training residents in Idaho and to dedicated accounts within the  
13 Idaho community foundation inc. that exclusively support the charitable  
14 purposes otherwise qualifying for the tax credit authorized under the pro-  
15 visions of this section.

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

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

26 (3) (a) Contributions to a scholarship granting organization managing  
27 or disbursing funds held in a dedicated account pursuant to chapter 61,  
28 title 33, Idaho Code, to provide guided education management scholar-  
29 ships for children living at or below one hundred eighty-five percent  
30 (185%) of the federal poverty level, children with disabilities as de-  
31 fined in section 33-2001, Idaho Code, at-risk youth as defined by rule  
32 of the state board of education, or children with a parent who is a mem-  
33 ber of the military on active duty or who was a member of the military  
34 killed in the line of duty, to participate in education opportunities  
35 set forth in section 33-6107, Idaho Code, and which meet the require-  
36 ments of this section, are not subject to allowable credit limits de-  
37 scribed in subsection (1) or (2) of this section. The state controller  
38 shall designate up to three (3) scholarship granting organizations to  
39 administer the scholarship, conditioned upon satisfaction of the re-  
40 quirements set forth in section 33-6105, Idaho Code. Scholarships may  
41 be renewable or granted for multiple years as long as funds are avail-  
42 able.

43 (b) Qualifying contributions may be directed to fund scholarships tar-  
44 geted to a student group identified in this section, but may not inure to  
45 the benefit of the donor, the donor's child or grandchild, or any other  
46 member of the donor's family within the second degree of consanguinity.  
47 Donors may not direct contributions to a particular individual benefi-  
48 ciary.

49 (c) Notwithstanding any other provision of law, nonrefundable credit  
50 for individual and corporate contributions for the purposes of this

1 paragraph shall be equal to fifty percent (50%) of the amount con-  
2 tributed, subject to the limitations in this subsection. Credit for  
3 individual and corporate contributions that exceed the limits de-  
4 scribed in subsection (1) or (2) of this section shall be allowed on a  
5 first-come, first-served basis, up to a total statewide maximum ag-  
6 gregate limit for such "excess" credits of fifteen million dollars  
7 (\$15,000,000) in any calendar year. The state tax commission by rule  
8 shall develop a process to allow taxpayers to request from the state tax  
9 commission allocation of "excess" credit in a calendar year by estab-  
10 lishing a date-ordered roster of such requests, identifying the taxpay-  
11 ers and amounts requested. The roster shall be kept up to date and shall  
12 be a public record. The state tax commission shall confirm to a tax-  
13 payer on a first-come, first-served basis whether a contribution that  
14 otherwise qualifies for a credit under this section, if made, will also  
15 qualify for the excess credit afforded by this subsection. To maintain  
16 its place on the roster and qualify for the excess credit, within sixty  
17 (60) days of receiving the commission's confirmation, the taxpayer  
18 must provide the commission with proof of contribution to a qualifying  
19 scholarship granting organization. The purpose of this roster is to in-  
20 form a taxpayer whether a contribution qualifies for this excess credit  
21 and to ensure that the aggregate amount of all excess credits does not  
22 exceed the annual maximum allowed under this subsection.

23 (4) For the purposes of this section, "contribution" means monetary do-  
24 nations reduced by the value of any benefit received in return such as food,  
25 entertainment or merchandise.

26 (5) For the purposes of this section, "institution of higher learning"  
27 means only an educational institution located within this state meeting all  
28 of the following requirements:

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

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

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

35 (6) For the purposes of this section, a "nonprofit institution of sec-  
36 ondary or higher education" means a private nonprofit secondary or higher  
37 educational institution located within the state of Idaho, which is accred-  
38 ited by the northwest commission on colleges and universities, or accredited  
39 by a body approved by the state board of education. A "nonprofit private in-  
40 stitution of elementary education" means a private nonprofit elementary ed-  
41 ucational institution located within the state of Idaho and accredited by  
42 the state board of education pursuant to section 33-119, Idaho Code.

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



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

5       SECTION 3. That Section 63-3029A, Idaho Code, as amended by Section 2,  
6 Chapter 33, Laws of 2018, be, and the same is hereby amended to read as fol-  
7 lows:

8       63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITA-  
9 TION. At the election of the taxpayer, there shall be allowed, subject to  
10 the applicable limitations provided herein, as a credit against the income  
11 tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty  
12 percent (50%) of the aggregate amount of charitable contributions made by  
13 such taxpayer during the year to a nonprofit corporation, fund, foundation,  
14 trust, or association organized and operated exclusively for the benefit  
15 of institutions of higher learning located within the state of Idaho, in-  
16 cluding a university-related research park, to nonprofit private or public  
17 institutions of elementary, secondary, or higher education or their founda-  
18 tions located within the state of Idaho, to Idaho education public broadcast  
19 system foundations within the state of Idaho, to the Idaho state historical  
20 society or its foundation, to the council for the deaf and hard of hearing,  
21 to the developmental disabilities council, to the commission for the blind  
22 and visually impaired, to the commission on Hispanic affairs, to the state  
23 independent living council, to the Idaho commission for libraries and to  
24 public libraries or their foundations and library districts or their founda-  
25 tions located within the state of Idaho, to the Idaho STEM action center,  
26 to nonprofit public or private museums or their foundations located within  
27 the state of Idaho, to residency programs accredited by the accreditation  
28 council for graduate medical education or the American osteopathic associa-  
29 tion or their designated nonprofit support organizations based in Idaho and  
30 devoted to training residents in Idaho and to dedicated accounts within the  
31 Idaho community foundation inc. that exclusively support the charitable  
32 purposes otherwise qualifying for the tax credit authorized under the pro-  
33 visions of this section.

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

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

44       (3) (a) Contributions to a scholarship granting organization managing  
45 or disbursing funds held in a dedicated account pursuant to chapter 61,  
46 title 33, Idaho Code, to provide guided education management scholar-  
47 ships for children living at or below one hundred eighty-five percent  
48 (185%) of the federal poverty level, children with disabilities as de-  
49 defined in section 33-2001, Idaho Code, at-risk youth as defined by rule

1 of the state board of education, or children with a parent who is a mem-  
2 ber of the military on active duty or who was a member of the military  
3 killed in the line of duty, to participate in education opportunities  
4 set forth in section 33-6107, Idaho Code, and which meet the require-  
5 ments of this section, are not subject to allowable credit limits de-  
6 scribed in subsection (1) or (2) of this section. The state controller  
7 shall designate up to three (3) scholarship granting organizations to  
8 administer the scholarship, conditioned upon satisfaction of the re-  
9 quirements set forth in section 33-6105, Idaho Code. Scholarships may  
10 be renewable or granted for multiple years as long as funds are avail-  
11 able.

12 (b) Qualifying contributions may be directed to fund scholarships tar-  
13 geted to a student group identified in this section, but may not inure to  
14 the benefit of the donor, the donor's child or grandchild, or any other  
15 member of the donor's family within the second degree of consanguinity.  
16 Donors may not direct contributions to a particular individual benefi-  
17 ciary.

18 (c) Notwithstanding any other provision of law, nonrefundable credit  
19 for individual and corporate contributions for the purposes of this  
20 paragraph shall be equal to fifty percent (50%) of the amount con-  
21 tributed, subject to the limitations in this subsection. Credit for  
22 individual and corporate contributions that exceed the limits de-  
23 scribed in subsection (1) or (2) of this section shall be allowed on a  
24 first-come, first-served basis, up to a total statewide maximum ag-  
25 gregate limit for such "excess" credits of fifteen million dollars  
26 (\$15,000,000) in any calendar year. The state tax commission by rule  
27 shall develop a process to allow taxpayers to request from the state tax  
28 commission allocation of "excess" credit in a calendar year by estab-  
29 lishing a date-ordered roster of such requests, identifying the taxpay-  
30 ers and amounts requested. The roster shall be kept up to date and shall  
31 be a public record. The state tax commission shall confirm to a tax-  
32 payer on a first-come, first-served basis whether a contribution that  
33 otherwise qualifies for a credit under this section, if made, will also  
34 qualify for the excess credit afforded by this subsection. To maintain  
35 its place on the roster and qualify for the excess credit, within sixty  
36 (60) days of receiving the commission's confirmation, the taxpayer  
37 must provide the commission with proof of contribution to a qualifying  
38 scholarship granting organization. The purpose of this roster is to in-  
39 form a taxpayer whether a contribution qualifies for this excess credit  
40 and to ensure that the aggregate amount of all excess credits does not  
41 exceed the annual maximum allowed under this subsection.

42 (4) For the purposes of this section, "contribution" means monetary do-  
43 nations reduced by the value of any benefit received in return such as food,  
44 entertainment or merchandise.

45 (5) For the purposes of this section, "institution of higher learning"  
46 means only an educational institution located within this state meeting all  
47 of the following requirements:

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

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

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

4 (6) For the purposes of this section, a "nonprofit institution of sec-  
5 ondary or higher education" means a private nonprofit secondary or higher  
6 educational institution located within the state of Idaho, which is accred-  
7 ited by the northwest commission on colleges and universities, or accredited  
8 by a body approved by the state board of education. A "nonprofit private in-  
9 stitution of elementary education" means a private nonprofit elementary ed-  
10 ucational institution located within the state of Idaho and accredited by  
11 the state board of education pursuant to section 33-119, Idaho Code.

12 (7) For the purposes of this section, a nonprofit corporation, fund,  
13 foundation, trust or association that invests contributions in an endowment  
14 or otherwise shall be subject to the standards of care imposed under section  
15 33-5003, Idaho Code.

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