

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 574

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO CHILD TAX BENEFITS; AMENDING SECTION 32-706, IDAHO CODE, TO PRO-  
2 VIDE FOR THE AWARD OF TAX BENEFITS ASSOCIATED WITH A CHILD AND TO MAKE  
3 TECHNICAL CORRECTIONS; AMENDING SECTION 63-3024A, IDAHO CODE, TO RE-  
4 VISE PROVISIONS REGARDING THE FOOD TAX CREDIT FOR CERTAIN DEPENDENTS;  
5 AND AMENDING SECTION 63-3029L, IDAHO CODE, TO REVISE PROVISIONS REGARD-  
6 ING THE AWARD OF THE CHILD TAX CREDIT AND TO MAKE A TECHNICAL CORRECTION.  
7

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

9 SECTION 1. That Section 32-706, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 32-706. CHILD SUPPORT. (1) In a proceeding for divorce or child sup-  
12 port, the court may order either or both parents owing a duty of support to a  
13 child to pay an amount reasonable or necessary for his or her support and edu-  
14 cation until the child is eighteen (18) years of age, without regard to mari-  
15 tal misconduct, after considering all relevant factors which may include:

16 (a) The financial resources of the child;

17 (b) The financial resources, needs, and obligations of both the custo-  
18 dial and noncustodial parents which ordinarily shall not include a par-  
19 ent's community property interest in the financial resources or obli-  
20 gations of a spouse who is not a parent of the child, unless compelling  
21 reasons exist;

22 (c) The standard of living the child enjoyed during the marriage;

23 (d) The physical and emotional condition and needs of the child and his  
24 or her educational needs;

25 (e) The availability of medical coverage for the child at reasonable  
26 cost as defined in section 32-1214B, Idaho Code; and

27 (f) The actual tax benefit recognized by the party claiming the federal  
28 child dependency exemption.

29 (2) If the child continues his high school education subsequent to  
30 reaching the age of eighteen (18) years, the court may, in its discretion,  
31 and after considering all relevant factors which include those set forth in  
32 subsection (1) of this section, order the continuation of support payments  
33 until the child discontinues his high school education or reaches the age of  
34 nineteen (19) years, whichever is sooner.

35 (3) All child support orders shall notify the obligor that the order  
36 will be enforced by income withholding pursuant to chapter 12, title 32,  
37 Idaho Code. Failure to include this provision does not affect the validity  
38 of the support order. The court shall require that the social security num-  
39 bers of both the obligor and obligee be included in the order or decree.

40 (4) In a proceeding for the support of a child or a minor parent, the  
41 court may order the parent(s) of each minor parent to pay an amount reason-  
42 able or necessary for the support and education of the child born to the minor

1 parent(s) until the minor parent is eighteen (18) years of age, after consid-  
 2 ering all relevant factors which may include:

- 3 (a) The financial resources of the child;  
 4 (b) The financial resources of the minor parent;  
 5 (c) The financial resources, needs and obligations of the parent of the  
 6 minor parent;  
 7 (d) The physical and emotional condition and needs of the child and his  
 8 or her educational needs; and  
 9 (e) The availability of medical coverage for the child at reasonable  
 10 cost as defined in section 32-1214B, Idaho Code.

11 (5) The legislature hereby authorizes and encourages the supreme court  
 12 of the state of Idaho to adopt and to periodically review for modification  
 13 guidelines that utilize and implement the factors set forth in subsections  
 14 (1) through (4) of this section to create a uniform procedure for reaching  
 15 fair and adequate child support awards. There shall be a rebuttable pre-  
 16 sumption that the amount of the award which would result from the application  
 17 of the guidelines is the amount of child support to be awarded, unless evi-  
 18 dence is presented in a particular case ~~which~~ that indicates that an appli-  
 19 cation of the guidelines would be unjust or inappropriate. If the court de-  
 20 termines that circumstances exist to permit a departure from the guidelines,  
 21 the judge making the determination shall make a written or specific finding  
 22 on the record that the application of the guidelines would be unjust or in-  
 23 appropriate in the particular case before the court. When adopting guide-  
 24 lines, the supreme court shall provide that in a proceeding to modify an ex-  
 25 isting award, children of the party requesting the modification who are born  
 26 or adopted after the entry of the existing order shall not be considered.

27 (6) If the court awards one (1) parent the right to claim tax benefits  
 28 associated with his child or children, the court order need not list every  
 29 applicable tax benefit. The parent who was awarded the tax benefits for  
 30 the child or children shall attach a copy of the court order to his income  
 31 tax return. The state tax commission shall recognize the award of tax ben-  
 32 efits with respect to the child or children as applying to the child tax  
 33 credit under section 63-3029L, Idaho Code, the food tax credit under section  
 34 63-3024A, Idaho Code, and any and all other state and federal tax deductions,  
 35 exemptions, and credits for which the parent qualifies, unless the court  
 36 order specifies otherwise.

37 SECTION 2. That Section 63-3024A, Idaho Code, be, and the same is hereby  
 38 amended to read as follows:

39 63-3024A. FOOD TAX CREDITS AND REFUNDS. (1) Any resident individual  
 40 who is required to file and who has filed an Idaho income tax return shall be  
 41 allowed a credit against taxes due under the Idaho income tax act for the tax-  
 42 payer, the taxpayer's spouse, and each dependent, as defined in section 152  
 43 of the Internal Revenue Code, claimed on the taxpayer's Idaho income tax re-  
 44 turn, and awarded by the court under section 32-706, Idaho Code, if applica-  
 45 ble. For tax years 2015 and after, the credit is one hundred dollars (\$100).  
 46 If taxes due are less than the total credit allowed, the taxpayer shall be  
 47 paid a refund equal to the balance of the unused credit.

48 (2) A resident individual who is not required to file an Idaho income  
 49 tax return and for whom no credit or refund is allowed under any other subsec-

1 tion of this section shall, subject to the limitations of subsections (3),  
2 (4), (5), (6), (7) and (8) of this section, be entitled to a refund in the  
3 amount provided in subsection (1) of this section.

4 (3) A resident individual who has reached his sixty-fifth birthday be-  
5 fore the end of his taxable year and who has claimed the credit available un-  
6 der subsection (1) of this section, in addition to the amount of credit or  
7 refund due under subsection (1) of this section, shall be entitled to twenty  
8 dollars (\$20.00), which shall be claimed as a credit against any taxes due  
9 under the Idaho income tax act. If taxes due are less than the total credit  
10 allowed, the individual shall be paid a refund equal to the balance of the un-  
11 used credit.

12 (4) Except as provided in subsection (9) of this section, a credit or  
13 refund under this section is only available if the individual for whom a per-  
14 sonal exemption is claimed is a resident of the state of Idaho.

15 (5) In no event shall more than one (1) taxpayer be allowed a credit or  
16 refund for the same personal exemption, or under more than one (1) subsection  
17 of this section.

18 (6) In the event that a credit or refund is attributable to any individ-  
19 ual for whom assistance under the federal food stamp program was received for  
20 any month or part of a month during the taxable year for which the credit or  
21 refund is claimed, the credit or refund allowed under this section shall be  
22 in proportion to the number of months of the year in which no assistance was  
23 received.

24 (7) In the event that a credit or refund is attributable to any individ-  
25 ual who has been incarcerated for any month or part of a month during the tax-  
26 able year for which the credit or refund is claimed, the credit or refund al-  
27 lowed under this section shall be in proportion to the number of months of the  
28 year in which the individual was not incarcerated.

29 (8) No credit or refund shall be paid that is attributable to an indi-  
30 vidual residing illegally in the United States.

31 (9) Any part-year resident entitled to a credit under this section  
32 shall receive a proportionate credit reflecting the part of the year in which  
33 he was domiciled in this state.

34 (10) Any refund shall be paid to such individual only upon his making  
35 application therefor, at such time and in such manner as may be prescribed  
36 by the state tax commission. The state tax commission shall prescribe the  
37 method by which the refund is to be made to the taxpayer. The refunds autho-  
38 rized by this section shall be paid from the state refund fund in the same  
39 manner as the refunds authorized by section 63-3067, Idaho Code.

40 (11) An application for any refund that is due and payable under the pro-  
41 visions of this section must be filed with the state tax commission within  
42 three (3) years of:

43 (a) The due date, including extensions, of the return required under  
44 section 63-3030, Idaho Code, if the applicant is required to file a re-  
45 turn; or

46 (b) The fifteenth day of April of the year following the year to which  
47 the application relates if the applicant is not required to file a re-  
48 turn.

49 (12) The state tax commission shall provide income tax payers with the  
50 irrevocable option of donating credited funds accruing pursuant to this sec-

1 tion. Any funds so donated shall be remitted from the refund fund to the co-  
2 operative welfare fund, created pursuant to section 56-401, Idaho Code, and  
3 shall be used solely for the purpose of providing low-income Idahoans with  
4 assistance in paying home energy costs.

5 SECTION 3. That Section 63-3029L, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 63-3029L. CHILD TAX CREDIT. (1) For taxable years beginning on or af-  
8 ter January 1, 2018, and before January 1, 2026, there shall be allowed to a  
9 taxpayer a nonrefundable credit against the tax imposed by this chapter in  
10 the amount of two hundred five dollars (\$205) with respect to each qualifying  
11 child of the taxpayer. For purposes of this section, the term "qualifying  
12 child" has the meaning as defined in section 24(c) of the Internal Revenue  
13 Code. In no event shall more than one (1) taxpayer be allowed this credit for  
14 the same qualifying child. This credit is available only to Idaho residents.  
15 Any part-year resident entitled to a credit under this section shall receive  
16 a proportional credit reflecting the part of the year in which the part-year  
17 resident was domiciled in Idaho.

18 (2) In the case of divorced parents or parents who do not live together,  
19 if the qualifying child is in the custody of one ~~(1)~~ or both of the child's  
20 parents for more than one-half of a calendar year, such child is the qualify-  
21 ing child of the custodial parent for the taxable year beginning during such  
22 calendar year. However, the child may be the qualifying child of the noncus-  
23 todial parent if either of the following requirements are met:

24 (a) A court of competent jurisdiction has unconditionally awarded, in  
25 writing, to the noncustodial parent the tax credit authorized under  
26 this section benefits associated with the child pursuant to section  
27 32-706, Idaho Code, and the noncustodial parent attaches a copy of the  
28 court order to the noncustodial parent's income tax return for the tax-  
29 able year; or

30 (b) The custodial parent signs a written declaration that such custo-  
31 dial parent will not claim the credit of this section with respect to  
32 such child for any taxable year beginning in such calendar year and the  
33 noncustodial parent attaches such written declaration to the noncusto-  
34 dial parent's income tax return for the taxable year beginning during  
35 such calendar year.