

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 557

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; REPEALING SECTION 63-3024A, IDAHO CODE, RELATING TO
2 FOOD TAX CREDITS AND REFUNDS; REPEALING SECTION 63-3077G, IDAHO CODE,
3 RELATING TO EXCHANGE OF INFORMATION PERTAINING TO FOOD TAX CREDITS AND
4 REFUNDS; REPEALING SECTION 63-3077H, IDAHO CODE, RELATING TO EXCHANGE
5 OF INFORMATION PERTAINING TO FOOD TAX CREDITS AND REFUNDS; AMENDING
6 CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
7 63-3622H, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM THE SALES AND USE TAX
8 ON SALES OF FOOD FOR HUMAN CONSUMPTION; AMENDING SECTION 63-3638, IDAHO
9 CODE, TO REVISE THE DISTRIBUTION FORMULA FOR SALES TAX REVENUE AND TO
10 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3024, IDAHO CODE, TO
11 REVISE THE INCOME TAX RATE FOR INDIVIDUALS, TRUSTS AND ESTATES AND TO
12 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3025, IDAHO CODE, TO
13 REVISE THE INCOME TAX RATE FOR CORPORATIONS AND TO MAKE TECHNICAL COR-
14 RECTIONS; REPEALING SECTION 63-3029B, IDAHO CODE, RELATING TO INCOME
15 TAX CREDITS FOR CAPITAL INVESTMENTS; AMENDING SECTION 63-602HH, IDAHO
16 CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 63-3029I, IDAHO
17 CODE, TO REVISE PROVISIONS REGARDING THE INCOME TAX CREDIT FOR INVEST-
18 MENT IN BROADBAND EQUIPMENT; AMENDING SECTION 63-4402, IDAHO CODE, TO
19 PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 63-4403, IDAHO CODE,
20 TO REVISE PROVISIONS REGARDING INCOME TAX CREDIT FOR CAPITAL INVEST-
21 MENT; AMENDING SECTION 63-4407, IDAHO CODE, TO PROVIDE CORRECT CODE
22 REFERENCES; AMENDING SECTION 63-4408, IDAHO CODE, TO PROVIDE CORRECT
23 CODE REFERENCES; AMENDING SECTION 63-4502, IDAHO CODE, TO REMOVE A CODE
24 REFERENCE; AMENDING SECTION 74-107, IDAHO CODE, TO REMOVE A CODE REF-
25 ERENCE; AMENDING SECTION 74-115, IDAHO CODE, TO PROVIDE A CORRECT CODE
26 REFERENCE; AND DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICA-
27 TION AND PROVIDING EFFECTIVE DATES.
28

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

30 SECTION 1. That Section [63-3024A](#), Idaho Code, be, and the same is hereby
31 repealed.

32 SECTION 2. That Section [63-3077G](#), Idaho Code, be, and the same is hereby
33 repealed.

34 SECTION 3. That Section [63-3077H](#), Idaho Code, be, and the same is hereby
35 repealed.

36 SECTION 4. That Chapter 36, Title 63, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 63-3622H, Idaho Code, and to read as follows:

39 63-3622H. FOOD FOR HUMAN CONSUMPTION. There is hereby exempted from
40 the taxes imposed by this chapter the sale of food sold for human consump-

1 tion. The types and kinds of food products eligible for exemption by this
 2 section shall be the same types and kinds of food products that are eligible
 3 for purchase with benefits provided under the federal supplemental nutri-
 4 tion assistance program (SNAP) and do not include restaurant sales of food.
 5 As used in this section, "food" shall have the same definition as provided in
 6 7 U.S.C. 2012 as that section existed on January 1, 2018.

7 SECTION 5. That Section 63-3638, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
 10 chapter, except as may otherwise be required in sections 63-3203 and
 11 63-3709, Idaho Code, and except as provided in subsection (16) of this sec-
 12 tion, shall be distributed by the state tax commission as follows:

13 (1) An amount of money shall be distributed to the state refund account
 14 sufficient to pay current refund claims. All refunds authorized under this
 15 chapter by the state tax commission shall be paid through the state refund
 16 account, and those moneys are continuously appropriated.

17 (2) Five million dollars (\$5,000,000) per year is continuously appro-
 18 priated and shall be distributed to the permanent building fund, provided by
 19 section 57-1108, Idaho Code.

20 (3) Four million eight hundred thousand dollars (\$4,800,000) per year
 21 is continuously appropriated and shall be distributed to the water pollution
 22 control ~~account~~ fund established by section 39-3628, Idaho Code.

23 (4) An amount equal to the sum required to be certified by the chair-
 24 man of the Idaho housing and finance association to the state tax commis-
 25 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
 26 appropriated and shall be paid to any capital reserve fund, established by
 27 the Idaho housing and finance association pursuant to section 67-6211, Idaho
 28 Code. Such amounts, if any, as may be appropriated hereunder to the capital
 29 reserve fund of the Idaho housing and finance association shall be repaid for
 30 distribution under the provisions of this section, subject to the provisions
 31 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
 32 tion, as soon as possible, from any moneys available therefor and in excess
 33 of the amounts which the association determines will keep it self-support-
 34 ing.

35 (5) An amount equal to the sum required by the provisions of sections
 36 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
 37 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
 38 paid as provided by sections 63-709 and 63-717, Idaho Code.

39 (6) An amount required by the provisions of chapter 53, title 33, Idaho
 40 Code.

41 (7) An amount required by the provisions of chapter 87, title 67, Idaho
 42 Code.

43 (8) For fiscal year 2011, and each fiscal year thereafter, four million
 44 one hundred thousand dollars (\$4,100,000), of which two million two hundred
 45 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
 46 (44) counties in equal amounts, and one million nine hundred thousand dol-
 47 lars (\$1,900,000) of which shall be distributed to the forty-four (44) coun-
 48 ties in the proportion that the population of the county bears to the popula-
 49 tion of the state. For fiscal year 2012, and for each fiscal year thereafter,

1 the amount distributed pursuant to this subsection, shall be adjusted annu-
 2 ally by the state tax commission in accordance with the consumer price index
 3 for all urban consumers (CPI-U) as published by the U.S. department of la-
 4 bor, bureau of labor statistics, but in no fiscal year shall the total amount
 5 allocated for counties under this subsection, be less than four million one
 6 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
 7 justment required in this section shall be distributed to each county in the
 8 proportion that the population of the county bears to the population of the
 9 state. Each county shall establish a special election fund to which shall be
 10 deposited all revenues received from the distribution pursuant to this sub-
 11 section. All such revenues shall be used exclusively to defray the costs as-
 12 sociated with conducting elections as required of county clerks by the pro-
 13 visions of section 34-1401, Idaho Code.

14 (9) One dollar (\$1.00) on each application for certificate of title
 15 or initial application for registration of a motor vehicle, snowmobile,
 16 all-terrain vehicle or other vehicle processed by the county assessor or the
 17 Idaho transportation department, excepting those applications in which any
 18 sales or use taxes due have been previously collected by a retailer, shall be
 19 a fee for the services of the assessor of the county or the Idaho transporta-
 20 tion department in collecting such taxes, and shall be paid into the current
 21 expense fund of the county or state highway account established in section
 22 40-702, Idaho Code.

23 (10) ~~Eleven~~ Thirteen and ~~five two-tenths~~ percent (~~11.5~~13.2%) is contin-
 24 uously appropriated and shall be distributed to the revenue sharing account
 25 which is created in the state treasury, and the moneys in the revenue sharing
 26 account will be paid in installments each calendar quarter by the state tax
 27 commission as follows:

28 (a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
 29 various cities as follows:

30 (i) Fifty percent (50%) of such amount shall be paid to the vari-
 31 ous cities, and each city shall be entitled to an amount in the pro-
 32 portion that the population of that city bears to the population of
 33 all cities within the state; and

34 (ii) Fifty percent (50%) of such amount shall be paid to the vari-
 35 ous cities, and each city shall be entitled to an amount in the pro-
 36 portion that the preceding year's market value for assessment pur-
 37 poses for that city bears to the preceding year's market value for
 38 assessment purposes for all cities within the state.

39 (b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
 40 various counties as follows:

41 (i) One million three hundred twenty thousand dollars
 42 (\$1,320,000) annually shall be distributed one forty-fourth
 43 (1/44) to each of the various counties; and

44 (ii) The balance of such amount shall be paid to the various coun-
 45 ties, and each county shall be entitled to an amount in the propor-
 46 tion that the population of that county bears to the population of
 47 the state;

48 (c) Thirty-five and nine-tenths percent (35.9%) of the amount appro-
 49 priated in this subsection shall be paid to the several counties for
 50 distribution to the cities and counties as follows:

1 (i) Each city and county which received a payment under the provi-
2 sions of section 63-3638 (e), Idaho Code, during the fourth quarter
3 of calendar year 1999, shall be entitled to a like amount during
4 succeeding calendar quarters.

5 (ii) If the dollar amount of money available under this subsection
6 (10) (c) in any quarter does not equal the amount paid in the fourth
7 quarter of calendar year 1999, each city's and county's payment
8 shall be reduced proportionately.

9 (iii) If the dollar amount of money available under this subsec-
10 tion (10) (c) in any quarter exceeds the amount paid in the fourth
11 quarter of calendar year 1999, each city and county shall be en-
12 titled to a proportionately increased payment, but such increase
13 shall not exceed one hundred five percent (105%) of the total pay-
14 ment made in the fourth quarter of calendar year 1999.

15 (iv) If the dollar amount of money available under this subsection
16 (10) (c) in any quarter exceeds one hundred five percent (105%) of
17 the total payment made in the fourth quarter of calendar year 1999,
18 any amount over and above such one hundred five percent (105%)
19 shall be paid fifty percent (50%) to the various cities in the pro-
20 portion that the population of the city bears to the population of
21 all cities within the state, and fifty percent (50%) to the various
22 counties in the proportion that the population of a county bears to
23 the population of the state; and

24 (d) Seven and seven-tenths percent (7.7%) of the amount appropriated in
25 this subsection shall be paid to the several counties for distribution
26 to special purpose taxing districts as follows:

27 (i) Each such district which received a payment under the pro-
28 visions of section 63-3638 (e), Idaho Code, as such subsection ex-
29 isted immediately prior to July 1, 2000, during the fourth quarter
30 of calendar year 1999, shall be entitled to a like amount during
31 succeeding calendar quarters.

32 (ii) If the dollar amount of money available under this subsec-
33 tion (10) (d) in any quarter does not equal the amount paid in the
34 fourth quarter of calendar year 1999, each special purpose taxing
35 district's payment shall be reduced proportionately.

36 (iii) If the dollar amount of money available under this subsec-
37 tion (10) (d) in any quarter exceeds the amount distributed under
38 paragraph (i) of this subsection (10) (d), each special purpose
39 taxing district shall be entitled to a share of the excess based
40 on the proportion each such district's current property tax bud-
41 get bears to the sum of the current property tax budgets of all
42 such districts in the state. The state tax commission shall
43 calculate district current property tax budgets to include any
44 unrecovered ~~foregone~~ forgone amounts as determined under section
45 63-802 (1) (e), Idaho Code. When a special purpose taxing district
46 is situated in more than one (1) county, the state tax commission
47 shall determine the portion attributable to the special purpose
48 taxing district from each county in which it is situated.

49 (iv) If special purpose taxing districts are consolidated, the
50 resulting district is entitled to a base amount equal to the sum of

1 the base amounts which were received in the last calendar quarter
2 by each district prior to the consolidation.

3 (v) If a special purpose taxing district is dissolved or disincorporated,
4 the state tax commission shall continuously distribute to the board of county
5 commissioners an amount equal to the last quarter's distribution prior to
6 dissolution or disincorporation. The board of county commissioners shall
7 determine any redistribution of moneys so received.
8

9 (vi) Taxing districts formed after January 1, 2001, are not entitled
10 to a payment under the provisions of this subsection (10) (d).

11 (vii) For purposes of this subsection (10) (d), a special purpose
12 taxing district is any taxing district which is not a city, a
13 county or a school district.

14 (11) Amounts calculated in accordance with section 2, chapter 356, laws
15 of 2001, for annual distribution to counties and other taxing districts be-
16 ginning in October 2001 for replacement of property tax on farm machinery and
17 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
18 districts, the state tax commission shall distribute one-fourth (1/4) of
19 this amount certified quarterly to each county. For school districts, the
20 state tax commission shall distribute one-fourth (1/4) of the amount certi-
21 fied quarterly to each school district. For nonschool districts, the county
22 auditor shall distribute to each district within thirty (30) calendar days
23 from receipt of moneys from the state tax commission. Moneys received by
24 each taxing district for replacement shall be utilized in the same manner
25 and in the same proportions as revenues from property taxation. The moneys
26 remitted to the county treasurer for replacement of property exempt from
27 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
28 counties and other taxing districts and budgeted at the same time, in the
29 same manner and in the same year as revenues from taxation on personal prop-
30 erty which these moneys replace. If taxing districts are consolidated, the
31 resulting district is entitled to an amount equal to the sum of the amounts
32 which were received in the last calendar quarter by each district pursuant
33 to this subsection prior to the consolidation. If a taxing district is
34 dissolved or disincorporated, the state tax commission shall continuously
35 distribute to the board of county commissioners an amount equal to the
36 last quarter's distribution prior to dissolution or disincorporation. The
37 board of county commissioners shall determine any redistribution of moneys
38 so received. If a taxing district annexes territory, the distribution of
39 moneys received pursuant to this subsection shall be unaffected. Taxing
40 districts formed after January 1, 2001, are not entitled to a payment under
41 the provisions of this subsection. School districts shall receive an amount
42 determined by multiplying the sum of the year 2000 school district levy mi-
43 nus .004 times the market value on December 31, 2000, in the district of the
44 property exempt from taxation pursuant to section 63-602EE, Idaho Code, pro-
45 vided that the result of these calculations shall not be less than zero (0).
46 The result of these school district calculations shall be further increased
47 by six percent (6%). For purposes of the limitation provided by section
48 63-802, Idaho Code, moneys received pursuant to this section as property tax
49 replacement for property exempt from taxation pursuant to section 63-602EE,
50 Idaho Code, shall be treated as property tax revenues.

1 (12) Amounts necessary to pay refunds as provided in section 63-3641,
2 Idaho Code, to a developer of a retail complex shall be remitted to the demon-
3 stration pilot project fund created in section 63-3641, Idaho Code.

4 (13) Amounts calculated in accordance with subsection (4) of section
5 63-602KK, Idaho Code, for annual distribution to counties and other taxing
6 districts for replacement of property tax on personal property tax exemp-
7 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which
8 amounts are continuously appropriated unless the legislature enacts a dif-
9 ferent appropriation for a particular fiscal year. For purposes of the
10 limitation provided by section 63-802, Idaho Code, moneys received pursuant
11 to this section as property tax replacement for property exempt from taxa-
12 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property
13 tax revenues. If taxing districts are consolidated, the resulting district
14 is entitled to an amount equal to the sum of the amounts that were received in
15 the last calendar year by each district pursuant to this subsection prior to
16 the consolidation. If a taxing district or revenue allocation area annexes
17 territory, the distribution of moneys received pursuant to this subsection
18 shall be unaffected. Taxing districts and revenue allocation areas formed
19 after January 1, 2013, are not entitled to a payment under the provisions of
20 this subsection.

21 (14) Amounts collected from purchasers and paid to the state of Idaho by
22 retailers that are not engaged in business in this state and which retailer
23 would not have been required to collect the sales tax, less amounts other-
24 wise distributed in subsections (1) and (10) of this section, shall be dis-
25 tributed to the tax relief fund created in section 57-811, Idaho Code. The
26 state tax commission will determine the amounts to be distributed under this
27 subsection.

28 (15) Any moneys remaining over and above those necessary to meet and
29 reserve for payments under other subsections of this section shall be dis-
30 tributed to the general fund.

31 (16) One percent (1%) shall be distributed to the transportation expan-
32 sion and congestion mitigation program established in section 40-720, Idaho
33 Code. The distribution provided for in this subsection must immediately
34 follow the distribution provided for in subsection (10) of this section.

35 SECTION 6. That Section 63-3024, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. (1) ~~For tax-~~
38 ~~able year 2001, and each taxable year thereafter, a~~ A tax measured by Idaho
39 taxable income as defined in this chapter is hereby imposed upon every indi-
40 vidual, trust, or estate required by this chapter to file a return.

41 (a) Through taxable year 2017 and except as provided in paragraph (b) of
42 this subsection, tThe tax imposed upon individuals, trusts and estates
43 shall be computed at the following rates:

44 When Idaho taxable income is:	The rate is:
45 Less than \$1,000	One and six-tenths percent (1.6%)
46 \$1,000 but less than \$2,000	\$16, plus three and six-tenths
47	percent (3.6%) of the amount over \$1,000

1	When Idaho taxable income is:	The rate is:
2	\$2,000 but less than \$3,000	\$52, plus four and one-tenth
3		percent (4.1%) of the amount over \$2,000
4	\$3,000 but less than \$4,000	\$93, plus five and one-tenth
5		percent (5.1%) of the amount over \$3,000
6	\$4,000 but less than \$5,000	\$144, plus six and one-tenth
7		percent (6.1%) of the amount over \$4,000
8	\$5,000 but less than \$7,500	\$205, plus seven and one-tenth
9		percent (7.1%) of the amount over \$5,000
10	\$7,500 and over	\$383, plus seven and four-tenths
11		percent (7.4%) of the amount
12		over \$7,500

13 (b) Beginning with taxable year 2018 and each taxable year thereafter,
 14 the tax imposed upon individuals, trusts and estates shall be computed
 15 at the following rates:

16	<u>When Idaho taxable income is:</u>	<u>The rate is:</u>
17	<u>Less than \$1,000</u>	<u>One and one-tenth percent (1.1%)</u>
18	<u>\$1,000 but less than \$2,000</u>	<u>\$15, plus three and one-tenth percent</u>
19		<u>(3.1%) of the amount over \$1,000</u>
20	<u>\$2,000 but less than \$3,000</u>	<u>\$50, plus three and six-tenths percent</u>
21		<u>(3.6%) of the amount over \$2,000</u>
22	<u>\$3,000 but less than \$4,000</u>	<u>\$90, plus four and six-tenths percent</u>
23		<u>(4.6%) of the amount over \$3,000</u>
24	<u>\$4,000 but less than \$5,000</u>	<u>\$140, plus five and six-tenths percent</u>
25		<u>(5.6%) of the amount over \$4,000</u>
26	<u>\$5,000 but less than \$7,500</u>	<u>\$200, plus six and six-tenths percent</u>
27		<u>(6.6%) of the amount over \$5,000</u>
28	<u>\$7,500 and over</u>	<u>\$375, plus six and nine-tenths percent</u>
29		<u>(6.9%) of the amount over \$7,500</u>

30 (2) For taxable year 2000 and each year thereafter, the state tax com-
 31 mission shall prescribe a factor which shall be used to compute the Idaho
 32 income tax brackets provided in ~~subsection (a) of this section.~~ The factor
 33 shall provide an adjustment to the Idaho tax brackets so that inflation will
 34 not result in a tax increase. The Idaho tax brackets shall be adjusted as
 35 follows: multiply the bracket amounts by the percentage (the consumer price
 36 index for the calendar year immediately preceding the calendar year to which
 37 the adjusted brackets will apply divided by the consumer price index for cal-
 38 endar year 1998). For the purpose of this computation, the consumer price
 39 index for any calendar year is the average of the consumer price index as of
 40 the close of the twelve (12) month period for the immediately preceding cal-
 41 endar year, without regard to any subsequent adjustments, as adopted by the
 42 state tax commission. This adoption shall be exempt from the provisions of

1 chapter 52, title 67, Idaho Code. The consumer price index shall mean the
 2 consumer price index for all U.S. urban consumers published by the United
 3 States department of labor. The state tax commission shall annually include
 4 the factor as provided in this subsection to multiply against Idaho taxable
 5 income in the brackets above to arrive at that year's Idaho taxable income
 6 for tax bracket purposes.

7 (b3) In case a joint return is filed by husband and wife pursuant to the
 8 provisions of section 63-3031, Idaho Code, the tax imposed by this section
 9 shall be twice the tax which would be imposed on one-half (1/2) of the aggre-
 10 gate Idaho taxable income. For the purposes of this section, a return of a
 11 surviving spouse, as defined in section 2(a) of the Internal Revenue Code,
 12 and a head of household, as defined in section 2(b) of the Internal Revenue
 13 Code, shall be treated as a joint return and the tax imposed shall be twice
 14 the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

15 (e4) In the case of a trust that is an electing small business trust as
 16 defined in section 1361 of the Internal Revenue Code, the special rules for
 17 taxation of such trusts contained in section 641 of the Internal Revenue Code
 18 shall apply except that the maximum individual rate provided in this section
 19 shall apply in computing tax due under this chapter.

20 (d5) The state tax commission shall compute and publish Idaho income
 21 tax liability for taxpayers at the midpoint of each bracket of Idaho taxable
 22 income in fifty dollar (\$50.00) steps to fifty thousand dollars (\$50,000),
 23 rounding such calculations to the nearest dollar. Taxpayers having income
 24 within such brackets shall file returns based upon and pay taxes according
 25 to the schedule thus established. The state tax commission shall promulgate
 26 rules defining the conditions upon which such returns shall be filed.

27 SECTION 7. That Section 63-3025, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 63-3025. TAX ON CORPORATE INCOME. (1) ~~For taxable years commencing on~~
 30 ~~and after January 1, 2001, a~~ A tax is hereby imposed on the Idaho taxable in-
 31 come of a corporation, other than an S corporation, ~~which that~~ transacts or
 32 is authorized to transact business in this state or ~~which that~~ has income at-
 33 tributable to this state. For taxable years commencing on and after January
 34 1, 2018, t~~The tax shall be equal to seven and four-tenths~~ five percent (7.4
 35 5%) of Idaho taxable income.

36 (2) In the case of an S corporation that is required to file a return un-
 37 der section 63-3030, Idaho Code, a tax is hereby imposed at the rate provided
 38 in subsection (1) of this section upon both:

39 (a) Net recognized built-in gain attributable to this state. The
 40 amount of net recognized built-in gain attributable to this state shall
 41 be computed in accordance with section 1374 of the Internal Revenue
 42 Code subject to the apportionment and allocation provisions of section
 43 63-3027, Idaho Code.

44 (b) Excess net passive income attributable to this state. The amount of
 45 excess net passive income attributable to this state shall be computed
 46 in accordance with section 1375 of the Internal Revenue Code subject to
 47 the apportionment and allocation provisions of section 63-3027, Idaho
 48 Code.

1 (3) The tax imposed by subsection (1) or (2) of this section shall not
2 be less than twenty dollars (\$20.00); provided further that the twenty dol-
3 lar (\$20.00) minimum payment shall not be collected from nonproductive min-
4 ing corporations.

5 (4) The tax imposed by this section shall not apply to corporations
6 taxed pursuant to the provisions of section 63-3025A, Idaho Code.

7 SECTION 8. That Section 63-3029B, Idaho Code, be, and the same is hereby
8 repealed.

9 SECTION 9. That Section 63-602HH, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 63-602HH. PROPERTY EXEMPT FROM TAXATION -- SIGNIFICANT CAPITAL IN-
12 VESTMENTS. (1) The net taxable value of all property of a taxpayer in excess
13 of eight hundred million dollars (\$800,000,000) located within a single
14 county in Idaho shall be exempt from property taxation and any special as-
15 sessment.

16 (2) The property included in the calculation of the exemption set forth
17 in this section shall include all real property owned, and all personal prop-
18 erty owned, leased, or rented that would otherwise be subject to property
19 tax; provided however, with respect to leased or rented personal property,
20 only that portion of the property which a taxpayer is contractually liable
21 for payment of property taxes thereon shall be included in the calculation of
22 the exemption.

23 (3) Leased or rented personal property, included in the calculation of
24 the exemption provided by this section shall not be assessable against the
25 owner of such property.

26 (4) The exemption set forth in this section shall apply first to owned
27 real and personal property and, if exhausted, shall then apply to leased or
28 rented personal property.

29 (5) The taxpayer owning, leasing, or renting the property included in
30 the calculation of the exemption shall designate the property to which the
31 exemption applies.

32 (6) The exemption set forth in this section shall not be available to
33 any taxpayer with respect to a given year who, in the immediately preceding
34 calendar year, failed to make significant capital investments of at least
35 twenty-five million dollars (\$25,000,000), by the acquisition or improve-
36 ment of real or personal property located within the county referred to in
37 subsection (1) of this section.

38 (7) The exemption set forth in this section shall not be available to
39 any taxpayer with respect to a given year who, as of the first day of such
40 year, did not employ or engage on a regular full-time basis, or the equiva-
41 lent thereof, at least one thousand five hundred (1,500) workers within the
42 county referred to in subsection (1) of this section.

43 ~~(8) Except for the exemption provided for in subsection (4) of section~~
44 ~~63-3029B, Idaho Code, no~~ No other exemption from property tax or any special
45 assessment provided by the statutes of this state shall be applicable to any
46 property described in subsection (2) of this section with respect to a year
47 in which the exemption set forth in subsection (1) of this section applies to
48 any of the same property.

1 (9) Property exempted under this section shall not be included on any
2 new construction roll prepared by the county assessor in accordance with
3 section 63-301A, Idaho Code.

4 (10) The state tax commission shall adopt all rules that may be neces-
5 sary to implement this section.

6 SECTION 10. That Section 63-3029I, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIP-
9 MENT. (1) Subject to the limitations of this section, for taxable years
10 beginning after January 1, 2001, there shall be allowed to a taxpayer a non-
11 refundable credit against taxes imposed by sections 63-3024, 63-3025 and
12 63-3025A, Idaho Code, for qualified expenditures in qualified broadband
13 equipment in Idaho.

14 (2) The credit permitted in subsection (1) of this section shall be
15 three percent (3%) of the qualified investment in qualified broadband equip-
16 ment in Idaho ~~and shall be in addition to the credit for capital investment~~
17 ~~permitted by section 63-3029B, Idaho Code.~~

18 (3) As used in this section the term:

19 (a) ~~"Qualified investment" shall be as defined in section 63-3029B,~~
20 ~~Idaho Code means property that:~~

21 (i) Is eligible for the federal investment tax credit, as defined
22 in sections 46(c) and 48 of the Internal Revenue Code subject to
23 the limitations provided for certain regulated companies in sec-
24 tion 46(f) of the Internal Revenue Code, and is not a motor vehicle
25 under eight thousand (8,000) pounds gross weight; or is qualified
26 broadband equipment, as defined in section 63-3029I, Idaho Code;

27 (ii) Is acquired, constructed, reconstructed, erected or placed
28 into service after December 31, 1981; and

29 (iii) Has a situs in Idaho. For purposes of this section, property
30 has a situs in Idaho during a taxable year if it is used in Idaho at
31 any time during the taxable year. Property not used in Idaho dur-
32 ing a taxable year does not have a situs in Idaho in the taxable
33 year during which the property was not used in Idaho or in any sub-
34 sequent taxable year. The Idaho situs of property must be estab-
35 lished by records maintained by the taxpayer that are created rea-
36 sonably contemporaneously with the use of the property.

37 (b) ~~"Qualified broadband equipment" means equipment that qualifies for~~
38 ~~the credit for capital investment permitted by section 63-3029B, Idaho~~
39 ~~Code, and is capable of transmitting signals at a rate of at least two~~
40 ~~hundred thousand (200,000) bits per second to a subscriber and at least~~
41 ~~one hundred twenty-five thousand (125,000) bits per second from a sub-~~
42 ~~scriber, and~~

43 (i) In the case of a telecommunications carrier, such qualifying
44 equipment shall be necessary to the provision of broadband service
45 and an integral part of a broadband network. "Telecommunications
46 carrier" has the meaning given such term by section 47 U.S.C. 153
47 of the communications act of 1934, as amended, but does not include
48 a commercial mobile service provider.

1 (ii) In the case of a commercial mobile service carrier, such
2 qualifying equipment shall extend from the subscriber side of the
3 mobile telecommunications switching office to a transmitting/re-
4 ceiving antenna, including such antenna, on the outside of the
5 structure in which the subscriber is located. "Commercial mobile
6 service carrier" means any person authorized to provide commer-
7 cial mobile radio service to subscribers as defined in section
8 20.3 of title 47, Code of Federal Regulations (10-1-99 ed.), as
9 amended.

10 (iii) In the case of a cable or open video system operator, such
11 qualifying equipment shall extend from the subscriber's side of
12 the headend to the outside of the structure in which the subscriber
13 is located. The terms "cable operator" and "open video system op-
14 erator" have the meanings given such terms by sections 602(5) and
15 653, respectively, of the communications act of 1934, as amended.

16 (iv) In the case of a satellite carrier or a wireless carrier
17 other than listed above, such qualifying equipment is only that
18 equipment that extends from a transmitting/receiving antenna,
19 including such antenna, which transmits and receives signals to or
20 from multiple subscribers to a transmitting/receiving antenna on
21 the outside of the structure in which the subscriber is located.
22 "Satellite carrier" means any person using the facilities of a
23 satellite or satellite services licensed by the federal commu-
24 nications commission and operating a fixed-satellite service or
25 direct broadcast satellite services to provide point-to-multi-
26 point distribution of signals. "Other wireless carrier" means
27 any person, other than a telecommunications carrier, commercial
28 mobile service carrier, cable operator, open video operator, or
29 satellite carrier, providing broadband services to subscribers
30 through the radio transmission of energy.

31 (v) In the case of packet switching equipment, such packet equip-
32 ment installed in connection with other qualifying equipment
33 listed in subsections (3)(b)(i) through (3)(b)(iv) of this sec-
34 tion, provided it is the last in a series of equipment that trans-
35 mits signals to a subscriber or the first in a series of equipment
36 that transmits signals from a subscriber. "Packet switching"
37 means controlling or routing the path of a digital transmission
38 signal which is assembled into packets or cells.

39 (vi) In the case of multiplexing and demultiplexing equipment,
40 such equipment only to the extent that it is deployed in connection
41 with providing broadband services in locations between packet
42 switching equipment and the structure in which the subscriber is
43 located. "Multiplexing" means the transmission of two (2) or more
44 signals over a communications circuit without regard to the commu-
45 nications technology.

46 (vii) Any property not primarily used to provide services in Idaho
47 to public subscribers is not qualified broadband equipment.

48 (4) No equipment described in subsections (3)(b)(i) through (3)(b)(vi)
49 of this section shall qualify for the credit provided in subsection (1) of
50 this section until the taxpayer applies to and obtains from the Idaho pub-

1 lic utilities commission an order confirming that the installed equipment
2 is qualified broadband equipment. Applications submitted to the commission
3 shall be governed by the commission's rules of procedure. The commission may
4 issue procedural orders necessary to implement this section.

5 (5) The credit allowed by subsection (1) of this section together with
6 any credits carried forward under subsection (7) of this section shall not,
7 in any one (1) taxable year, exceed the lesser of:

8 (a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A,
9 Idaho Code, after allowance for all other credits permitted by this
10 chapter; or

11 (b) Seven hundred fifty thousand dollars (\$750,000).

12 When credits earned in more than one (1) taxable year are available, the old-
13 est credits shall be applied first.

14 (6) In the case of a group of corporations filing a combined report un-
15 der subsection (t) of section 63-3027, Idaho Code, credit earned by one (1)
16 member of the group but not used by that member may be used by another member
17 of the group, subject to the provisions of subsection (7) of this section,
18 instead of carried over. For a combined group of corporations, credit car-
19 ried forward may be claimed by any member of the group unless the member who
20 earned the credit is no longer included in the combined group.

21 (7) If the credit allowed by subsection (1) of this section exceeds the
22 limitation under subsection (5) of this section, the excess amount may be
23 carried forward for a period that does not exceed the next fourteen (14) tax-
24 able years.

25 ~~(8) In the event that qualified broadband equipment upon which the~~
26 ~~credit allowed by this section has been used ceases to qualify for the credit~~
27 ~~allowed by section 63-3029B, Idaho Code, or is subject to recapture of that~~
28 ~~credit, the recapture of credit under this section shall be in the same pro-~~
29 ~~portion and subject to the same provisions as the amount of credit required~~
30 ~~to be recaptured under section 63-3029B, Idaho Code~~ Any recapture of the
31 credit allowed by this section on property disposed of or ceasing to qualify
32 for the credit prior to the close of the recapture period shall be determined
33 according to the applicable recapture provisions of the Internal Revenue
34 Code. In the case of a unitary group of corporations, the increase in tax due
35 to the recapture of investment tax credit must be reported by the member of
36 the group who earned the credit regardless of which member claimed the credit
37 against tax.

38 (9) (a) Subject to the requirements of this subsection, a taxpayer who
39 earns and is entitled to the credit or to an unused portion of the credit
40 allowed by this section may transfer all or a portion of the unused
41 credit to:

42 (i) Another taxpayer required to file a return under this chap-
43 ter; or

44 (ii) To an intermediary for its use or for resale to a taxpayer re-
45 quired to file a return under this chapter.

46 In the event of either such a transfer, the transferee may claim the
47 credit on the transferee's income tax return originally filed during
48 the calendar year in which the transfer takes place and, in the case of
49 carryover of the credit, on the transferee's returns for the number of

1 years of carryover available to the transferor at the time of the trans-
2 fer unless earlier exhausted.

3 (b) Before completing a transfer under this subsection, the transferor
4 shall notify the state tax commission of its intention to transfer the
5 credit and the identity of the transferee. The state tax commission
6 shall provide the transferor with a written statement of the amount of
7 credit available under this section as then appearing in the commis-
8 sion's records and the number of years the credit may be carried over.
9 The transferee shall attach a copy of the statement to any return in re-
10 gard to which the transferred credit is claimed.

11 (c) In the event that after the transfer the state tax commission deter-
12 mines that the amount of credit properly available under this section is
13 less than the amount claimed by the transferor of the credit or that the
14 credit is subject to recapture, the commission shall assess the amount
15 of overstated or recaptured credit as taxes due from the transferor and
16 not the transferee. The assessment shall be made in the manner provided
17 for a deficiency in taxes under this chapter.

18 (10) In addition to other needed rules, the state tax commission may
19 promulgate rules prescribing, in the case of S corporations, partnerships,
20 trusts or estates, a method of attributing the credit under this section to
21 the shareholders, partners or beneficiaries in proportion to their share of
22 the income from the S corporation, partnership, trust or estate.

23 SECTION 11. That Section 63-4402, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 63-4402. DEFINITIONS. (1) The definitions contained in the Idaho in-
26 come tax act, shall apply to this chapter unless modified in this chapter or
27 unless the context clearly requires another definition.

28 (2) As used in this chapter:

29 (a) "Commission" means the Idaho state tax commission.

30 (b) "New plant and building facilities" means facility or facilities,
31 including related parking facilities, where employees are physically
32 employed.

33 (c) "Idaho income tax act" means chapter 30, title 63, Idaho Code.

34 (d) "Investment in new plant" means investment in new plant and build-
35 ing facilities that are:

36 (i) Qualified investments; or

37 (ii) Buildings or structural components of buildings.

38 (e) "New employee":

39 (i) Means an individual, employed primarily within the project
40 site by the taxpayer, subject to Idaho income tax withholding
41 whether or not any amounts are required to be withheld, covered for
42 unemployment insurance purposes under chapter 13, title 72, Idaho
43 Code, and who was eligible to receive employer provided coverage
44 under a health benefit plan as described in section 41-4703, Idaho
45 Code, during the taxable year. A person shall be deemed to be so
46 employed if such person performs duties on a regular full-time
47 basis.

48 (ii) The number of employees employed primarily within the
49 project site by the taxpayer, during any taxable year for a tax-

1 payer shall be the mathematical average of the number of such
2 employees reported to the Idaho department of labor for employment
3 security purposes during the twelve (12) months of the taxable
4 year which qualified under paragraph (e) (i) of this subsection
5 (2). In the event the business is in operation for less than the
6 entire taxable year, the number of employees of the taxpayer for
7 the year shall be the average number actually employed during the
8 months of operation, provided that the qualifications of para-
9 graph (e) (i) of this subsection (2) are met.

10 (iii) Existing employees of the taxpayer who obtain new qualify-
11 ing positions within the project site and employees transferred
12 from a related taxpayer or acquired as part of the acquisition of
13 a trade or business from another taxpayer within the prior twelve
14 (12) months are not included in this definition unless the new po-
15 sition or transfer creates a net new job in Idaho.

16 (f) "Project period" means the period of time beginning at a physical
17 change to the project site or the first employment of new employees lo-
18 cated in Idaho who are related to the activities at the project site, and
19 ending when the facilities constituting the project are placed in ser-
20 vice, but no later than December 31, 2020 and no longer than ten (10)
21 years after the beginning.

22 (g) "Project site" means an area or areas at which new plant and build-
23 ing facilities are located and at which the tax incentive criteria have
24 been or will be met and which are either:

25 (i) A single geographic area located in this state at which the
26 new plant and building facilities owned or leased by the taxpayer
27 are located; or

28 (ii) One (1) or more geographic areas located in this state if
29 eighty percent (80%) or more of the investment required by subsec-
30 tion (2) (j) (i) of this section is made at one (1) of the areas.

31 (iii) The project site must be identified and described to the com-
32 mission by a taxpayer subject to tax under the Idaho income tax
33 act, in the form and manner prescribed by the commission.

34 (h) "Qualified investment" shall be defined as in section 63-3029BI,
35 Idaho Code.

36 (i) "Recapture period" means:

37 (i) In the case of credits described in sections 63-4403 and
38 63-4404, Idaho Code, the same period for which a recapture of
39 investment tax credit under section 63-3029BI, Idaho Code, is re-
40 quired; or

41 (ii) In the case of credits described in section 63-4405, Idaho
42 Code, five (5) years from the date the project period ends.

43 (j) "Tax incentive criteria" means a taxpayer meeting at a project site
44 the requirements of subparagraphs (i) and (ii) of this paragraph (j).

45 (i) During the project period, making capital investments in new
46 plant of at least five hundred thousand dollars (\$500,000) at the
47 project site.

48 (ii) During a period of time beginning on January 1, 2006, and end-
49 ing at the conclusion of the project period:

1 1. Increasing employment at the project site by at least ten
 2 (10) new employees each of whom must earn at least nineteen
 3 dollars and twenty-three cents (\$19.23) per hour worked dur-
 4 ing the taxpayer's taxable year.

5 2. Employment increases above the ten (10) new employees
 6 described in subparagraph (ii)1. of this paragraph (j)
 7 at the project site shall on average earn at least fifteen
 8 dollars and fifty cents (\$15.50) per hour worked during
 9 the taxpayer's taxable year. Calculation of the group
 10 average earnings shall not include amounts paid to any em-
 11 ployee earning more than forty-eight dollars and eight cents
 12 (\$48.08) per hour.

13 3. Earnings calculated pursuant to subparagraph (ii) of
 14 this paragraph (j) shall include income upon which Idaho
 15 income tax withholding is required under section 63-3035,
 16 Idaho Code, but shall not include income such as stock op-
 17 tions or restricted stock grants.

18 4. For purposes of determining whether the increased em-
 19 ployment threshold has been met, employment at the project
 20 site shall be determined by calculating the increase of such
 21 new employees reported to the Idaho department of labor for
 22 employment security purposes over the employees so reported
 23 as of the beginning of the project period or no earlier than
 24 January 1, 2006, whichever is larger; and

25 5. Maintaining net increased employment in Idaho required
 26 by subparagraph (ii) of this paragraph (j) during the re-
 27 mainder of the project period.

28 (k) "Taxpayer," for purposes of paragraphs (j) and (e) of this subsec-
 29 tion (2), means either:

30 (i) A single taxpayer; or

31 (ii) In the context of a unitary group filing a combined report un-
 32 der section 63-3027 (t), Idaho Code, all members of a unitary group
 33 includable in a combined report for the tax years in which the
 34 credit provided for by this chapter may be claimed. For all other
 35 purposes, the terms of section 63-3009, Idaho Code, and section
 36 63-3027 (t) (1), Idaho Code, apply to the meaning of "taxpayer."

37 SECTION 12. That Section 63-4403, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 63-4403. ~~ADDITIONAL~~ INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) For
 40 taxable years beginning on or after January 1, 2006, and before December 31,
 41 2020, and subject to the limitations of this chapter, a taxpayer who has cer-
 42 tified that the tax incentive criteria will be met within a project site dur-
 43 ing a project period shall, in regard to qualified investments made after the
 44 beginning of the project period and before December 31, 2020, ~~in lieu of the~~
 45 ~~investment tax credit provided in section 63-3029B, Idaho Code,~~ be allowed
 46 a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025
 47 and 63-3025A, Idaho Code, in the amount of three and seventy-five one hun-
 48 dredths percent (3.75%) of the amount of qualified investment made during
 49 the project period, wherever located within this state.

1 (2) The credit allowed by this section shall not exceed sixty-two and
2 five-tenths percent (62.5%) of the tax liability of the taxpayer.

3 (3) The credit allowed by this section shall not exceed seven hundred
4 fifty thousand dollars (\$750,000) in any one (1) taxable year.

5 SECTION 13. That Section 63-4407, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 63-4407. RECAPTURE. (1) In the event that any person to whom a tax
8 credit allowed by section 63-4403, 63-4404 or 63-4405, Idaho Code, fails
9 to meet the tax incentive criteria, the full amount of the credit shall be
10 subject to recapture by the commission.

11 (2) If, during any taxable year, an investment in new plant is disposed
12 of, or otherwise ceases to qualify with respect to the taxpayer, prior to the
13 close of the recapture period, recapture of the credit allowed by sections
14 63-4403 and 63-4404, Idaho Code, shall be determined for such taxable year in
15 the same proportion and subject to the same provisions as an amount of credit
16 required to be recaptured under section 63-3029BI, Idaho Code.

17 (3) In the event that the employment level for which the credit allowed
18 in section 63-4405, Idaho Code, is not maintained for the entire recapture
19 period, recapture of the credit allowed in section 63-4405, Idaho Code,
20 shall be determined for such taxable year in the same proportion as an amount
21 of credit required to be recaptured under section 63-3029BI, Idaho Code.
22 This subsection shall not be construed to require that the required level of
23 employment must be met by the same individual employees.

24 (4) Any amount subject to recapture is a deficiency in tax for the
25 amount of the credit in the taxable year in which the disqualification first
26 occurs and may be enforced and collected in the manner provided by the Idaho
27 income tax act, provided however, that in lieu of the provisions of section
28 63-3068(a), Idaho Code, the period of time within which the commission may
29 issue a notice under section 63-3045, Idaho Code, in regard to an amount
30 subject to recapture shall be the later of five (5) years after the end of the
31 taxable year in which the project period ends or three (3) years after the
32 end of the taxable year in which any amounts carried forward under section
33 63-4406, Idaho Code, expire.

34 SECTION 14. That Section 63-4408, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 63-4408. SALES AND USE TAX INCENTIVES -- REBATES -- RECAPTURE. (1) For
37 calendar years beginning on January 1, 2006, and ending on December 31, 2020,
38 subject to the limitations of this chapter, a taxpayer who has certified that
39 the tax incentive criteria will be met within the project site shall be en-
40 titled to receive a rebate of twenty-five percent (25%) of all sales and use
41 taxes imposed by chapter 36, title 63, Idaho Code, and that the taxpayer or
42 its contractors actually paid in regard to any property constructed, located
43 or installed within the project site during the project period for that site.

44 (2) Upon filing of a written refund claim by the taxpayer entitled to
45 the rebate, and subject to such reasonable documentation and verification as
46 the commission may require, the rebate shall be paid by the commission as a
47 refund allowable under section 63-3626, Idaho Code. A claim for rebate un-

1 der this section must be filed on or before the last day of the third calendar
 2 year following the year in which the taxes sought to be rebated were paid or
 3 the right to the rebate is lost.

4 (3) Any rebate paid shall be subject to recapture by the commission:

5 (a) At one hundred percent (100%) in the event that the tax incentive
 6 criteria are not met at the project site during the project period, or

7 (b) In the event that the property is not used, stored or otherwise
 8 consumed within the project site for a period of sixty (60) consecutive
 9 full months after the property was placed in service, or

10 (c) In the event that the employment required in section 63-4402(2)(j),
 11 Idaho Code, is not maintained for sixty (60) consecutive full months
 12 from the date the project period ends.

13 (d) Any recapture required by subsection (3)(b) or (3)(c) of this sec-
 14 tion shall be in the same proportion as an amount of credit required to
 15 be recaptured under section 63-3029BI, Idaho Code.

16 (4) Any recapture amount due under this section shall be a deficiency
 17 in tax for the period in which the disqualification first occurs for pur-
 18 poses of section 63-3629, Idaho Code, and may be enforced and collected in
 19 the manner provided by the Idaho sales tax act, provided however, that in
 20 lieu of the provisions of section 63-3633, Idaho Code, the period of time
 21 within which the commission may issue a notice under section 63-3629, Idaho
 22 Code, in regard to an amount subject to recapture, shall be the later of five
 23 (5) years after the end of the taxable year, for income tax purposes, in which
 24 the project period ends.

25 (5) The rebate allowed by this section is limited to sales and use taxes
 26 actually paid by the taxpayer or its contractors for taxable property re-
 27 lated to new plant and building facilities.

28 SECTION 15. That Section 63-4502, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 63-4502. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS. (1) For calendar
 31 years beginning on or after January 1, 2008, the net taxable value of all
 32 property of a taxpayer, whether acquired before, during or after the qual-
 33 ifying period, in excess of four hundred million dollars (\$400,000,000) lo-
 34 cated within a single county in Idaho shall be exempt from property taxation
 35 and any special assessment, but only if the taxpayer makes a qualifying new
 36 capital investment as defined in subsection (2) of this section.

37 (2) For purposes of this section, the following definitions shall ap-
 38 ply:

39 (a) "Qualifying new capital investment" means an investment of at least
 40 one billion dollars (\$1,000,000,000) made during the qualifying period
 41 by the acquisition, construction, improvement or installation of real
 42 or personal property related to new plant and building facilities at a
 43 project site located within the county referred to in subsection (1) of
 44 this section.

45 (b) "New plant and building facilities" means:

46 (i) Qualified investments as defined in section 63-3029BI, Idaho
 47 Code; or

48 (ii) Buildings or structural components of buildings, includ-
 49 ing equipment, materials and fixtures thereof whether used at a

1 project site or temporarily stored off-site in the county referred
2 to in subsection (1) of this section and intended for use at a
3 project site.

4 (c) "Qualifying period" means an eighty-four (84) month period of time
5 beginning at the first inspection of the permanent building structure
6 at a project site following issuance of the building permit, but in no
7 case earlier than January 1, 2008, and ending no later than eighty-four
8 (84) full months after such inspection takes place.

9 (d) "Project site" means an area or areas at which the new plant and
10 building facilities described in subsection (2) (b) of this section are
11 built.

12 (3) The property included in the calculation for purposes of deter-
13 mining a qualifying new capital investment value shall include all real
14 property owned, and all personal property owned, leased or rented. With
15 respect to leased or rented personal property, only that portion of the prop-
16 erty for which a taxpayer is contractually liable for payment of property
17 taxes thereon, shall be included in the calculation of the investment.

18 (4) ~~Notwithstanding the exemption provided in subsection (4) of sec-~~
19 ~~tion 63-3029B, Idaho Code, no~~ No other exemption from property tax or any
20 special assessment provided by the statutes of this state shall be applica-
21 ble to any property described in subsection (2) of this section with respect
22 to a year in which the incentives set forth in subsection (1) of this section
23 apply to any of the same property.

24 (5) Property subject to the provisions of this section shall not be
25 included on any property roll or any new construction roll prepared by the
26 county assessor in accordance with section 63-301 or 63-301A, Idaho Code,
27 respectively.

28 (6) The state tax commission shall adopt all rules that may be necessary
29 to implement the provisions of this section.

30 SECTION 16. That Section 74-107, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION
33 RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records
34 are exempt from disclosure:

35 (1) Trade secrets including those contained in response to public
36 agency or independent public body corporate and politic requests for pro-
37 posal, requests for clarification, requests for information and similar
38 requests. "Trade secrets" as used in this section means information, in-
39 cluding a formula, pattern, compilation, program, computer program, device,
40 method, technique, process, or unpublished or in-progress research that:

41 (a) Derives independent economic value, actual or potential, from not
42 being generally known to, and not being readily ascertainable by proper
43 means by other persons who can obtain economic value from its disclosure
44 or use; and

45 (b) Is the subject of efforts that are reasonable under the circum-
46 stances to maintain its secrecy.

47 (2) Production records, housing production, rental and financing
48 records, sale or purchase records, catch records, mortgage portfolio loan
49 documents, or similar business records of a private concern or enterprise

1 required by law to be submitted to or inspected by a public agency or sub-
2 mitted to or otherwise obtained by an independent public body corporate and
3 politic. Nothing in this subsection shall limit the use which can be made
4 of such information for regulatory purposes or its admissibility in any en-
5 forcement proceeding.

6 (3) Records relating to the appraisal of real property, timber or min-
7 eral rights prior to its acquisition, sale or lease by a public agency or in-
8 dependent public body corporate and politic.

9 (4) Any estimate prepared by a public agency or independent public body
10 corporate and politic that details the cost of a public project until such
11 time as disclosed or bids are opened, or upon award of the contract for con-
12 struction of the public project.

13 (5) Examination, operating or condition reports and all documents re-
14 lating thereto, prepared by or supplied to any public agency or independent
15 public body corporate and politic responsible for the regulation or supervi-
16 sion of financial institutions including, but not limited to, banks, savings
17 and loan associations, regulated lenders, business and industrial develop-
18 ment corporations, credit unions, and insurance companies, or for the regu-
19 lation or supervision of the issuance of securities.

20 (6) Records gathered by a local agency or the Idaho department of com-
21 merce, as described in chapter 47, title 67, Idaho Code, for the specific
22 purpose of assisting a person to locate, maintain, invest in, or expand busi-
23 ness operations in the state of Idaho.

24 (7) Shipping and marketing records of commodity commissions used to
25 evaluate marketing and advertising strategies and the names and addresses of
26 growers and shippers maintained by commodity commissions.

27 (8) Financial statements and business information and reports submit-
28 ted by a legal entity to a port district organized under title 70, Idaho Code,
29 in connection with a business agreement, or with a development proposal or
30 with a financing application for any industrial, manufacturing, or other
31 business activity within a port district.

32 (9) Names and addresses of seed companies, seed crop growers, seed crop
33 consignees, locations of seed crop fields, variety name and acreage by vari-
34 ety. Upon the request of the owner of the proprietary variety, this infor-
35 mation shall be released to the owner. Provided however, that if a seed crop
36 has been identified as diseased or has been otherwise identified by the Idaho
37 department of agriculture, other state departments of agriculture, or the
38 United States department of agriculture to represent a threat to that par-
39 ticular seed or commercial crop industry or to individual growers, infor-
40 mation as to test results, location, acreage involved and disease symptoms
41 of that particular seed crop, for that growing season, shall be available
42 for public inspection and copying. This exemption shall not supersede the
43 provisions of section 22-436, Idaho Code, nor shall this exemption apply to
44 information regarding specific property locations subject to an open burn-
45 ing of crop residue pursuant to section 39-114, Idaho Code, names of persons
46 responsible for the open burn, acreage and crop type to be burned, and time
47 frames for burning.

48 (10) Information obtained from books, records and accounts required in
49 chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-

1 mission and pertaining to the individual production records of oilseed grow-
2 ers.

3 (11) Records of any risk retention or self-insurance program prepared
4 in anticipation of litigation or for analysis of or settlement of potential
5 or actual money damage claims against a public entity and its employees or
6 against the industrial special indemnity fund except as otherwise discov-
7 erable under the Idaho or federal rules of civil procedure. These records
8 shall include, but are not limited to, claims evaluations, investigatory
9 records, computerized reports of losses, case reserves, internal documents
10 and correspondence relating thereto. At the time any claim is concluded,
11 only statistical data and actual amounts paid in settlement shall be deemed
12 a public record unless otherwise ordered to be sealed by a court of competent
13 jurisdiction. Provided however, nothing in this subsection is intended to
14 limit the attorney-client privilege or attorney work product privilege oth-
15 erwise available to any public agency or independent public body corporate
16 and politic.

17 (12) Records of laboratory test results provided by or retained by the
18 Idaho food quality assurance laboratory. Nothing in this subsection shall
19 limit the use which can be made, or availability of such information if used,
20 for regulatory purposes or its admissibility in any enforcement proceeding.

21 (13) Reports required to be filed under chapter 13, title 62, Idaho
22 Code, identifying electrical or natural or manufactured gas consumption
23 data for an individual customer or account.

24 (14) Voluntarily prepared environmental audits, and voluntary disclo-
25 sures of information submitted on or before December 31, 1997, to an environ-
26 mental agency, which are claimed to be confidential business information.

27 (15) Computer programs developed or purchased by or for any public
28 agency or independent public body corporate and politic for its own use. As
29 used in this subsection, "computer program" means a series of instructions
30 or statements which permit the functioning of a computer system in a manner
31 designed to provide storage, retrieval and manipulation of data from the
32 computer system, and any associated documentation and source material that
33 explain how to operate the computer program. Computer program does not in-
34 clude:

35 (a) The original data including, but not limited to, numbers, text,
36 voice, graphics and images;

37 (b) Analysis, compilation and other manipulated forms of the original
38 data produced by use of the program; or

39 (c) The mathematical or statistical formulas that would be used if the
40 manipulated forms of the original data were to be produced manually.

41 (16) Active investigative records and trademark usage audits of the
42 Idaho potato commission specifically relating to the enforcement of chapter
43 12, title 22, Idaho Code, until the commencement of formal proceedings as
44 provided by rules of the commission; purchase and sales information sub-
45 mitted to the Idaho potato commission during a trademark usage audit, and
46 investigation or enforcement proceedings. Inactive investigatory records
47 shall be disclosed unless the disclosure would violate the standards set
48 forth in subsection (1) (a) through (f) of section 74-124, Idaho Code. Noth-
49 ing in this subsection shall limit the use which can be made, or availability

1 of such information if used, for regulatory purposes or its admissibility in
2 any enforcement proceeding.

3 (17) All records copied or obtained by the director of the department of
4 agriculture or his designee as a result of an inspection pursuant to section
5 25-3806, Idaho Code, except:

6 (a) Records otherwise deemed to be public records not exempt from dis-
7 closure pursuant to this chapter; and

8 (b) Inspection reports, determinations of compliance or noncompliance
9 and all other records created by the director or his designee pursuant
10 to section 25-3806, Idaho Code.

11 (18) All data and information collected by the division of animal indus-
12 tries or the state brand board pursuant to the provisions of section 25-207B,
13 Idaho Code, or rules promulgated thereunder.

14 ~~(19) Records disclosed to a county official by the state tax commission~~
15 ~~pursuant to subsection (4) (c) of section 63-3029B, Idaho Code.~~

16 ~~(20) Records, data, information and materials collected, developed,~~
17 ~~generated, ascertained or discovered during the course of academic research~~
18 ~~at public institutions of higher education if the disclosure of such could~~
19 ~~reasonably affect the conduct or outcome of the research, or the ability of~~
20 ~~the public institution of higher education to patent or copyright the re-~~
21 ~~search or protect intellectual property.~~

22 (21) Records, data, information and materials collected or utilized
23 during the course of academic research at public institutions of higher edu-
24 cation provided by any person or entity other than the public institution of
25 higher education or a public agency.

26 (22) The exemptions from disclosure provided in subsections (21) and
27 (21) of this section shall apply only until the academic research is pub-
28 licly released, copyrighted or patented, or until the academic research is
29 completed or terminated. At such time, the records, data, information, and
30 materials shall be subject to public disclosure unless: (a) another exemp-
31 tion in this chapter applies; (b) such information was provided to the insti-
32 tution subject to a written agreement of confidentiality; or (c) public dis-
33 closure would pose a danger to persons or property.

34 (23) The exemptions from disclosure provided in subsections (21) and
35 (21) of this section do not include basic information about a particular re-
36 search project that is otherwise subject to public disclosure, such as the
37 nature of the academic research, the name of the researcher, and the amount
38 and source of the funding provided for the project.

39 (24) Records of a county assessor, the state tax commission, a county
40 board of equalization or the state board of tax appeals containing the fol-
41 lowing information: (i) lists of personal property required to be filed pur-
42 suant to section 63-302, Idaho Code, and operating statements required to
43 be filed pursuant to section 63-404, Idaho Code, and (ii) confidential com-
44 mercial or financial information including trade secrets. Except with re-
45 spect to lists of personal property required to be filed pursuant to section
46 63-302, Idaho Code, and the operator statements required to be filed pur-
47 suant to section 63-404, Idaho Code, it shall be the responsibility of the
48 taxpayer to give notice of its claim to exemption by stamping or marking each
49 page or the first page of each portion of documents so claimed. No records

1 that are exempt pursuant to this subsection shall be disclosed without the
2 consent of the taxpayer except as follows:

3 (a) To any officer, employee or authorized representative of the state
4 or the United States, under a continuing claim of confidentiality, as
5 necessary to carry out the provisions of state or federal law or when
6 relevant to any proceeding thereunder.

7 (b) In the publication of statistics or reports as long as the statis-
8 tics or reports do not reasonably lead to the identification of the spe-
9 cific taxpayer or information submitted by taxpayers exempt pursuant to
10 this subsection.

11 (c) To the board of tax appeals or the district court as evidence or
12 otherwise in connection with an appeal of the taxpayer's property tax
13 assessment, but only if the board or the court, as applicable, has en-
14 tered a protective order specifying that the taxpayer information may
15 not be disclosed by any person conducting or participating in the action
16 or proceeding, except as authorized by the board or the court in accor-
17 dance with applicable law.

18 (d) Nothing in this subsection shall prevent disclosure of the follow-
19 ing information:

- 20 (i) Name and mailing address of the property owner;
- 21 (ii) A parcel number;
- 22 (iii) A legal description of real property;
- 23 (iv) The square footage and acreage of real property;
- 24 (v) The assessed value of taxable property;
- 25 (vi) The tax district and the tax rate; and
- 26 (vii) The total property tax assessed.

27 (254) Results of laboratory tests which have no known adverse impacts
28 to human health conducted by the Idaho state department of agriculture ani-
29 mal health laboratory, related to diagnosis of animal diseases of individual
30 animals or herds, on samples submitted by veterinarians or animal owners un-
31 less:

32 (a) The laboratory test results indicate the presence of a state or fed-
33 erally reportable or regulated disease in animals;

34 (b) The release of the test results is required by state or federal law;
35 or

36 (c) The test result is identified as representing a threat to animal or
37 human health or to the livestock industry by the Idaho state department
38 of agriculture or the United States department of agriculture. Nothing
39 in this subsection shall limit the use which can be made, or availabil-
40 ity of such information if used, for regulatory purposes or its admis-
41 sibility in any enforcement proceeding, or the duty of any person to re-
42 port contagious or infectious diseases as required by state or federal
43 law.

44 (265) Results of laboratory tests conducted by the Idaho state depart-
45 ment of agriculture seed laboratory on samples submitted by seed producers
46 or seed companies. Nothing in this subsection shall limit the use which can
47 be made, or availability of such information pursuant to the provisions of
48 subsections (9) and (10) of section 22-418, Idaho Code.

49 (276) For policies that are owned by private persons, and not by a pub-
50 lic agency of the state of Idaho, records of policies, endorsements, affi-

1 davits and any records that discuss policies, endorsements and affidavits
2 that may be required to be filed with or by a surplus line association pur-
3 suant to chapter 12, title 41, Idaho Code.

4 (287) Individual financial statements of a postsecondary educational
5 institution or a proprietary school submitted to the state board of educa-
6 tion, its director or a representative thereof, for the purpose of regis-
7 tering the postsecondary educational institution or proprietary school pur-
8 suant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an
9 administrative rule of the board adopted pursuant to such sections.

10 (298) Information submitted by insurance companies pursuant to section
11 41-612(17), Idaho Code.

12 (3029) Documents, materials or other information submitted to the di-
13 rector of the department of insurance as provided in chapter 64, title 41,
14 Idaho Code.

15 (30) Reports, information and other materials exempted by chapter 63,
16 title 41, Idaho Code.

17 SECTION 17. That Section 74-115, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 74-115. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY
20 OF RECORDS -- RETENTION OF DISPUTED RECORDS. (1) The sole remedy for a per-
21 son aggrieved by the denial of a request for disclosure is to institute
22 proceedings in the district court of the county where the records or some
23 part thereof are located, to compel the public agency or independent public
24 body corporate and politic to make the information available for public
25 inspection in accordance with the provisions of this chapter. The petition
26 contesting the public agency's or independent public body corporate and
27 politic's decision shall be filed within one hundred eighty (180) calendar
28 days from the date of mailing of the notice of denial or partial denial by the
29 public agency or independent public body corporate and politic. In cases
30 in which the records requested are claimed as exempt pursuant to section
31 74-107(1) or (243), Idaho Code, the petitioner shall be required to name as
32 a party and serve the person or entity that filed or provided such documents
33 to the agency, and such person or entity shall have standing to oppose the
34 request for disclosure and to support the decision of the agency to deny the
35 request. The time for responsive pleadings and for hearings in such proceed-
36 ings shall be set by the court at the earliest possible time, or in no event
37 beyond twenty-eight (28) calendar days from the date of filing.

38 (2) The public agency or independent public body corporate and politic
39 shall keep all documents or records in question until the end of the appeal
40 period, until a decision has been rendered on the petition, or as otherwise
41 statutorily provided, whichever is longer.

42 (3) Nothing contained in this chapter shall limit the availability
43 of documents and records for discovery in the normal course of judicial or
44 administrative adjudicatory proceedings, subject to the law and rules of
45 evidence and of discovery governing such proceedings. Additionally, in any
46 criminal appeal or post-conviction civil action, this chapter shall not make
47 available the contents of prosecution case files where such material has
48 previously been provided to the defendant nor shall this chapter be avail-

1 able to supplement, augment, substitute or supplant discovery procedures in
2 any other federal, civil or administrative proceeding.

3 SECTION 18. An emergency existing therefor, which emergency is hereby
4 declared to exist, Sections 1, 2, 3, and 6 through 17 of this act shall be in
5 full force and effect on and after passage and approval, and retroactively to
6 January 1, 2018. No tax credits or carryover of tax credits shall be permit-
7 ted under section 63-3029B, Idaho Code, as of January 1, 2018. Sections 4 and
8 5 of this act shall be in full force and effect on and after July 1, 2018.