

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 46

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1  
2 RELATING TO TAXATION; AMENDING SECTION 50-2903, IDAHO CODE, TO PROVIDE FOR  
3 THE TREATMENT OF CERTAIN PROPERTY LOCATED WITHIN A REVENUE ALLOCATION  
4 AREA AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3622VV,  
5 IDAHO CODE, TO REVISE PROVISIONS REGARDING A QUALIFYING BUSINESS ENTITY  
6 FOR THE IDAHO INFORMATION TECHNOLOGY EQUIPMENT SALES TAX EXEMPTION; AND  
7 DECLARING AN EMERGENCY.

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

9 SECTION 1. That Section 50-2903, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 50-2903. DEFINITIONS. The following terms used in this chapter shall  
12 have the following meanings, unless the context otherwise requires:

13 (1) "Act" or "this act" means this revenue allocation act.

14 (2) "Agency" or "urban renewal agency" means a public body created pur-  
15 suant to section 50-2006, Idaho Code.

16 (3) "Authorized municipality" or "municipality" means any county or  
17 incorporated city ~~which~~ that has established an urban renewal agency, or by  
18 ordinance has identified and created a competitively disadvantaged border  
19 community.

20 (4) Except as provided in section 50-2903A, Idaho Code, "base assess-  
21 ment roll" means the equalized assessment rolls, for all classes of taxable  
22 property, on January 1 of the year in which the local governing body of an  
23 authorized municipality passes an ordinance adopting or modifying an urban  
24 renewal plan containing a revenue allocation financing provision, except  
25 that the base assessment roll shall be adjusted as follows: the equalized  
26 assessment valuation of the taxable property in a revenue allocation area  
27 as shown upon the base assessment roll shall be reduced by the amount by  
28 which the equalized assessed valuation as shown on the base assessment roll  
29 exceeds the current equalized assessed valuation of any taxable property  
30 located in the revenue allocation area, and by the equalized assessed val-  
31 uation of taxable property in such revenue allocation area that becomes  
32 exempt from taxation subsequent to the date of the base assessment roll. The  
33 equalized assessed valuation of the taxable property in a revenue allocation  
34 area as shown on the base assessment roll shall be increased by the equalized  
35 assessed valuation, as of the date of the base assessment roll, of taxable  
36 property in such revenue allocation area that becomes taxable after the date  
37 of the base assessment roll, provided any increase in valuation caused by  
38 the removal of the agricultural tax exemption from undeveloped agricultural  
39 land in a revenue allocation area shall be added to the base assessment roll.  
40 Provided the county clerk is notified by the fourth Monday in July of any  
41 business or entity receiving the sales tax exemption pursuant to section  
42 63-3622VV, Idaho Code, any increase in valuation due to property owned,

1 leased, or used in the operation of any such business or entity located in  
2 a revenue allocation area shall be added to the base assessment roll in the  
3 current tax year. If the exemption is invalidated because the claimant has  
4 not met the requirements for the exemption pursuant to section 63-3622VV,  
5 Idaho Code, and the county clerk is so notified prior to the fourth Monday  
6 in July in any year, the taxable value of property owned or leased by the  
7 taxpayer shall be removed from the base assessment roll and added to the in-  
8 crement value as that term is defined in this section. An urban renewal plan  
9 containing a revenue allocation financing provision adopted or modified  
10 prior to July 1, 2016, is not subject to section 50-2903A, Idaho Code. For  
11 plans adopted or modified prior to July 1, 2016, and for subsequent modifi-  
12 cations of those urban renewal plans, the value of the base assessment roll  
13 of property within the revenue allocation area shall be determined as if the  
14 modification had not occurred.

15 (5) "Budget" means an annual estimate of revenues and expenses for the  
16 following fiscal year of the agency. An agency shall, by September 1 of each  
17 calendar year, adopt and publish, as described in section 50-1002, Idaho  
18 Code, a budget for the next fiscal year. An agency may amend its adopted  
19 budget using the same procedures as used for adoption of the budget. For  
20 the fiscal year that immediately predates the termination date for an urban  
21 renewal plan involving a revenue allocation area or will include the termi-  
22 nation date, the agency shall adopt and publish a budget specifically for the  
23 projected revenues and expenses of the plan and make a determination as to  
24 whether the revenue allocation area can be terminated before the January 1  
25 of the termination year pursuant to the terms of section 50-2909(4), Idaho  
26 Code. In the event that the agency determines that current tax year revenues  
27 are sufficient to cover all estimated expenses for the current year and all  
28 future years, by September 1 the agency shall adopt a resolution advising and  
29 notifying the local governing body, the county auditor, and the state tax  
30 commission and recommending the adoption of an ordinance for termination of  
31 the revenue allocation area by December 31 of the current year and declaring  
32 a surplus to be distributed as described in section 50-2909, Idaho Code,  
33 should a surplus be determined to exist. The agency shall cause the ordi-  
34 nance to be filed with the office of the county recorder and the Idaho state  
35 tax commission as provided in section 63-215, Idaho Code. Upon notification  
36 of revenues sufficient to cover expenses as provided herein, the increment  
37 value of that revenue allocation area shall be included in the net taxable  
38 value of the appropriate taxing districts when calculating the subsequent  
39 property tax levies pursuant to section 63-803, Idaho Code. The increment  
40 value shall also be included in subsequent notification of taxable value for  
41 each taxing district pursuant to section 63-1312, Idaho Code, and subsequent  
42 certification of actual and adjusted market values for each school district  
43 pursuant to section 63-315, Idaho Code.

44 (6) "Clerk" means the clerk of the municipality.

45 (7) "Competitively disadvantaged border community area" means a parcel  
46 of land consisting of at least forty (40) acres ~~which~~ that is situated within  
47 the jurisdiction of a county or an incorporated city and within twenty-five  
48 (25) miles of a state or international border, which the governing body of  
49 such county or incorporated city has determined by ordinance is disadvan-  
50 taged in its ability to attract business, private investment, or commercial

1 development, as a result of a competitive advantage in the adjacent state or  
2 nation resulting from inequities or disparities in comparative sales taxes,  
3 income taxes, property taxes, population or unique geographic features.

4 (8) "Deteriorated area" means:

5 (a) Any area, including a slum area, in which there is a predominance  
6 of buildings or improvements, whether residential or nonresidential,  
7 which by reason of dilapidation, deterioration, age or obsolescence,  
8 inadequate provision for ventilation, light, air, sanitation, or open  
9 spaces, high density of population and overcrowding, or the existence  
10 of conditions ~~which~~ which that endanger life or property by fire and other  
11 causes, or any combination of such factors, is conducive to ill health,  
12 transmission of disease, infant mortality, juvenile delinquency, or  
13 crime, and is detrimental to the public health, safety, morals or wel-  
14 fare.

15 (b) Any area which by reason of the presence of a substantial number of  
16 deteriorated or deteriorating structures, predominance of defective or  
17 inadequate street layout, faulty lot layout in relation to size, ade-  
18 quacy, accessibility or usefulness, insanitary or unsafe conditions,  
19 deterioration of site or other improvements, diversity of ownership,  
20 tax or special assessment delinquency exceeding the fair value of the  
21 land, defective or unusual conditions of title, or the existence of con-  
22 ditions ~~which~~ which that endanger life or property by fire and other causes,  
23 or any combination of such factors, results in economic underdevelop-  
24 ment of the area, substantially impairs or arrests the sound growth of  
25 a municipality, retards the provision of housing accommodations or con-  
26 stitutes an economic or social liability and is a menace to the public  
27 health, safety, morals or welfare in its present condition and use.

28 (c) Any area which is predominately open and which because of obsolete  
29 platting, diversity of ownership, deterioration of structures or im-  
30 provements, or otherwise, results in economic underdevelopment of the  
31 area or substantially impairs or arrests the sound growth of a munici-  
32 pality. The provisions of section 50-2008(d), Idaho Code, shall apply  
33 to open areas.

34 (d) Any area which the local governing body certifies is in need of  
35 redevelopment or rehabilitation as a result of a flood, storm, earth-  
36 quake, or other natural disaster or catastrophe respecting which the  
37 governor of the state has certified the need for disaster assistance  
38 under any federal law.

39 (e) Any area which by reason of its proximity to the border of an ad-  
40 jacent state is competitively disadvantaged in its ability to attract  
41 private investment, business or commercial development which would  
42 promote the purposes of this chapter.

43 (f) "Deteriorated area" does not mean not developed beyond agricul-  
44 tural, or any agricultural operation as defined in section 22-4502(1),  
45 Idaho Code, or any forest land as defined in section 63-1701(4), Idaho  
46 Code, unless the owner of the agricultural operation or the forest  
47 landowner of the forest land gives written consent to be included in the  
48 deteriorated area, except for an agricultural operation or forest land  
49 that has not been used for three (3) consecutive years.

1 (9) "Facilities" means land, rights in land, buildings, structures,  
2 machinery, landscaping, extension of utility services, approaches, road-  
3 ways and parking, handling and storage areas, and similar auxiliary and re-  
4 lated facilities.

5 (10) "Increment value" means the total value calculated by summing the  
6 differences between the current equalized value of each taxable property in  
7 the revenue allocation area and that property's current base value on the  
8 base assessment roll, provided such difference is a positive value.

9 (11) "Local governing body" means the city council or board of county  
10 commissioners of a municipality.

11 (12) "Plan" or "urban renewal plan" means a plan, as it exists or may  
12 from time to time be amended, prepared and approved pursuant to sections  
13 50-2008 and 50-2905, Idaho Code, and any method or methods of financing such  
14 plan, which methods may include revenue allocation financing provisions.

15 (13) "Project" or "urban renewal project" or "competitively disadvan-  
16 taged border areas" may include undertakings and activities of a municipal-  
17 ity in an urban renewal area for the elimination of deteriorated or deterio-  
18 rating areas and for the prevention of the development or spread of slums and  
19 blight and may involve slum clearance and redevelopment in an urban renewal  
20 area, or rehabilitation or conservation in an urban renewal area, or any com-  
21 bination or part thereof in accordance with an urban renewal plan. Such un-  
22 dertakings and activities may include:

23 (a) Acquisition of a deteriorated area or a deteriorating area or por-  
24 tion thereof;

25 (b) Demolition and removal of buildings and improvement;

26 (c) Installation, construction, or reconstruction of streets, utili-  
27 ties, parks, playgrounds, open space, off-street parking facilities,  
28 public facilities, public recreation and entertainment facilities or  
29 buildings and other improvements necessary for carrying out, in the ur-  
30 ban renewal area or competitively disadvantaged border community area,  
31 the urban renewal objectives of this act in accordance with the urban  
32 renewal plan or the competitively disadvantaged border community area  
33 ordinance.

34 (d) Disposition of any property acquired in the urban renewal area or  
35 the competitively disadvantaged border community area (including sale,  
36 initial leasing or retention by the agency itself) or the municipality  
37 creating the competitively disadvantaged border community area at its  
38 fair value for uses in accordance with the urban renewal plan except for  
39 disposition of property to another public body;

40 (e) Carrying out plans for a program of voluntary or compulsory repair  
41 and rehabilitation of buildings or other improvements in accordance  
42 with the urban renewal plan;

43 (f) Acquisition of real property in the urban renewal area or the com-  
44 petitively disadvantaged border community area ~~which~~ that, under the  
45 urban renewal plan, is to be repaired or rehabilitated for dwelling use  
46 or related facilities, repair or rehabilitation of the structures for  
47 guidance purposes, and resale of the property;

48 (g) Acquisition of any other real property in the urban renewal area  
49 or competitively disadvantaged border community area where necessary  
50 to eliminate unhealthful, insanitary or unsafe conditions, lessen den-

1 sity, eliminate obsolete or other uses detrimental to the public wel-  
2 fare, or otherwise to remove or to prevent the spread of blight or dete-  
3 rioration, or to provide land for needed public facilities or where nec-  
4 essary to accomplish the purposes for which a competitively disadvan-  
5 taged border community area was created by ordinance;

6 (h) Lending or investing federal funds; and

7 (i) Construction of foundations, platforms and other like structural  
8 forms.

9 (14) "Project costs" includes, but is not limited to:

10 (a) Capital costs, including the actual costs of the construction of  
11 public works or improvements, facilities, buildings, structures, and  
12 permanent fixtures; the demolition, alteration, remodeling, repair or  
13 reconstruction of existing buildings, structures, and permanent fix-  
14 tures; the acquisition of equipment; and the clearing and grading of  
15 land;

16 (b) Financing costs, including interest during construction and capi-  
17 talized debt service or repair and replacement or other appropriate re-  
18 serves;

19 (c) Real property assembly costs, meaning any deficit incurred from the  
20 sale or lease by a municipality of real or personal property within a  
21 revenue allocation district;

22 (d) Professional service costs, including those costs incurred for ar-  
23 chitectural, planning, engineering, and legal advice and services;

24 (e) Direct administrative costs, including reasonable charges for the  
25 time spent by city or county employees in connection with the implemen-  
26 tation of a project plan;

27 (f) Relocation costs;

28 (g) Other costs incidental to any of the foregoing costs.

29 (15) "Revenue allocation area" means that portion of an urban renewal  
30 area or competitively disadvantaged border community area where the equal-  
31 ized assessed valuation (as shown by the taxable property assessment rolls)  
32 of which the local governing body has determined, on and as a part of an urban  
33 renewal plan, is likely to increase as a result of the initiation of an urban  
34 renewal project or competitively disadvantaged border community area. The  
35 base assessment roll or rolls of revenue allocation area or areas shall not  
36 exceed at any time ten percent (10%) of the current assessed valuation of all  
37 taxable property within the municipality.

38 (16) "State" means the state of Idaho.

39 (17) "Tax" or "taxes" means all property tax levies upon taxable prop-  
40 erty.

41 (18) "Taxable property" means taxable real property, personal prop-  
42 erty, operating property, or any other tangible or intangible property  
43 included on the equalized assessment rolls.

44 (19) "Taxing district" means a taxing district as defined in section  
45 63-201, Idaho Code, as that section now exists or may hereafter be amended.

46 (20) "Termination date" means a specific date no later than twenty (20)  
47 years from the effective date of an urban renewal plan or as described in sec-  
48 tion 50-2904, Idaho Code, on which date the plan shall terminate. Every ur-  
49 ban renewal plan shall have a termination date that can be modified or ex-  
50 tended subject to the twenty (20) year maximum limitation. Provided how-

1 ever, the duration of a revenue allocation financing provision may be ex-  
2 tended as provided in section 50-2904, Idaho Code.

3 SECTION 2. That Section 63-3622VV, Idaho Code, be, and the same is  
4 hereby amended to read as follows:

5 63-3622VV. IDAHO INFORMATION TECHNOLOGY EQUIPMENT. (1) On and after  
6 July 1, 2020, there is exempted from the taxes imposed by this chapter the  
7 purchase or use of eligible server equipment and new data center facilities,  
8 as defined in this section. The exemption provided in this section shall be  
9 available only to qualifying business entities and contractors installing  
10 eligible server equipment or building new data center facilities for qual-  
11 ifying business entities. The exemption provided in this section shall not  
12 be available for property that has been the subject of business incentives  
13 granted to a taxpayer or its affiliates, pursuant to the Idaho reimbursement  
14 incentive act, sections 67-4737 through 67-4744, Idaho Code.

15 (2) As used in this section:

16 (a) "Business entity" means a separate legal entity or separately oper-  
17 ated segment of business that exists for the primary purpose of engaging  
18 in a commercial activity for profit and whose sole purpose is the oper-  
19 ation of a data center. For the purposes of this section, a separately  
20 operated segment of business is a segment of a business for which sep-  
21 arate records are maintained and that is operated by an employee or em-  
22 ployees whose primary employment responsibility is to operate the busi-  
23 ness segment.

24 (b) "Cabling" means a fiber or copper cable used in data centers to con-  
25 nect information sources to a server or storage device.

26 (c) "Capital investment" means real or tangible personal property that  
27 is purchased for use in Idaho and is used by a business entity for the  
28 purpose of operating a data center.

29 (d) "Chiller" means a cooling system used in data centers to remove heat  
30 from an element and deposit it into another element.

31 (e) "Commencement of operations" means the date on which a certificate  
32 of occupancy is issued for a data center.

33 (f) "Data center" means a facility comprised of one (1) or more build-  
34 ings in Idaho that is used to house eligible server equipment for the  
35 transmission and storage of data where the facility has the following  
36 characteristics:

37 (i) Uninterruptible power supplies, generator power, or both;

38 (ii) Sophisticated fire suppression and prevention systems; and

39 (iii) Enhanced physical security and restricted access.

40 (g) "Eligible server equipment" means new server equipment acquired  
41 by a qualifying business entity as described in this subsection that is  
42 maintained and operated in a data center located in Idaho for the sole  
43 purpose of data transmission and storage services, providing data and  
44 transaction processing services, information technology services, or  
45 computer collocation services. "Eligible server equipment" includes  
46 servers, rack servers, chillers, storage devices, generators, cabling,  
47 and enabling software integral to or installed on such equipment.

48 (h) "Generator" means an engine used in data centers to convert mechan-  
49 ical energy into electricity.

1 (i) "New data center facilities" means buildings or structural com-  
2 ponents of buildings, including equipment, materials, and fixtures  
3 thereof, that are used in or intended for use primarily as a data center  
4 in Idaho.

5 (j) "New jobs" means new jobs created in Idaho that are nonseasonal,  
6 full-time jobs that collectively pay an average weekly wage that equals  
7 or exceeds the average weekly wage for the county where the data center  
8 is located, as determined by the most recent report of the United States  
9 bureau of labor statistics. A job that merely changes locations within  
10 the state of Idaho shall not be considered a new job under this section.  
11 New jobs must exceed the business entity's highest number of full-time  
12 employees in Idaho during the twenty-four (24) months immediately pre-  
13 ceding the commencement of operations of the data center.

14 (k) "Qualifying business entity" means a business entity that certi-  
15 fies to the state tax commission that it will make capital investments  
16 in one (1) or more data centers after July 1, 2020, in amounts of at  
17 least two hundred fifty million dollars (\$250,000,000) in the aggre-  
18 gate within the first five (5) years after commencement of construction  
19 and that it will create and maintain at least thirty (30) new jobs at  
20 the data center within two (2) calendar years after the commencement of  
21 operations. Such business entities shall be entitled to a provisional  
22 exemption pursuant to this section during the period in which they make  
23 capital investments in data center property. If a business entity fails  
24 to meet the investment and job creation requirements provided within  
25 the time periods required in this section, the provisional exemption  
26 shall be deemed invalidated and it shall pay sales or use taxes that  
27 would have been due if not for the granting of the provisional exemp-  
28 tion. If a business entity ~~meets~~ issues a final certification to the  
29 state tax commission that it has met the investment and job creation  
30 requirements provided within the time periods required in this sec-  
31 tion, its provisional exemption shall become final without further  
32 action, and thereafter the exemption shall also apply to all additional  
33 purchases of eligible server equipment and purchases associated with  
34 constructing new data center facilities.

35 (l) "Rack server" means a computer in a data center dedicated to use as a  
36 server and designed to be installed in a framework called a rack.

37 (m) "Server" means a computer or computer program used in data centers  
38 that manages access to a centralized resource or service in a network.

39 (n) "Storage device" means a piece of computer equipment on which in-  
40 formation can be stored and that is used in data centers.

41 (3) The state tax commission may promulgate rules to administer and  
42 enforce the provisions of this section, including the promulgation of rules  
43 relating to the provision of information necessary to certify that the  
44 taxpayer satisfies the criteria for a qualifying business entity. For the  
45 purpose of carrying out its duties to administer and enforce the provisions  
46 of this section, the state tax commission shall have the powers and duties  
47 provided by sections 63-217, 63-3038, 63-3039, 63-3042 through 63-3067,  
48 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

49 (4) For property that is located within a revenue allocation area, as  
50 that term is defined in section 50-2903, Idaho Code, and owned, leased, or

1 used in the operations of any business or entity receiving the sales tax ex-  
2 emption under this section:

3 (a) When the qualifying business entity makes the certification to the  
4 state tax commission pursuant to subsection (2) (k) of this section, the  
5 state tax commission shall, within thirty (30) days of the certifica-  
6 tion, notify the county clerk of the county in which the property of the  
7 qualifying business entity is located of the certification. Once the  
8 certification to the state tax commission and the notification to the  
9 county clerk have been made, the certification and notification shall  
10 remain in effect and are not required in subsequent years, except as  
11 provided in paragraph (b) of this subsection.

12 (b) In the event the qualifying business entity's provisional exemp-  
13 tion under this section is invalidated pursuant to subsection (2) (k) of  
14 this section, the state tax commission shall notify the county clerk of  
15 the county in which the property of the qualifying business entity is  
16 located within thirty (30) days of the invalidation of the exemption.

17 (c) Disclosure by the state tax commission of the information required  
18 in this subsection is permitted and mandatory under this subsection and  
19 shall not constitute a violation of section 63-3076, Idaho Code, or sec-  
20 tion 63-3634, Idaho Code.

21 SECTION 3. An emergency existing therefor, which emergency is hereby  
22 declared to exist, this act shall be in full force and effect on and after its  
23 passage and approval.