

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 159

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 50-2903, IDAHO CODE, TO PROVIDE FOR
2 THE TREATMENT OF CERTAIN PROPERTY LOCATED WITHIN A REVENUE ALLOCATION
3 AREA AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3622VV,
4 IDAHO CODE, TO REVISE PROVISIONS REGARDING A QUALIFYING BUSINESS ENTITY
5 FOR THE IDAHO INFORMATION TECHNOLOGY EQUIPMENT SALES TAX EXEMPTION;
6 PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND PROVIDING
7 RETROACTIVE APPLICATION.
8

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

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

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

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

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

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

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

1 to section 63-3622VV, Idaho Code, any increase in valuation due to property
2 owned, leased, or used in the operation of any such business or entity lo-
3 cated in a revenue allocation area for which no bonds have been issued pur-
4 suant to section 50-2909, Idaho Code, as of February 15, 2023, shall be added
5 to the base assessment roll in the current tax year. If the exemption is in-
6 validated because the claimant has not met the requirements for the exemp-
7 tion pursuant to section 63-3622VV, Idaho Code, and the county clerk is so
8 notified prior to the fourth Monday in July in any year, the taxable value
9 of property owned or leased by the taxpayer shall be removed from the base
10 assessment roll and added to the increment value as that term is defined in
11 this section. An urban renewal plan containing a revenue allocation financ-
12 ing provision adopted or modified prior to July 1, 2016, is not subject to
13 section 50-2903A, Idaho Code. For plans adopted or modified prior to July
14 1, 2016, and for subsequent modifications of those urban renewal plans, the
15 value of the base assessment roll of property within the revenue allocation
16 area shall be determined as if the modification had not occurred.

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

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

47 (7) "Competitively disadvantaged border community area" means a parcel
48 of land consisting of at least forty (40) acres ~~which~~ that is situated within
49 the jurisdiction of a county or an incorporated city and within twenty-five
50 (25) miles of a state or international border, which the governing body of

1 such county or incorporated city has determined by ordinance is disadvan-
2 tagged in its ability to attract business, private investment, or commercial
3 development, as a result of a competitive advantage in the adjacent state or
4 nation resulting from inequities or disparities in comparative sales taxes,
5 income taxes, property taxes, population or unique geographic features.

6 (8) "Deteriorated area" means:

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

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

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

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

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

45 (f) "Deteriorated area" does not mean not developed beyond agricul-
46 tural, or any agricultural operation as defined in section 22-4502(1),
47 Idaho Code, or any forest land as defined in section 63-1701(4), Idaho
48 Code, unless the owner of the agricultural operation or the forest
49 landowner of the forest land gives written consent to be included in the

1 deteriorated area, except for an agricultural operation or forest land
2 that has not been used for three (3) consecutive years.

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

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

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

13 (12) "Plan" or "urban renewal plan" means a plan, as it exists or may
14 from time to time be amended, prepared and approved pursuant to sections
15 50-2008 and 50-2905, Idaho Code, and any method or methods of financing such
16 plan, which methods may include revenue allocation financing provisions.

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

25 (a) Acquisition of a deteriorated area or a deteriorating area or por-
26 tion thereof;

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

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

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

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

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

1 (g) Acquisition of any other real property in the urban renewal area
2 or competitively disadvantaged border community area where necessary
3 to eliminate unhealthful, insanitary or unsafe conditions, lessen den-
4 sity, eliminate obsolete or other uses detrimental to the public wel-
5 fare, or otherwise to remove or to prevent the spread of blight or dete-
6 rioration, or to provide land for needed public facilities or where nec-
7 essary to accomplish the purposes for which a competitively disadvan-
8 taged border community area was created by ordinance;

9 (h) Lending or investing federal funds; and

10 (i) Construction of foundations, platforms and other like structural
11 forms.

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

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

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

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

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

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

30 (f) Relocation costs;

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

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

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

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

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

47 (19) "Taxing district" means a taxing district as defined in section
48 63-201, Idaho Code, as that section now exists or may hereafter be amended.

49 (20) "Termination date" means a specific date no later than twenty (20)
50 years from the effective date of an urban renewal plan or as described in sec-

1 tion 50-2904, Idaho Code, on which date the plan shall terminate. Every ur-
2 ban renewal plan shall have a termination date that can be modified or ex-
3 tended subject to the twenty (20) year maximum limitation. Provided how-
4 ever, the duration of a revenue allocation financing provision may be ex-
5 tended as provided in section 50-2904, Idaho Code.

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

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

18 (2) As used in this section:

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

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

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

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

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

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

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

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

42 (iii) Enhanced physical security and restricted access.

43 (g) "Eligible server equipment" means new server equipment acquired
44 by a qualifying business entity as described in this subsection that is
45 maintained and operated in a data center located in Idaho for the sole
46 purpose of data transmission and storage services, providing data and
47 transaction processing services, information technology services, or
48 computer collocation services. "Eligible server equipment" includes

1 servers, rack servers, chillers, storage devices, generators, cabling,
2 and enabling software integral to or installed on such equipment.

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

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

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

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

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

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

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

45 (3) The state tax commission may promulgate rules to administer and
46 enforce the provisions of this section, including the promulgation of rules
47 relating to the provision of information necessary to certify that the
48 taxpayer satisfies the criteria for a qualifying business entity. For the
49 purpose of carrying out its duties to administer and enforce the provisions
50 of this section, the state tax commission shall have the powers and duties

1 provided by sections 63-217, 63-3038, 63-3039, 63-3042 through 63-3067,
2 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

3 (4) For property that is located within a revenue allocation area, as
4 that term is defined in section 50-2903, Idaho Code, and owned, leased, or
5 used in the operations of any business or entity receiving the sales tax ex-
6 emption under this section:

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

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

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

25 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
26 to be severable and if any provision of this act or the application of such
27 provision to any person or circumstance is declared invalid for any reason,
28 such declaration shall not affect the validity of the remaining portions of
29 this act.

30 SECTION 4. An emergency existing therefor, which emergency is hereby
31 declared to exist, this act shall be in full force and effect on and after its
32 passage and approval, and retroactively to February 15, 2023.