

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 215

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1
2 RELATING TO THE IDAHO REIMBURSEMENT INCENTIVE ACT; AMENDING SECTION
3 67-4738, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION
4 67-4740, IDAHO CODE, TO REQUIRE THAT A REIMBURSEMENT INCENTIVE CONTRACT
5 SHALL PROHIBIT THE REIMBURSEMENT OF A TAX THAT HAS BEEN OR WILL BE REIM-
6 BURSED BY THE FEDERAL GOVERNMENT.

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

8 SECTION 1. That Section 67-4738, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 67-4738. DEFINITIONS. As used in sections 67-4737 through 67-4744,
11 Idaho Code:

12 (1) "Applicant" means a business entity that intends to create new jobs
13 and submits an application for reimbursement to the department in accordance
14 with this act.

15 (2) "Application" means a form approved by the director of the depart-
16 ment containing all information required by the provisions of this act.

17 (3) "Approved percentage" means the amount of new state revenue the ap-
18 plicant is entitled to receive in the form of a tax credit over the term of the
19 project. The approved percentage shall not exceed thirty percent (30%) of
20 the new state revenue over the term of the project subject to the criteria as
21 established by rules.

22 (4) "Business entity" means a single business, a separate division,
23 branch or identifiable segment, or a group of businesses related through
24 ownership pursuant to section 267 of the Internal Revenue Code. For the
25 purpose of this subsection, a "separate division, branch, or identifiable
26 segment" shall be deemed to exist if, prior to the date of application, the
27 income and expense attributable to such "separate division, branch, or iden-
28 tifiable segment" could be separately ascertained from the books of accounts
29 and records.

30 (5) "Community match" means a commitment by the local government that
31 demonstrates its active support of the applicant creating new jobs in its ju-
32 risdiction. Such match may include, but shall not be limited to, a contri-
33 bution of money, fee waivers, in-kind services, the provision of infrastruc-
34 ture or a combination thereof. Such match shall also include a letter of com-
35 mitment by the governing elected officials of the jurisdiction detailing the
36 local government's support that shall be included as part of an application.

37 (6) "Council" means the economic advisory council created pursuant to
38 chapter 47, title 67, Idaho Code.

39 (7) "Department" means the Idaho department of commerce.

40 (8) "Director" means the director of the Idaho department of commerce.

41 (9) "Full-time job" means a job in which an individual is employed by
42 the applicant and performs such duties at least thirty (30) hours per week.

1 (10) "Meaningful project" means an expansion of an existing business
2 located in Idaho or the creation of new business operations in Idaho that
3 generate the minimum required new jobs and otherwise qualify under the pro-
4 visions of this act.

5 (11) "Minimum new jobs" means new jobs created by the applicant that
6 shall be not less than twenty (20) such jobs over the term of the project if
7 created within a rural community, or not less than fifty (50) such jobs over
8 the term of the project if created within an urban community. An applicant
9 will not be eligible for tax credit during the term of the project until the
10 minimum new jobs have been added.

11 (12) "New jobs" means new jobs created in Idaho in accordance with this
12 act that are nonseasonal, full-time jobs that collectively pay an average
13 annual wage that equals or exceeds the average annual county wage of the
14 county with jurisdiction over the local government providing the appli-
15 cant's community match. For purposes of this act, a job that shifts from
16 one (1) location within the state of Idaho to another location shall not be
17 considered a new job. New jobs must exceed the applicant's maximum number of
18 full-time jobs in Idaho during the twelve (12) months immediately preceding
19 the date of application.

20 (13) "New state revenue" means the Idaho portion of state corporate in-
21 come tax or franchise tax, personal income tax and sales and use tax that is
22 paid by the applicant in excess of those taxes paid at the date of applica-
23 tion and is attributable only to the new growth upon which the application is
24 based. New state revenue does not include taxes paid during the term that is
25 attributable to those operations that existed prior to the application and
26 does not include taxes that are reimbursable by the federal government or any
27 subdivision thereof. New state revenue shall include:

28 (a) Incremental new state sales and use tax revenues as governed by
29 chapter 36, title 63, Idaho Code, that have been paid by the applicant on
30 their own purchases as a result of a meaningful project;

31 (b) Incremental new state income tax or franchise tax, including income
32 or franchise tax generated by corporations, pass-through entities, as
33 defined in section 63-3006C, Idaho Code, or proprietorships, pursuant
34 to chapter 30, title 63, Idaho Code, that have been paid by an applicant
35 as a result of a meaningful project;

36 (c) Incremental new state personal income taxes, as governed by chap-
37 ter 30, title 63, Idaho Code, withheld on behalf of the applicant's em-
38 ployees, resulting from new jobs in a meaningful project, as evidenced
39 by payroll withholding records indicating the amount of employee income
40 taxes withheld and transmitted to the tax commission. Incremental new
41 state personal income taxes shall not exceed the maximum allowable per-
42 centage of gross wages paid during a corresponding period that shall be
43 the lesser of seven percent (7%) or the highest incremental state income
44 tax rate.

45 (14) "Rural community" means, at the time of application, a city with a
46 population of less than twenty-five thousand (25,000) persons or an unincor-
47 porated area within a county.

48 (15) "Tax commission" means the Idaho state tax commission.

49 (16) "Tax credit" means a refundable tax credit authorized by the direc-
50 tor of the department. The tax commission shall make a refund to an appli-

1 cant that is granted a tax credit under this section if the amount of the tax
 2 credit exceeds the applicant's tax liability for a taxable year. The credit
 3 may be used as a credit against the income or franchise tax contained in chap-
 4 ter 30, title 63, Idaho Code.

5 (17) "Tax credit amount" means the amount the department authorizes as a
 6 tax credit for a taxable year.

7 (18) "Term of project" or "term" means the number of years an applicant
 8 is authorized to receive a tax credit under this act that shall not exceed
 9 fifteen (15) years subject to the criteria as established by rules.

10 (19) "Urban community" means, at the time of application, a city with
 11 a population of at least twenty-five thousand (25,000), provided however,
 12 that a city of less than twenty-five thousand (25,000) that is adjoining an
 13 urban community shall be considered urban.

14 SECTION 2. That Section 67-4740, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 67-4740. AGREEMENT WITH APPLICANT. With instruction from the coun-
 17 cil, and in accordance with criteria as established by rules, the director of
 18 the department shall enter into a reimbursement incentive agreement with the
 19 applicant, provided the agreement defines the following in addition to the
 20 terms as approved by the council:

21 (a) The term of the agreement, which in no case shall exceed fifteen
 22 (15) years;

23 (b) The projected new state revenues to be generated during the term of
 24 the project;

25 (c) The method and recordkeeping requirements to be used by the appli-
 26 cant to determine the new state revenue paid by the applicant. The approved
 27 tax credit percentage applied to new state revenue each year the applicant is
 28 entitled to receive the reimbursement during the term of the project;

29 (d) The projected new jobs;

30 (e) The terms and conditions of any and all requirements and measure-
 31 ments that must be met prior to the issuance of a tax credit authorization;

32 (f) The agreed-upon and necessary proof of compliance required prior to
 33 tax credit issuance. Proof of compliance provided by the applicant must be
 34 adequate to demonstrate to the director that all requirements and measure-
 35 ments have been met for the applicant to receive the tax credit;

36 (g) The consequences of default by the applicant;

37 (h) The period to be used to determine the taxes paid at the date of ap-
 38 plication; and

39 (i) Identification of the individual or entity that is or will be claim-
 40 ing the refundable credit.

41 (j) The agreement with the applicant shall specify that no credit will
 42 be allowed for taxes that have been or will be reimbursed by the federal gov-
 43 ernment or any subdivision thereof.