

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 317

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A
2 NEW CHAPTER 46, TITLE 63, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR A
3 PREFERENCE ELECTION FOR COUNTY EXCISE TAX ON COMMERCIAL WIND TURBINES,
4 AND TO PROVIDE FOR COUNTY EXCISE TAX ON COMMERCIAL WIND TURBINES; AND
5 DECLARING AN EMERGENCY.
6

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

8 SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended
9 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
10 ter 46, Title 63, Idaho Code, and to read as follows:

11 CHAPTER 46

12 COUNTY EXCISE TAX ON COMMERCIAL WIND TURBINES

13 63-4601. DEFINITIONS. For the purposes of this chapter:

14 (1) "Commercial wind turbine" means a wind energy conversion system
15 with a nameplate capacity of fifty (50) kilowatts or more that is designed,
16 intended, or operated to generate electricity for sale, lease, or other
17 commercial use. "Commercial wind turbine" shall also mean any complete set
18 of component parts of a commercial wind turbine if such component parts are
19 intended to be assembled into a functioning commercial wind turbine located
20 within the state of Idaho.

21 (2) "Component parts" means any parts, including but not limited to
22 blades, nacelles, towers, foundations, rotors, hubs, generators, gear-
23 boxes, yaw systems, pitch systems, brake systems, control systems, anemome-
24 ters, wind vanes, cooling systems, transformers, and power cables, intended
25 for use in the construction of a commercial wind turbine.

26 (3) "Height" means the distance measured from the base of the wind tur-
27 bine to the highest point of the blade at its maximum vertical position.

28 (4) "Intended height" means the height that a commercial wind turbine
29 is designed to reach once fully constructed, as specified in the project
30 plans or technical specifications.

31 (5) "Nameplate capacity" means the maximum electrical generating out-
32 put, in kilowatts or megawatts, that a wind turbine or other electric power
33 production equipment can supply, as designated by the manufacturer and indi-
34 cated on a nameplate physically attached to the equipment.

35 63-4602. PREFERENCE ELECTION FOR COUNTY EXCISE TAX ON COMMERCIAL WIND
36 TURBINES. (1) As soon as practical after receiving notice that a proposal
37 to install any commercial wind turbine within the boundaries of a county,
38 the board of county commissioners of such county shall prepare, approve, and
39 submit a ballot question to the qualified electors of the county where such
40 commercial wind turbine is proposed to be constructed or installed seeking

1 whether such electors approve of the proposal to install the commercial wind
2 turbines.

3 (2) The voter preference election shall be held on the next available
4 election date as specified in section 34-106, Idaho Code, provided that at
5 least ninety (90) days have elapsed since the board of county commissioners
6 approved the ballot question provided in subsection (1) of this section. If
7 the next available election date is less than ninety (90) days from the date
8 of such approval, the vote shall be scheduled for the following available
9 election date as specified in section 34-106, Idaho Code.

10 (3) The ballot question shall contain a brief description of the pro-
11 posed commercial wind turbine project, a map of the proposed project that
12 shall include a depiction of the county and the location of the proposed
13 commercial wind turbine or turbines within the county, the text of section
14 63-4603, Idaho Code, and the following question: "Do you approve of the pro-
15 posed commercial wind turbine project in [county name] county as depicted in
16 the description and map provided on your ballot?". Voters shall be given the
17 option to vote "Yes" or "No".

18 (4) The results of the preference election shall be publicly posted by
19 the board of county commissioners within ten (10) days of the election. If a
20 majority of the electors of the county disapprove of the proposed commercial
21 wind turbine project in response to the ballot question pursuant to subsec-
22 tion (3) of this section, the county commissioners shall immediately enact
23 an ordinance establishing a county-wide excise tax on commercial wind tur-
24 bines in accordance with the provisions of section 63-4603, Idaho Code.

25 63-4603. COUNTY EXCISE TAX ON COMMERCIAL WIND TURBINES.

26 (1) (a) Upon the enactment of a county ordinance pursuant to section
27 63-4602, Idaho Code, there shall be imposed a one-time excise tax on the
28 storage, use, or other consumption in the boundaries of such county of
29 any commercial wind turbine with a height exceeding one hundred (100)
30 feet. The excise tax shall be calculated based on the full height of
31 the commercial wind turbine at a rate of twenty-five thousand dollars
32 (\$25,000) per foot in height, subject to an annual inflation adjustment
33 as provided in this subsection. The excise tax imposed by this sec-
34 tion shall apply to only the first instance of storage, use, or other
35 consumption of the commercial wind turbine within the boundaries of
36 a county and shall not be imposed on subsequent changes in ownership
37 occurring within the same county. However, if such commercial wind tur-
38 bine is sold to be installed in a different county that has also adopted
39 the excise tax pursuant to this section, the excise tax under this sec-
40 tion shall be imposed for the storage, use, or other consumption of the
41 commercial wind turbine for that county.

42 (b) Starting January 1, 2026, and each year thereafter, the state tax
43 commission shall establish an inflation adjustment factor that shall be
44 used to adjust the excise tax amount provided in paragraph (a) of this
45 subsection so that it increases at the same rate as inflation. The in-
46 flation adjustment factor shall be calculated annually by dividing the
47 consumer price index for all United States urban consumers, published
48 by the United States department of labor as of the close of the twelve
49 (12) month period for the immediately preceding calendar year, by the

1 same index as of the close of the twelve (12) month period for the prior
2 year. The resulting number shall then be multiplied by the current ex-
3 cise tax amount to establish the new tax amount to be imposed in the next
4 year. This adoption shall be exempt from the provisions of chapter 52,
5 title 67, Idaho Code.

6 (2) (a) A county that adopts an excise tax pursuant to this section shall
7 contract with the state tax commission for the collection and adminis-
8 tration of the tax.

9 (b) The excise tax imposed under this section for commercial wind
10 turbines located outside of the county at the time of acquisition by
11 the owner shall be assessed at the time the commercial wind turbine is
12 transported into the boundaries of the county that has enacted the ex-
13 cise tax.

14 (c) The excise tax imposed under this section for commercial wind tur-
15 bines located within the boundaries of a county at the time of acquisi-
16 tion by the owner shall be assessed at the time of acquisition.

17 (d) The owner of a commercial wind turbine that is located within the
18 boundaries of a county that has enacted an excise tax under this chapter
19 shall file with the state tax commission no later than January 1 of the
20 year following the owner's acquisition of such commercial wind turbine,
21 on forms to be prescribed by the state tax commission, a report that
22 includes where such commercial wind turbine was acquired, what county
23 such commercial wind turbine is located within the state as of January 1
24 of the year the taxes are due, the intended height of the commercial wind
25 turbine, and the nameplate capacity of the commercial wind turbine. All
26 taxes shall be due on January 31 and shall be paid to the state tax com-
27 mission.

28 (e) If an owner acquires any component of a commercial wind turbine
29 during a calendar year but has not yet received all component parts nec-
30 essary to construct the commercial wind turbine, its owner shall file a
31 report with the state tax commission no later than January 31 of the year
32 following the acquisition that identifies the component part acquired,
33 provides an estimation of when the owner expects to receive the complete
34 set of all component parts of the commercial wind turbine, and identi-
35 fies the county where the owner intends to install the commercial wind
36 turbine. In the year that an owner acquires the remaining component
37 parts, or such parts are transported into the boundaries of the county
38 in the case of an out-of-county acquisition, such owner shall file with
39 the state tax commission all information required in this subsection
40 and shall no longer be required to file the report required under this
41 paragraph for the component parts. All taxes shall be due on January 31
42 and shall be paid to the state tax commission.

43 (f) All tax revenues collected by the state tax commission pursuant to
44 this section shall be distributed by the state tax commission as fol-
45 lows:

46 (i) An amount of money shall be distributed to the state refund
47 account sufficient to pay current refund claims. All refunds
48 authorized by the state tax commission to be paid shall be paid
49 through the state refund account, and those moneys are continu-
50 ously appropriated.

1 (ii) An amount of money equal to the actual cost of the collection
2 and administration of the tax imposed by the provisions of this
3 section shall be retained by the state tax commission. The amount
4 retained by the commission shall not exceed the amount authorized
5 to be expended by appropriation by the legislature. Any unencum-
6 bered balance in excess of the actual cost at the end of each fis-
7 cal year shall be distributed as provided by subparagraph (iii) of
8 this paragraph.

9 (iii) All remaining moneys collected by the state tax commission
10 through June 30 of the year the taxes were due shall be paid into
11 the school district facilities fund established pursuant to sec-
12 tion 33-911, Idaho Code.

13 (3) The excise tax pursuant to this section shall not be imposed on any
14 commercial wind turbine owned or operated by the United States government,
15 the state of Idaho, any other government entity in the state of Idaho, or an
16 Idaho Indian tribe identified in section 67-4001, Idaho Code.

17 (4) The owner of a commercial wind turbine is liable for the taxes un-
18 der this section with respect to the commercial wind turbine, whether or not
19 the owner of the commercial wind turbine is the owner of the land on which the
20 commercial wind turbine is intended to be located.

21 (5) The state tax commission shall enforce the provisions of this chap-
22 ter and may adopt and promulgate rules, subject to legislative approval,
23 necessary for the implementation and enforcement of the provisions of this
24 chapter. The collection and enforcement procedures provided by the Idaho
25 income tax act, sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042,
26 63-3043, 63-3044, 63-3045, 63-3045B, 63-3046, 63-3047, 63-3048, 63-3049,
27 63-3050 through 63-3064, 63-3065A, 63-3071, 63-3074, and 63-3075, Idaho
28 Code, shall apply and be available to the state tax commission for enforce-
29 ment of the provisions of this chapter and collection of any amounts due
30 under this chapter, and said sections shall, for this purpose, be considered
31 part of this chapter and wherever liens or any other proceedings are defined
32 as income tax liens or proceedings, they shall, when applied in enforcement
33 or collection under this chapter, be described as excise tax liens and pro-
34 ceedings.

35 SECTION 2. An emergency existing therefor, which emergency is hereby
36 declared to exist, this act shall be in full force and effect on and after its
37 passage and approval.