

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 719

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO REVENUE AND TAXATION AND INCOME TAX CREDIT FOR INFRASTRUCTURE AND FACILITIES INVESTMENT; PROVIDING LEGISLATIVE FINDINGS; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 63, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR A CREDIT AGAINST CERTAIN TAXES IMPOSED, TO PROVIDE FOR A MAXIMUM ALLOWABLE CREDIT, TO DEFINE TERMS, TO PROVIDE THAT THE AMOUNT OF THE CREDIT ALLOWED SHALL NOT EXCEED A CERTAIN AMOUNT, TO PROVIDE PROVISIONS RELATING TO CREDIT CARRYOVER, TO PROVIDE PROVISIONS RELATING TO INSTANCES WHERE A GROUP OF CORPORATIONS FILE A COMBINED REPORT, TO PROVIDE FOR RECAPTURE OF CREDIT AND TO PROVIDE FOR RULES; PROVIDING AN EFFECTIVE DATE AND PROVIDING A SUNSET DATE.

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

SECTION 1. LEGISLATIVE FINDINGS. The Legislature hereby finds that there is a need to encourage the acquisition, construction, installation or equipping of new infrastructure and facilities which will stimulate economic development and increase or maintain employment opportunities in this state.

SECTION 2. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 63, Idaho Code, and to read as follows:

CHAPTER 46

IDAHO INFRASTRUCTURE AND FACILITIES INVESTMENT INCENTIVE ACT OF 2010

63-4601. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Infrastructure and Facilities Investment Incentive Act of 2010."

63-4602. INCOME TAX CREDIT FOR INFRASTRUCTURE AND FACILITIES INVESTMENT. (1) Effective January 1, 2011, at the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

- (a) The tax credit carryovers; and
- (b) The tax credit for the taxable year.

Projects qualifying for the credit provided for in this section shall also not be eligible for the credit provided for in sections 63-3029B, 63-3029M, 63-4403 and 63-4404, Idaho Code.

(2) The maximum allowable amount of the credit for the current taxable year shall be twenty percent (20%) of the amount of qualified investments in new infrastructure and facilities during the taxable year.

(3) As used in this section, the following terms have the following meanings:

1 (a) "Facilities" means the structural components of buildings or
2 plants including related business office facilities and other building
3 facilities intended to produce or facilitate the production of tangible
4 goods or directly related to the manufacturing business.

5 (b) "Infrastructure" means permanent improvements to property in
6 Idaho intended to facilitate the production and delivery of goods and
7 commerce including, but not limited to, residential, commercial and
8 industrial development. The term includes, but is not limited to, pri-
9 vate roads, bridges and parking facilities; pipelines; loading docks;
10 railroads and related structures; telecommunications cable, wire and
11 electronics in the outside plant network; residential, commercial or
12 industrial development water and waste water systems; mines and related
13 structures associated with mineral extraction and processing; and
14 utility systems and related components for electricity and natural gas.
15 Infrastructure does not include residential housing units.

16 (c) "Qualified investments" means new structural components of infra-
17 structure and facilities purchased for the construction, reconstruc-
18 tion, erection, assembly or expansion of infrastructure or facilities
19 used for agricultural, timber and lumber, mining, transportation,
20 telecommunication, residential development or other commercial or
21 industrial purposes in Idaho.

22 (d) "Taxpayer" means the ultimate owner or investor of projects quali-
23 fying for the credit.

24 (4) Notwithstanding the provisions of subsections (1) and (2) of this
25 section, the amount of the credit allowed shall not exceed fifty percent
26 (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer
27 shall be the tax after deducting the credit allowed by section 63-3029, Idaho
28 Code.

29 (5) If the sum of credit carryovers from the credit allowed by subsec-
30 tion (2) of this section and the amount of credit for the taxable year from
31 the credit allowed by subsection (2) of this section exceed the limitation
32 imposed by subsection (4) of this section for the current taxable year,
33 the excess attributable to the current taxable year's credit shall be an
34 investment credit carryover not to exceed seven (7) succeeding taxable
35 years. In the case of a group of corporations filing a combined report under
36 section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho
37 Code, credit earned by one (1) member of the group but not used by that member
38 may be used by another member of the group, subject to the provisions of
39 subsection (4) of this section, instead of carried over. The entire amount
40 of unused credit shall be carried forward to the earliest of the succeeding
41 years, wherein the oldest available unused credit shall be used first,
42 so long as the qualified infrastructure investment of which the unused
43 credit was granted still maintains an Idaho situs. For a combined group of
44 corporations, credit carried forward may be claimed by any member of the
45 group unless the member who earned the credit is no longer included in the
46 combined group.

47 (6) (a) In the event that an investment in regard to which the election
48 under this section was made is determined by the state tax commission:

49 (i) To not be a qualified investment; or

50 (ii) To have ceased to qualify during the recapture period; or

1 (iii) To be otherwise not qualified for the election,
2 the taxpayer shall be subject to recapture of the tax credit.

3 (b) The recapture of credit under this section shall be in the same pro-
4 portion and subject to the same provisions as the amount of credit re-
5 quired to be recaptured under section 63-3029B, Idaho Code.

6 63-4603. RULES. The state tax commission is authorized to promulgate
7 rules to implement the provisions of this chapter. In developing such rules,
8 this chapter shall be liberally construed to accomplish the intentions ex-
9 pressed herein.

10 SECTION 3. This act shall be in full force and effect on and after Jan-
11 uary 1, 2011. The provisions of this act shall be null, void and of no force
12 and effect on and after January 1, 2016.