

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 609

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3622VV, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING THE IDAHO INFORMATION TECHNOLOGY EQUIPMENT SALES TAX
3 EXEMPTION; AMENDING SECTION 63-4502, IDAHO CODE, TO LIMIT ELIGIBILITY
4 FOR THE TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS AND TO MAKE TECHNICAL
5 CORRECTIONS; AND DECLARING AN EMERGENCY.
6

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

8 SECTION 1. That Section 63-3622VV, Idaho Code, be, and the same is
9 hereby amended to read as follows:

10 63-3622VV. IDAHO INFORMATION TECHNOLOGY EQUIPMENT. (1) On and after
11 July 1, 2020, and before July 1, 2036, there is exempted from the taxes
12 imposed by this chapter the purchase or use of eligible server equipment
13 ~~and new data center facilities~~, as defined in this section. The exemption
14 provided in this section shall be available only to qualifying business
15 entities and contractors installing eligible server equipment ~~or building~~
16 ~~new data center facilities~~ for qualifying business entities. The exemption
17 provided in this section shall not be available for property that has been
18 the subject of business incentives granted to a taxpayer or its affiliates,
19 pursuant to the Idaho reimbursement incentive act, sections 67-4737 through
20 67-4744, Idaho Code.

21 (2) As used in this section:

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

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

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

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

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

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

- 1 (i) Uninterruptible power supplies, generator power, or both;
 2 (ii) Sophisticated fire suppression and prevention systems; and
 3 (iii) Enhanced physical security and restricted access.

4 (g) "Eligible server equipment" means new server equipment acquired
 5 by a qualifying business entity as described in this subsection that is
 6 maintained and operated in a data center located in Idaho for the sole
 7 purpose of data transmission and storage services, providing data and
 8 transaction processing services, information technology services, or
 9 computer collocation services. "Eligible server equipment" includes
 10 servers, rack servers, chillers, storage devices, generators, cabling,
 11 and enabling software integral to or installed on such equipment.

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

14 ~~(i) "New data center facilities" means buildings or structural com-~~
 15 ~~ponents of buildings, including equipment, materials, and fixtures~~
 16 ~~thereof, that are used in or intended for use primarily as a data center~~
 17 ~~in Idaho.~~

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

27 ~~(k)~~ (j) (i) "Qualifying business entity" means a business entity
 28 that certifies to the state tax commission that it will ~~make:~~

29 1. Make capital investments in one (1) or more data centers
 30 after July 1, 2020, in amounts of at least two hundred fifty
 31 million dollars (\$250,000,000) in the aggregate within the
 32 first five (5) years after commencement of construction and
 33 that it will create;

34 2. Create and maintain at least thirty (30) new jobs at the
 35 data center within two (2) calendar years after the com-
 36 menement of operations;

37 3. For a qualifying business entity that receives an exemp-
 38 tion provided in this section after March 1, 2026, receive
 39 electricity service under an electricity rate schedule or
 40 energy service agreement that fully recovers from the qual-
 41 ifying business entity all costs incurred by the utility in
 42 providing electricity to the property for which the exemp-
 43 tion is claimed; and

44 4. For a qualifying business entity that receives an exemp-
 45 tion provided in this section after March 1, 2026, prior to
 46 commencing construction of a data center, provide written
 47 notice to the local water provider serving such proposed
 48 data center's location detailing the anticipated water con-
 49 sumption needs of the data center to ensure that the water
 50 consumption is compatible with the location in which the

1 data center is being constructed. A qualifying business
 2 entity is encouraged to take action to conserve, reuse, and
 3 replace water. This includes but is not limited to:

- 4 (A) Using water-efficient fixtures and practices;
 5 (B) Treating, infiltrating, or harvesting rainwater;
 6 (C) Recirculating or recycling water within the cool-
 7 ing system before discharging;
 8 (D) Partnering with state and local governmental en-
 9 tities and private individuals and entities to use data
 10 center discharge water for irrigation, water conserva-
 11 tion, or other beneficial purposes, if available;
 12 (E) Using reclaimed water where possible for data cen-
 13 ter operations; and
 14 (F) Supporting water restoration efforts in local wa-
 15 tersheds.

16 (ii) Such business entities shall be entitled to a provisional
 17 exemption pursuant to this section during the period in which they
 18 make capital investments in data center property. If a business
 19 entity fails to meet the ~~investment and job creation~~ requirements
 20 provided within the time periods required in this section, it
 21 shall pay sales or use taxes that would have been due if not for the
 22 granting of the provisional exemption. If a business entity meets
 23 the ~~investment and job creation~~ requirements provided within the
 24 time periods required in this section, its provisional exemption
 25 shall become final without further action, and thereafter the ex-
 26 emption shall also apply to all additional purchases of eligible
 27 server equipment and ~~purchases associated with constructing new~~
 28 ~~data center facilities.~~

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

31 ~~(m)~~ (l) "Server" means a computer or computer program used in data cen-
 32 ters that manages access to a centralized resource or service in a net-
 33 work.

34 ~~(n)~~ (m) "Storage device" means a piece of computer equipment on which
 35 information can be stored and that is used in data centers.

36 (3) If any taxpayer receives the exemption provided in section 63-4502,
 37 Idaho Code, on any property owned by the taxpayer in the state of Idaho, such
 38 taxpayer shall not be eligible for the exemption provided in this section.

39 ~~(3)~~ (4) The state tax commission may promulgate rules to administer
 40 and enforce the provisions of this section, including the promulgation of
 41 rules relating to the provision of information necessary to certify that the
 42 taxpayer satisfies the criteria for a qualifying business entity. For the
 43 purpose of carrying out its duties to administer and enforce the provisions
 44 of this section, the state tax commission shall have the powers and duties
 45 provided by sections 63-217, 63-3038, 63-3039, 63-3042 through 63-3067,
 46 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

47 SECTION 2. That Section 63-4502, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 63-4502. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS. (1) For calendar
2 years beginning on or after January 1, 2008, the net taxable value of all
3 property of a taxpayer, whether acquired before, during or after the qual-
4 ifying period, in excess of four hundred million dollars (\$400,000,000) lo-
5 cated within a single county in Idaho shall be exempt from property taxation
6 and any special assessment, but only if the taxpayer makes a qualifying new
7 capital investment as defined in subsection (2) of this section.

8 (2) For purposes of this section, the following definitions shall ap-
9 ply:

10 (a) "Qualifying new capital investment" means an investment of at least
11 one billion dollars (\$1,000,000,000) made during the qualifying period
12 by the acquisition, construction, improvement or installation of real,
13 operating or personal property related to new plant and building facil-
14 ities at a project site located within the county referred to in subsec-
15 tion (1) of this section.

16 (b) "New plant and building facilities" means:

17 (i) Qualified investments as defined in section 63-3029B, Idaho
18 Code; or

19 (ii) Buildings or structural components of buildings, includ-
20 ing equipment, materials and fixtures thereof, whether used at a
21 project site or temporarily stored off-site in the county referred
22 to in subsection (1) of this section and intended for use at a
23 project site.

24 (c) "Qualifying period" means an eighty-four (84) month period of time
25 beginning with the issuance of a building permit for a permanent build-
26 ing structure at a project site and ending no later than eighty-four
27 (84) months thereafter.

28 (d) "Project site" means an area or areas at which the new plant and
29 building facilities described in ~~subsection (2)~~ paragraph (b) of this
30 subsection are built, installed or constructed.

31 (3) The property included in the calculation for purposes of determin-
32 ing a qualifying new capital investment value shall include all real or op-
33 erating property owned, and all personal property owned, leased or rented.
34 With respect to leased or rented personal property, only that portion of the
35 property for which a taxpayer is contractually liable for payment of prop-
36 erty taxes thereon shall be included in the calculation of the investment.

37 (4) Notwithstanding the exemption provided in subsection (4) of sec-
38 tion 63-3029B, Idaho Code, no other exemption from property tax or any spe-
39 cial assessment provided by the statutes of this state shall be applicable
40 to any property described in subsection (2) of this section with respect to a
41 year in which the incentives set forth in subsection (1) of this section ap-
42 ply to any of the same property.

43 (5) Property subject to the provisions of this section shall not be
44 included on any property roll or any new construction roll prepared by the
45 county assessor in accordance with section 63-301 or 63-301A, Idaho Code,
46 respectively.

47 (6) If a taxpayer receives the exemption provided in section 63-3622VV,
48 Idaho Code, such taxpayer shall not be eligible for the exemption provided in
49 this section on any property owned by the taxpayer in the state of Idaho.

1 ~~(6)~~ (7) The state tax commission shall adopt all rules that may be nec-
2 essary to implement the provisions of this section.

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