

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 329

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAXATION; REPEALING SECTION 63-205B, IDAHO CODE, RELATING TO THE ASSESSMENT OF OPERATING PROPERTY OF RATE-REGULATED ELECTRIC UTILITY COMPANIES; AMENDING SECTION 63-405, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ASSESSMENT OF OPERATING PROPERTY; REPEALING SECTION 63-6020, IDAHO CODE, RELATING TO CERTAIN PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602JJ, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROPERTY EXEMPT FROM TAXATION AND TO PROVIDE FOR CERTAIN RATE-REGULATED ELECTRIC UTILITY COMPANIES, RATE-REGULATED AFFILIATED GAS COMPANIES, AND RATE-REGULATED GAS COMPANIES; REPEALING SECTION 63-603, IDAHO CODE, RELATING TO ELECTRIC, OR GAS, PUBLIC UTILITIES PUMPING WATER FOR IRRIGATION OR DRAINAGE, THE REDUCTION OF CERTAIN ASSESSMENTS IN ACCORDANCE WITH AN EXEMPTION, AND THE CREDIT ON CUSTOMERS' BILLS OR PAYMENT TO CONSUMERS; AMENDING SECTION 63-3502B, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE LEVY OF TAX ON CERTAIN ELECTRICAL PRODUCTION AND RATE-REGULATED ELECTRIC UTILITY COMPANIES, RATE-REGULATED AFFILIATED GAS COMPANIES, AND RATE-REGULATED GAS COMPANIES; AMENDING CHAPTER 35, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3502C, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE EXEMPTION OF THE KILO-WATT-HOUR TAX FOR ELECTRICITY USED IN IRRIGATION; AMENDING CHAPTER 35, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3503C, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE CALCULATION, COLLECTION, ALLOTMENT, AND APPORTIONMENT OF TAX DUE FROM RATE-REGULATED ELECTRIC UTILITY COMPANIES, RATE-REGULATED AFFILIATED GAS COMPANIES, AND RATE-REGULATED GAS COMPANIES BY THE STATE TAX COMMISSION; AMENDING SECTION 63-3506, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ASSESSMENT OF PROPERTY BY ASSESSOR; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-205B, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 63-405, Idaho Code, be, and the same is hereby amended to read as follows:

63-405. ASSESSMENT OF OPERATING PROPERTY. (1) The state tax commission must assess ~~all~~ taxable operating property at a meeting of the commission convening on the second Monday of August in each year, and must complete the assessment of such property on the fourth Monday in August.

(2) The state tax commission shall determine the system value and calculate the allocation and apportionment of the system value for ~~all~~ taxable operating property and specifically determine:

(a) The number of miles and the value per mile of each railroad in the state and for each taxing district in which such railroad may exist.

(b) The number of miles and the value per mile of each telephone corporation in the state and for each taxing district in which such telephone corporation may exist.

(c) The number of miles and the value per mile of each pipeline in the state and for each taxing district in which such pipeline may exist.

(d) The number of miles and the value per mile of each water company under the jurisdiction of the public utilities commission in the state, and for each taxing district in which such water company may exist. The value per mile of any line included in this subsection, except railroads, shall be determined by dividing the total value of such line within the state by the number of miles of such line within the state. The value per mile of railroad line shall be determined by apportionment of the total value of line within the state. The apportionment shall be based twenty percent (20%) on the ratio of line miles in the state to line miles in the county; forty percent (40%) on the ratio of net ton miles in the state to net ton miles in the county; and forty percent (40%) on the ratio of station revenues in the state to station revenues in the county. All operating property of railroads shall be apportioned to the counties as part of the railroad line in the county. The apportionment for taxing districts shall be the same as the apportionment among counties.

~~(e) The system value, the number of miles and the value per mile of each electric current transmission line and each electric current distribution line in each county separately, and for each taxing district within said county in which such transmission and distribution lines may exist. The value per mile of any line included in this subsection shall be determined by dividing the apportioned value of such line within each county by the number of miles of such line within said county.~~

~~(f)~~ (e) The system value of private railcar fleets entering or standing in Idaho in the year preceding the constituted lien as provided in section 63-411(3), Idaho Code.

~~(g)~~ (f) The system value and calculate the allocation and apportionment of the system value for all other taxable operating property.

(3) ~~On and after January 1, 2004, any newly installed or constructed equipment located within a city corporate limit or within five (5) miles of a city corporate limit and used for and in conjunction with the thermal generation of electricity shall be apportioned based on physical location. For purposes of this subsection newly installed or constructed equipment used for and in conjunction with the thermal generation of electricity shall not include the remodeling, retrofitting, rehabilitation, refurbishing or modification of an existing electrical generation facility, or integration or transformation facilities such as substations or transmission lines. Notwithstanding the provisions of section 63-301A, Idaho Code, property apportioned based on physical location pursuant to this subsection shall be placed on the new construction roll. For rate-regulated electric utility companies, rate-regulated affiliated gas companies, and rate-regulated gas companies subject to taxation as provided in section 63-3502B(3) or (4), Idaho Code, the state tax commission shall determine the amount of such tax to be apportioned to each county separately in proportion to the property tax levied by all eligible taxing districts and units and amounts allocated~~

to each urban renewal agency statewide in tax year 2025 on the operating property of rate-regulated electric utility companies, rate-regulated affiliated gas companies, and rate-regulated gas companies. The 2025 property tax amounts levied or allocated shall be certified by each county auditor to the state tax commission no later than January 12, 2026. The state tax commission shall calculate proportions by dividing the total amount so reported for each county by the sum of all such amounts for all eligible taxing districts and units and urban renewal agencies statewide. Taxing districts, units, and urban renewal agencies are eligible for a proportion of this tax and are included in the calculation of these proportions, provided they levied property tax against the operating property of rate-regulated electric utility companies, rate-regulated affiliated gas companies, and rate-regulated gas companies or received an allocation of property tax paid by such companies for tax year 2025. In the event that a taxing district or unit or urban renewal revenue allocation area dissolves or is no longer present in a county, or a voter approved bond expires, the proportions for each taxing district in each affected county shall be changed as follows:

(a) The state tax commission shall reapportion the kilowatt-hour and thermal energy tax revenue that would have accrued to the dissolving district or revenue allocation area or expiring voter approved bond. The reapportioned tax shall be distributed to each otherwise eligible taxing district and revenue allocation area in the county with boundaries that overlapped the dissolved district or revenue allocation area or expired voter approved bond. The proportionate share for each taxing district and revenue allocation area shall be determined by dividing the current distribution to that district and revenue allocation area by the total distribution to all districts and revenue allocation areas that overlap the dissolving district or revenue allocation area.

(b) Such reapportionment shall be made in the year immediately following the year of the dissolution and the county auditor shall be notified of the changed proportions no later than the first Monday in March of that year.

(c) The proportions used to determine the amount of kilowatt-hour tax and thermal energy tax to be billed to rate-regulated electric utility companies, rate-regulated affiliated gas companies, and rate-regulated gas companies and payable to each county pursuant to section 63-3503C(2), Idaho Code, shall not change.

(4) At least once every five (5) years, the state tax commission shall examine and verify the investment of each rate-regulated electric utility company, rate-regulated affiliated gas company, and rate-regulated gas company in each county and shall submit a report to the legislature that details each county's investment in relation to the total statewide investment.

~~(4)~~ (5) If the value of property of any company assessable under this section is of such a nature that it cannot reasonably be apportioned on the basis of rail, wire, and pipeline mileage, such as microwave and radio relay stations, the tax commission may adopt such other method or basis of apportionment to the county and taxing districts in which the property is situated as may be feasible and proper.

(6) Any departure from market value in an assessment of operating property made to ensure compliance with federal law or precedent shall be consid-

ered an exemption. The state tax commission shall identify such departures from market value in their appraisals and no application need be made by a taxpayer to receive such exemption.

SECTION 3. That Section 63-602O, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 63-602JJ, Idaho Code, be, and the same is hereby amended to read as follows:

63-602JJ. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PROPERTY OF PRODUCER OF ELECTRICITY BY MEANS OF WIND, SOLAR, OR GEOTHERMAL ENERGY -- RATE-REGULATED ELECTRIC UTILITY COMPANIES, RATE-REGULATED AFFILIATED GAS COMPANIES, AND RATE-REGULATED GAS COMPANIES. Real estate, fixtures, or personal property is exempt from taxation if it is:

(1) Owned, controlled, operated, or managed by an electrical or natural gas association ~~or~~; a rate-regulated electric utility company; a producer of electricity by means of wind energy, solar energy, or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price; a rate-regulated affiliated gas company; or a rate-regulated gas company;

(2) Held or used in connection with or to facilitate the generation, transmission, distribution, delivery, or measuring of electric power, natural gas, or electrical electric energy ~~generated, manufactured or produced by means of wind energy, solar energy or geothermal energy,~~ and all conduits, ducts or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used for the transmission, distribution, and delivery of electric power, natural gas, or electric energy ~~generated, manufactured or produced by means of wind energy, solar energy or geothermal energy,~~ including construction tools, materials, and supplies; and

(3) Subject to the taxes on gross earnings of wind, solar, or geothermal energy earnings, the kilowatt hour taxes on rate-regulated electric utility companies, or the taxes on therms of natural gas for rate-regulated affiliated gas companies and rate-regulated gas companies pursuant to chapter 35, title 63, Idaho Code, but not subject to assessment by a county assessor pursuant to section 63-402, Idaho Code.

(4) For purposes of this section and chapter 35, title 63, Idaho Code:

(a) "Rate-regulated affiliated gas company" means a public utility as defined in section 61-129, Idaho Code, that is engaged in the transmission, distribution, or delivery of natural gas in this state and that is part of a combined utility company that also owns and operates a rate-regulated electric utility company subject to tax pursuant to chapter 35, title 63, Idaho Code.

(b) "Rate-regulated gas company" means a public utility as defined in section 61-129, Idaho Code, that is engaged in the transmission, distribution, or delivery of natural gas in this state and is not part of a combined utility company and does not own or operate any other utility company subject to tax pursuant to chapter 35, title 63, Idaho Code.

(c) "Therm" means a measure of the heat content of natural gas equal to one hundred thousand (100,000) British thermal units.

SECTION 5. That Section 63-603, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 63-3502B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3502B. LEVY OF TAX ON WIND ENERGY PRODUCTION, SOLAR ENERGY ~~OR PRODUCTION~~, GEOTHERMAL ENERGY ELECTRICAL PRODUCTION, RATE-REGULATED ELECTRIC UTILITY COMPANIES, RATE-REGULATED AFFILIATED GAS COMPANIES, AND RATE-REGULATED GAS COMPANIES. (1) A wind energy tax or a geothermal energy tax shall be levied against every producer of electricity by means of wind energy or geothermal energy in the amount of three percent (3%) of such producer's gross wind energy earnings or geothermal energy earnings.

(2) A solar energy tax shall be levied against every producer of electricity by means of solar energy in the amount of three and one-half percent (3.5%) of the producer's gross solar energy earnings.

(3) A kilowatt-hour tax shall be levied against every rate-regulated electric utility company operating in Idaho on all such electricity and electrical energy sold to retail customers in Idaho, as reported by such company to the Idaho public utilities commission; however, if such a report contains kilowatt-hour sales data for another state, the kilowatt-hour tax established under this section shall not be applied to those out-of-state sales. The kilowatt-hour tax shall be nine hundred twenty-three millionths of a dollar (\$0.000923) per kilowatt-hour sold.

(4) (a) A thermal energy tax shall be levied against every rate-regulated affiliated gas company on all natural gas sold to retail customers in Idaho at a rate of ten thousand eight hundred two millionths of a dollar (\$0.010802) per therm of natural gas sold.

(b) A thermal energy tax shall be levied against every rate-regulated gas company on all natural gas sold to retail customers in Idaho at a rate of three hundred twenty-nine hundred-thousandths of a dollar (\$0.00329) per therm of natural gas sold. A separate thermal energy tax shall be levied against every rate-regulated gas company on all natural gas delivered to a transport gas customer at a rate of forty-one hundred-thousandths of a dollar (\$0.00041) per therm of natural gas delivered to a transport gas customer by a rate-regulated gas company. For the purposes of this subsection, "transport gas customer" means an entity that purchases gas from a supplier other than a rate-regulated gas company but that contracts with a rate-regulated gas company to deliver gas to its meter.

~~(3)~~ (5) This The wind energy tax, solar energy tax, ~~or~~ geothermal energy tax, kilowatt-hour tax, and thermal energy tax provided in this section shall be in lieu of all other taxes on the property of such wind energy producer, ~~of such~~ solar energy producer, ~~or of such~~ geothermal energy producer, rate-regulated electric utility company, rate-regulated affiliated gas company, or rate-regulated gas company exempted pursuant to section 63-602JJ, Idaho Code.

~~(4)~~ (6) For purposes of the certification required by section 63-803, Idaho Code, and the limitations provided by section 63-802, Idaho Code, the taxes levied pursuant to subsection (2) of this section shall reduce the property tax to be levied to finance an annual budget, and shall not be

1 included in the amount of property tax revenues to finance an annual budget
 2 for purposes of limitations on increases in the annual budget as provided in
 3 section 63-802, Idaho Code. Kilowatt-hour taxes and thermal energy taxes
 4 apportioned to each taxing district pursuant to section 63-3503C, Idaho
 5 Code, shall be treated as property tax revenue for the purposes of the limi-
 6 tations provided in section 63-802, Idaho Code.

7 (7) By January 1, 2027, rate-regulated electric utility companies,
 8 rate-regulated affiliated gas companies, and rate-regulated gas companies
 9 shall include the kilowatt-hour and thermal energy tax on the billings to
 10 its Idaho customers. The public utilities commission shall adjust the base
 11 tariff rates for customers to the extent those rates included a recovery of
 12 property taxes on operating property or the kilowatt-hour taxes or thermal
 13 energy taxes assessed pursuant to this section.

14 SECTION 7. That Chapter 35, Title 63, Idaho Code, be, and the same is
 15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 16 ignated as Section 63-3502C, Idaho Code, and to read as follows:

17 63-3502C. EXEMPTION OF KILOWATT-HOUR TAX FOR ELECTRICITY USED IN IR-
 18 RIGATION.

19 (1) (a) The kilowatt-hour tax payable by rate-regulated electric util-
 20 ity companies shall be reduced and shall be exempt from taxation to the
 21 extent of kilowatt-hours used for furnishing power for pumping water
 22 for irrigation or drainage purposes on lands in the state of Idaho.
 23 The reduction shall be in the amount of nine hundred twenty-three mil-
 24 lionths of a dollar (\$0.000923) per kilowatt-hour billed to each user
 25 of power using pumping water for irrigation or drainage purposes. The
 26 utility shall determine the credit to which each consumer is entitled
 27 by virtue of this exemption and shall refund that amount or credit the
 28 amount against the consumer's bills.

29 (b) The exemption provided for in this section shall accrue to the ben-
 30 efit of the consumer of such power, except in cases where the water so
 31 pumped is sold or rented to irrigate lands, in which event the kilowatt-
 32 hour taxes associated with generating or delivering power shall be sub-
 33 ject to taxation to the extent that such water is sold or rented.

34 (c) If the consumer is not a customer of the deliverer of electrical
 35 power, the kilowatt-hour taxes that would have been due from such util-
 36 ity related to the exemption, if such exemption had not been applied,
 37 shall be paid annually for each year in which the exemption is applied
 38 directly to the consumer by the utility delivering such electricity for
 39 irrigation purposes. To qualify for credit or direct payment, the per-
 40 son or organization at the point of delivery must also be the person or
 41 organization pumping water for irrigation purposes and not a distribu-
 42 tor or redistributor of electrical power. To receive the benefit of the
 43 exemption under this section, each consumer who is not a customer of the
 44 deliverer of electrical power must file an application with the state
 45 tax commission on or before April 30 each year. The state tax commis-
 46 sion shall prescribe by rule the form and information necessary for such
 47 application. The procedures described in this section shall be used in
 48 determining the benefit to which each consumer is entitled by virtue of
 49 this exemption.

(2) The rate-regulated electric utility shall include in its statement filed pursuant to section 63-3503C, Idaho Code, a schedule showing the kilowatt-hours relied on by the utility to provide the exemption provided in this section and a certification that the credits or refunds related to the exemption have been paid or credited. The public utilities commission shall have jurisdiction under the public utilities law to ensure utility compliance with the provisions of this section.

SECTION 8. That Chapter 35, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3503C, Idaho Code, and to read as follows:

63-3503C. CALCULATION, COLLECTION, ALLOTMENT, AND APPORTIONMENT OF TAX FROM RATE-REGULATED ELECTRIC UTILITY COMPANIES, RATE-REGULATED AFFILIATED GAS COMPANIES, AND RATE-REGULATED GAS COMPANIES BY STATE TAX COMMISSION. (1) Beginning on January 1, 2027, and on or before April 15 of each year thereafter, every rate-regulated electric utility, rate-regulated affiliated gas company, and rate-regulated gas company in this state shall file with the state tax commission a statement of the amount of its kilowatt-hours and therms sold in Idaho for the preceding calendar year, and for rate-regulated electric utilities, the amount of kilowatt-hours sold the preceding year for furnishing power for pumping water for irrigation or drainage purposes, as provided by section 63-3502C, Idaho Code. The rate-regulated electric utilities, rate-regulated affiliated gas company, and rate-regulated gas companies shall also provide such information as shall be necessary for the state tax commission to redetermine the allocations of the tax as required in section 63-405(4), Idaho Code. Upon examining and verifying such statement, the state tax commission shall compute the amount of the tax due using the rates found in section 63-3502B(3) and (4), Idaho Code, and reduced as provided in section 63-3502C, Idaho Code, for rate-regulated electric utilities eligible for such exemption.

(2) Upon the calculation of taxes determined in this section, and no later than the third Monday of May, the state tax commission shall notify each county treasurer of the amount of taxes due to the county based on the proportions calculated pursuant to section 63-405(3) and (4), Idaho Code. Such tax shall be billed by the state tax commission to each rate-regulated electric utility company, rate-regulated affiliated gas company, and rate-regulated gas company no later than the fourth Monday of May and due and payable to the state tax commission no later than June 30. Upon receipt of such tax payments, the state tax commission shall promptly pay to each county treasurer the proportionate share of such taxes due to the county as provided in this section.

(3) By no later than the fourth Monday of July each year, each county auditor shall notify each taxing district, unit, and urban renewal agency of the amount they will receive. By the fourth Monday of August, such amounts will be paid by the county auditor to each eligible taxing district, unit, and urban renewal agency.

(4) A new taxing district or revenue allocation area formed after January 1, 2025, shall not be eligible for a tax distribution pursuant to this section.

1 (5) If any taxing districts consolidate, the resulting district is en-
 2 titled to a tax distribution pursuant to this section equal to the sum of the
 3 tax distributions that would have been made to each district prior to consol-
 4 idation.

5 (6) Any taxes levied pursuant to this section and not paid by June 30
 6 shall become delinquent and a penalty of five percent (5%) thereof shall be
 7 imposed, together with interest at the rate of one percent (1%) per month
 8 from June 30 until paid.

9 (7) All taxes due and payable under this section shall be a lien on
 10 all property, real and personal, of the rate-regulated electric utility
 11 company, rate-regulated affiliated gas company, or rate-regulated gas com-
 12 pany as of June 30 of each year and shall be discharged only by the payment
 13 thereof. In any action to enforce payment of any delinquent taxes due under
 14 this section, the county pursuing such action shall be entitled to a judg-
 15 ment for the reasonable costs of prosecuting such action, as well as for the
 16 delinquent taxes, penalty, and interest.

17 (8) If a rate-regulated electric utility, rate-regulated affiliated
 18 gas company, or rate-regulated gas company fails to file the statement of
 19 kilowatt-hours or therms sold in Idaho required pursuant to subsection (1)
 20 of this section, the state tax commission shall use the best available infor-
 21 mation to determine the kilowatt-hours or therms sold in Idaho.

22 SECTION 9. That Section 63-3506, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 63-3506. ASSESSMENT OF PROPERTY BY ASSESSOR. Any property not subject
 25 to the gross receipts tax levied in this chapter of any cooperative elec-
 26 trical or natural gas association, or producer of electricity by means of
 27 wind energy, by means of solar energy, or by means of geothermal energy, any
 28 property not subject to the kilowatt-hour tax levied in this chapter on any
 29 rate-regulated electric utility company, and any property not subject to the
 30 thermal energy tax levied in this chapter on any rate-regulated affiliated
 31 gas company or rate-regulated gas company shall be assessed by the county
 32 assessor of the county wherein such property is situate, and taxes levied
 33 against the same shall be a lien, and shall be due and payable, in the same
 34 manner as are any other taxes on property.

35 SECTION 10. This act shall be in full force and effect on and after Jan-
 36 uary 1, 2026.