

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 260

BY LEAVITT

AN ACT

1 RELATING TO SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY  
2 THE ADDITION OF A NEW SECTION 63-3622H, IDAHO CODE, TO PROVIDE A SALES  
3 AND USE TAX EXEMPTION FOR FOOD SOLD FOR HUMAN CONSUMPTION AND TO DEFINE  
4 A TERM; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE PROVISIONS RE-  
5 GARDING THE SALES TAX REVENUE-SHARING DISTRIBUTION; AND DECLARING AN  
6 EMERGENCY AND PROVIDING EFFECTIVE DATES.  
7

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

9 SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
11 ignated as Section 63-3622H, Idaho Code, and to read as follows:

12 63-3622H. FOOD FOR HUMAN CONSUMPTION. There is hereby exempted from  
13 the sales and use taxes imposed by this chapter the sale of food sold for hu-  
14 man consumption. As used in this section, "food" shall have the same defini-  
15 tion as provided in 7 U.S.C. 2012 as that section existed on January 1, 2025.  
16 The types and kinds of food products eligible for exemption by this section  
17 shall be the same types and kinds of food products that are eligible for pur-  
18 chase with benefits provided under the federal supplemental nutrition as-  
19 sistance program and do not include restaurant sales of food, food sold in a  
20 heated state or heated by a seller, two (2) or more food ingredients mixed or  
21 combined by a seller for a single sale, or food sold with an eating utensil  
22 provided by the seller such as a plate, knife, fork, spoon, glass, cup, nap-  
23 kin, or straw.

24 SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this  
27 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,  
28 and 63-3709, Idaho Code, shall be distributed by the state tax commission as  
29 follows:

30 (1) An amount of money shall be distributed to the state refund account  
31 sufficient to pay current refund claims. All refunds authorized under this  
32 chapter by the state tax commission shall be paid through the state refund  
33 account, and those moneys are continuously appropriated.

34 (2) Five million dollars (\$5,000,000) per year is continuously appro-  
35 priated and shall be distributed to the permanent building fund, provided by  
36 section 57-1108, Idaho Code.

37 (3) Four million eight hundred thousand dollars (\$4,800,000) per year  
38 is continuously appropriated and shall be distributed to the water pollution  
39 control fund established by section 39-3628, Idaho Code.

1 (4) An amount equal to the sum required to be certified by the chair-  
2 man of the Idaho housing and finance association to the state tax commis-  
3 sion pursuant to section 67-6211, Idaho Code, in each year is continuously  
4 appropriated and shall be paid to any capital reserve fund established by  
5 the Idaho housing and finance association pursuant to section 67-6211, Idaho  
6 Code. Such amounts, if any, as may be appropriated hereunder to the capital  
7 reserve fund of the Idaho housing and finance association shall be repaid for  
8 distribution under the provisions of this section, subject to the provisions  
9 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-  
10 tion, as soon as possible, from any moneys available therefor and in excess  
11 of the amounts the association determines will keep it self-supporting.

12 (5) An amount equal to the sum required by the provisions of sections  
13 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated  
14 by section 63-718(3), Idaho Code, is continuously appropriated and shall be  
15 paid as provided by sections 63-709 and 63-717, Idaho Code.

16 (6) An amount required by the provisions of chapter 53, title 33, Idaho  
17 Code.

18 (7) An amount required by the provisions of chapter 87, title 67, Idaho  
19 Code.

20 (8) For fiscal year 2011 and each fiscal year thereafter, four million  
21 one hundred thousand dollars (\$4,100,000), of which two million two hundred  
22 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four  
23 (44) counties in equal amounts and one million nine hundred thousand dol-  
24 lars (\$1,900,000) shall be distributed to the forty-four (44) counties in  
25 the proportion that the population of the county bears to the population of  
26 the state. For fiscal year 2012 and for each fiscal year thereafter, the  
27 amount distributed pursuant to this subsection shall be adjusted annually  
28 by the state tax commission in accordance with the consumer price index for  
29 all urban consumers (CPI-U) as published by the U.S. department of labor,  
30 bureau of labor statistics, but in no fiscal year shall the total amount  
31 allocated for counties under this subsection be less than four million one  
32 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-  
33 justment required in this section shall be distributed to each county in the  
34 proportion that the population of the county bears to the population of the  
35 state. Each county shall establish a special election fund to which shall  
36 be deposited all revenues received from the distribution pursuant to this  
37 subsection. All such revenues shall be used exclusively to defray the costs  
38 associated with conducting elections as required of county clerks by the  
39 provisions of section 34-1401, Idaho Code.

40 (9) One dollar (\$1.00) on each application for certificate of title  
41 or initial application for registration of a motor vehicle, snowmobile,  
42 all-terrain vehicle or other vehicle processed by the county assessor or the  
43 Idaho transportation department, excepting those applications in which any  
44 sales or use taxes due have been previously collected by a retailer, shall be  
45 a fee for the services of the assessor of the county or the Idaho transporta-  
46 tion department in collecting such taxes and shall be paid into the current  
47 expense fund of the county or state highway account established in section  
48 40-702, Idaho Code.

49 ~~Eleven and five-tenths percent (11.5%)~~ Thirteen and two-tenths  
50 percent (13.2%) of revenues collected under this chapter, following any dis-

1 tributions required by sections 63-3203, 63-3620F, and 63-3709, Idaho Code,  
2 and by subsection (1) of this section, is continuously appropriated and  
3 shall be distributed to the revenue-sharing account, which is hereby created  
4 in the state treasury, and the moneys in the revenue-sharing account will be  
5 paid in installments each calendar quarter by the state tax commission as  
6 follows:

7 (a) Forty-five and two-tenths percent (45.2%) shall be paid to the var-  
8 ious cities as follows:

9 (i) The revenue-sharing amount calculated by the state tax com-  
10 mission for the various cities for each quarter of fiscal year 2020  
11 shall be the base amount for current quarterly revenue distribu-  
12 tion amounts. The state tax commission shall calculate the per  
13 capita distribution for each city resulting from the previous fis-  
14 cal year's distributions.

15 (ii) If there is no change in the amount of the revenue-sharing  
16 account from the same quarter of the previous fiscal year, then the  
17 various cities shall receive the same amount received for the same  
18 quarter of the previous fiscal year.

19 (iii) If the balance of the revenue-sharing account for the cur-  
20 rent quarter is greater than the balance of the revenue-sharing  
21 account for the same quarter of the previous fiscal year, then:

22 1. If the distributions made to the cities during the same  
23 quarter of the previous fiscal year were below the base  
24 amount established in fiscal year 2020, then the various  
25 cities shall first receive a proportional increase up to the  
26 base amount for each city and up to a one-percent (1%) in-  
27 crease over such base amount. Any remaining moneys shall be  
28 distributed to cities with a below-average per capita dis-  
29 tribution in the proportion that the population of that city  
30 bears to the population of all cities with below-average per  
31 capita distributions within the state.

32 2. If the distributions made to the cities during the same  
33 quarter of the previous fiscal year were at or above the  
34 base amount established in fiscal year 2020, then the cities  
35 shall receive the same distribution they received during the  
36 same quarter of the previous fiscal year plus a proportional  
37 increase up to one percent (1%). Any remaining moneys shall  
38 be distributed to the cities with a below-average per capita  
39 distribution in the proportion that the population of that  
40 city bears to the population of all cities with a below-aver-  
41 age per capita distribution within the state.

42 (iv) If the balance of the revenue-sharing account for the cur-  
43 rent quarter is less than the balance of the revenue-sharing ac-  
44 count for the same quarter of the previous fiscal year, then the  
45 cities shall first receive a proportional reduction down to the  
46 base amount established in fiscal year 2020. If further reduc-  
47 tions are necessary, the cities shall receive reductions based on  
48 the proportion that each city's population bears to the population  
49 of all cities within the state.

1 (b) Forty-seven and one-tenth percent (47.1%) shall be paid to the var-  
2 ious counties as follows:

3 (i) Fifty-nine and eight-tenths percent (59.8%) of the amount to  
4 be distributed under this paragraph (b) of this subsection shall  
5 be distributed as follows:

6 1. One million three hundred twenty thousand dollars  
7 (\$1,320,000) annually shall be distributed one forty-fourth  
8 (1/44) to each of the various counties; and

9 2. The balance of such amount shall be paid to the various  
10 counties, and each county shall be entitled to an amount in  
11 the proportion that the population of that county bears to  
12 the population of the state; and

13 (ii) Forty and two-tenths percent (40.2%) of the amount to be dis-  
14 tributed under this paragraph (b) of this subsection shall be dis-  
15 tributed as follows:

16 1. Each county that received a payment under the provisions  
17 of section 63-3638(e), Idaho Code, as that subsection ex-  
18 isted immediately prior to July 1, 2000, during the fourth  
19 quarter of calendar year 1999, shall be entitled to a like  
20 amount during succeeding calendar quarters.

21 2. If the dollar amount of money available under this sub-  
22 section (10) (b) (ii) in any quarter does not equal the amount  
23 paid in the fourth quarter of calendar year 1999, each  
24 county's payment shall be reduced proportionately.

25 3. If the dollar amount of money available under this sub-  
26 section (10) (b) (ii) in any quarter exceeds the amount paid  
27 in the fourth quarter of calendar year 1999, each county  
28 shall be entitled to a proportionately increased payment,  
29 but such increase shall not exceed one hundred five percent  
30 (105%) of the total payment made in the fourth quarter of  
31 calendar year 1999.

32 4. If the dollar amount of money available under this sub-  
33 section (10) (b) (ii) in any quarter exceeds one hundred five  
34 percent (105%) of the total payment made in the fourth quar-  
35 ter of calendar year 1999, any amount over and above such  
36 one hundred five percent (105%) shall be paid to the various  
37 counties in the proportion that the population of the county  
38 bears to the population of the state; and

39 (c) Seven and seven-tenths percent (7.7%) of the amount appropriated in  
40 this subsection shall be paid to the several counties for distribution  
41 to special purpose taxing districts as follows:

42 (i) Each such district that received a payment under the provi-  
43 sions of section 63-3638(e), Idaho Code, as such subsection ex-  
44 isted immediately prior to July 1, 2000, during the fourth quarter  
45 of calendar year 1999, shall be entitled to a like amount during  
46 succeeding calendar quarters.

47 (ii) If the dollar amount of money available under this subsec-  
48 tion (10) (c) in any quarter does not equal the amount paid in the  
49 fourth quarter of calendar year 1999, each special purpose taxing  
50 district's payment shall be reduced proportionately.

1 (iii) If the dollar amount of money available under this subsection  
2 (10) (c) in any quarter exceeds the amount distributed under  
3 paragraph (c) (i) of this subsection, each special purpose taxing  
4 district shall be entitled to a share of the excess based on the  
5 proportion each such district's current property tax budget bears  
6 to the sum of the current property tax budgets of all such districts  
7 in the state. Each year, starting with the distribution  
8 for the quarter ending December 31, the state tax commission shall  
9 calculate this distribution based on the district's current property  
10 tax budgets, including any unrecovered forgone amounts as determined  
11 under section 63-802(1) (e), Idaho Code. When a special  
12 purpose taxing district is situated in more than one (1) county,  
13 the state tax commission shall determine the portion attributable  
14 to the special purpose taxing district from each county in which it  
15 is situated.

16 (iv) If special purpose taxing districts are consolidated, the  
17 resulting district is entitled to a base amount equal to the sum of  
18 the base amounts received in the last calendar quarter by each district  
19 prior to the consolidation.

20 (v) If a special purpose taxing district is dissolved or disincorporated,  
21 the state tax commission shall continuously distribute to the board of  
22 county commissioners an amount equal to the last quarter's distribution  
23 prior to dissolution or disincorporation. The board of county commissioners  
24 shall determine any redistribution of moneys so received.

25 (vi) Taxing districts formed after January 1, 2001, are not entitled  
26 to a payment under the provisions of this paragraph (c) of this subsection.  
27

28 (vii) For purposes of this paragraph (c) of this subsection, a special  
29 purpose taxing district is any taxing district that is not a city,  
30 a county, or a school district.

31 (viii) Special purpose taxing districts shall use funds received  
32 under the provisions of this subsection only for the purposes for  
33 which the special purpose taxing districts were formed.  
34

35 (11) Amounts calculated in accordance with section 2, chapter 356, laws  
36 of 2001, for annual distribution to counties and other taxing districts beginning  
37 in October 2001 for replacement of property tax on farm machinery and  
38 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool  
39 districts, the state tax commission shall distribute one-fourth (1/4) of  
40 this amount certified quarterly to each county. For school districts, the  
41 state tax commission shall distribute one-fourth (1/4) of the amount certified  
42 quarterly to each school district. For nonschool districts, the county  
43 auditor shall distribute such amounts to each district within thirty  
44 (30) calendar days from receipt of moneys from the state tax commission.  
45 Moneys received by each taxing district for replacement shall be utilized  
46 in the same manner and in the same proportions as revenues from property  
47 taxation. The moneys remitted to the county treasurer for replacement of  
48 property exempt from taxation pursuant to section 63-602EE, Idaho Code, may  
49 be considered by the counties and other taxing districts and budgeted at the  
50 same time, in the same manner, and in the same year as revenues from taxation

1 on personal property, which these moneys replace. If taxing districts are  
2 consolidated, the resulting district is entitled to an amount equal to the  
3 sum of the amounts received in the last calendar quarter by each district  
4 pursuant to this subsection prior to the consolidation. If a taxing district  
5 is dissolved or disincorporated, the state tax commission shall continu-  
6 ously distribute to the board of county commissioners an amount equal to the  
7 last quarter's distribution prior to dissolution or disincorporation. The  
8 board of county commissioners shall determine any redistribution of moneys  
9 so received. If a taxing district annexes territory, the distribution of  
10 moneys received pursuant to this subsection shall be unaffected. Taxing  
11 districts formed after January 1, 2001, are not entitled to a payment under  
12 the provisions of this subsection. School districts shall receive an amount  
13 determined by multiplying the sum of the year 2000 school district levy mi-  
14 nus .004 times the market value on December 31, 2000, in the district of the  
15 property exempt from taxation pursuant to section 63-602EE, Idaho Code, pro-  
16 vided that the result of these calculations shall not be less than zero (0).  
17 The result of these school district calculations shall be further increased  
18 by six percent (6%). For purposes of the limitation provided by section  
19 63-802, Idaho Code, moneys received pursuant to this section as property tax  
20 replacement for property exempt from taxation pursuant to section 63-602EE,  
21 Idaho Code, shall be treated as property tax revenues.

22 (12) Amounts necessary to pay refunds as provided in section 63-3641,  
23 Idaho Code, to a developer of a retail complex shall be remitted to the demon-  
24 stration pilot project fund created in section 63-3641, Idaho Code.

25 (13) Amounts calculated in accordance with section 63-602KK(4), Idaho  
26 Code, for annual distribution to counties and other taxing districts for  
27 replacement of property tax on personal property tax exemptions pursuant  
28 to section 63-602KK(2), Idaho Code, which amounts are continuously ap-  
29 propriated unless the legislature enacts a different appropriation for a  
30 particular fiscal year. For purposes of the limitation provided by section  
31 63-802, Idaho Code, moneys received pursuant to this section as property tax  
32 replacement for property exempt from taxation pursuant to section 63-602KK,  
33 Idaho Code, shall be treated as property tax revenues. If taxing districts  
34 are consolidated, the resulting district is entitled to an amount equal to  
35 the sum of the amounts that were received in the last calendar year by each  
36 district pursuant to this subsection prior to the consolidation. If a taxing  
37 district or revenue allocation area annexes territory, the distribution of  
38 moneys received pursuant to this subsection shall be unaffected. Taxing  
39 districts and revenue allocation areas formed after January 1, 2022, are not  
40 entitled to a payment under the provisions of this subsection.

41 (14) For fiscal year 2023 only, a sum of thirty-four million dollars  
42 (\$34,000,000) shall be distributed each year by the state tax commission to  
43 the forty-four (44) counties in the proportion that the expenditures of each  
44 county for indigent defense services during county fiscal year 2021, exclud-  
45 ing any state funding or grants, bear to the expenditures of all counties  
46 in the state for indigent defense services during county fiscal year 2021,  
47 excluding any state funding or grants. No later than July 1, 2022, the state  
48 public defense commission shall certify to the state tax commission each  
49 county's proportionate share of all counties' indigent defense expenses in  
50 county fiscal year 2021, excluding any state funding or grants.

1 (15) For fiscal year 2024 and each fiscal year thereafter, two and  
2 twenty-five hundredths percent (2.25%) of revenues collected under this  
3 chapter, following any distributions required by sections 63-3203,  
4 63-3620F, and 63-3709, Idaho Code, and by subsections (1), (10), and (16)  
5 of this section, is continuously appropriated and shall be distributed an-  
6 nually to the homeowner property tax relief account established in section  
7 63-724, Idaho Code.

8 (16) Four and five-tenths percent (4.5%) of revenues collected under  
9 this chapter, following any distributions required by sections 63-3620F and  
10 63-3709, Idaho Code, and by subsections (1) and (10) of this section, but no  
11 less than eighty million dollars (\$80,000,000) and no more than one hundred  
12 forty million dollars (\$140,000,000), shall be distributed as follows:

13 (a) Eighty million dollars (\$80,000,000) is continuously appropriated  
14 and shall be distributed to the transportation expansion and congestion  
15 mitigation fund established in section 40-720, Idaho Code; and

16 (b) The remaining moneys in excess of eighty million dollars  
17 (\$80,000,000) provided for in this subsection is continuously ap-  
18 propriated and shall be apportioned to local units of government for  
19 local highway projects in the same percentages provided for in section  
20 40-709(1) through (3), Idaho Code. Local units of government may pool  
21 funds allocated to them pursuant to this paragraph for local highway  
22 projects.

23 (17) Beginning in fiscal year 2024 and each fiscal year thereafter,  
24 three hundred thirty million dollars (\$330,000,000) shall be distributed  
25 annually to the public school income fund created in section 33-903, Idaho  
26 Code, and eighty million dollars (\$80,000,000) shall be distributed annu-  
27 ally to the in-demand careers fund established in section 72-1206, Idaho  
28 Code. The state tax commission shall make such transfers in quarterly in-  
29 stallments.

30 (18) For fiscal year 2024 and each fiscal year thereafter, three  
31 and twenty-five hundredths percent (3.25%) of revenues collected under  
32 this chapter, following any distributions required by sections 63-3203,  
33 63-3620F, and 63-3709, Idaho Code, and by subsections (1), (10), and (16) of  
34 this section, is continuously appropriated and shall be distributed annu-  
35 ally to the school district facilities fund established pursuant to section  
36 33-911, Idaho Code.

37 (19) One hundred twenty-five million dollars (\$125,000,000) collected  
38 under this chapter, following any distributions required by sections  
39 63-3620F and 63-3709, Idaho Code, and by subsections (1), (10), (15), (16),  
40 and (18) of this section is continuously appropriated and shall be dis-  
41 tributed to the school modernization facilities fund established in section  
42 33-912, Idaho Code. The state tax commission shall make such transfers in  
43 quarterly installments.

44 (20) Any moneys remaining over and above those necessary to meet and  
45 reserve for payments under other subsections of this section shall be dis-  
46 tributed to the general fund.

47 SECTION 3. An emergency existing therefor, which emergency is hereby  
48 declared to exist, Section 1 of this act shall be in full force and effect on  
49 and after June 1, 2025, and Section 2 of this act shall be in full force and  
50 effect on and after July 1, 2025.