

**FINAL REPORT**

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**LEGISLATIVE COUNCIL INTERIM COMMITTEE**

**PROPERTY TAXES  
2005**

# **FINAL REPORT**

## **PROPERTY TAX INTERIM COMMITTEE HCR 23**

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**Legislative Council Interim Committee  
Property Taxation  
2005**

**FINAL REPORT**

**Charge**

The Legislative Council's Interim Committee on Property Taxation was authorized in 2005 by House Concurrent Resolution No. 23, which directed the Committee to undertake and complete a study of property taxation matters. The Committee was further directed to undertake and complete a study of the state's property tax structure in all of its aspects, with the goal of the committee's recommendations being to develop a strategy to implement a property tax structure over the succeeding years that is balanced in its application and effect, that encourages economic development, that meets the revenue needs of local units of government, encourages and assists economic development and answers the concern over rising property values and property taxes.

Finally the Committee was directed to reports its findings, recommendations and any proposed legislation to the Second Regular Session of the Fifty-eighth Idaho Legislature.

**Meetings**

The Committee held meetings in Boise on June 29, September 13, October 7 and November 1, 2005. The Committee also held twelve public hearings around the state on July 27 in Sandpoint and Coeur d'Alene, on July 28 in Moscow and Lewiston, on August 10 in Hailey and Twin Falls, on August 11 in Pocatello and Rexburg, on August 24 in McCall and Emmett and on August 25 in Boise and Nampa. The complete set of minutes is available on the Internet at the Legislature's homepage following the pathway "Prior sessions--2005 session-2005 interim committees--Property Taxation."

**Information Regarding the Property Tax**

In Idaho, the property tax is part of the three legged stool of Idaho's tax structure along with the income tax and the sales tax. In 2004, the property tax in Idaho provided \$1,140,800,000 in revenue for local units of government. From this amount schools received \$487.8 million, cities \$246 million, counties \$263.4 million, local highway entities \$60.3 million, and other taxing districts \$83.3 million. Of the \$1,140.8 million, real property pays 87.3% of that amount, personal property pays 8.3% and operating property pays 4.4%. There are 1,079 taxing districts

in Idaho and 919 levy for property taxes.

### **Constitutional Principles Regarding the Property Tax**

There are state constitutional restrictions regarding the property tax. Article VII, Section 2 of the State Constitution requires a tax by value and the tax is paid in proportion to the value of the property. Article VII, Section 5 requires the tax be uniform on the same class of subjects within the taxing district's limits, levied and collected under general laws, just valuation of property, the Legislature may allow exemptions as seem necessary and just, and double taxation is prohibited. All property not exempt from taxation must be assessed at a uniform percentage of actual cash value and a single fixed rate of taxation must apply against all taxable property.

### **Limits on Property Taxes in effect since 1995**

In 1995, the Legislature enacted Section 63-802, Idaho Code, which provided with other statutes on the property tax:

- School M&O levies limited to 0.003 multiplied by prior year value and the Boise School District's multiplier is 0.00664167 because of its charter.
- Funds of taxing districts are limited to certain maximum levy rates.
- Portion of taxing district budget derived from property tax can increase up to 3% per year, plus an amount for new construction and annexation.

### **Testimony Regarding Property Taxation**

At the twelve public hearings held throughout the state, the committee heard testimony from individuals representing our citizens, local governments, school districts and other interest groups on a variety of property tax issues. Testimony clearly illustrated that property tax issues are not uniform across the state. In many areas rapid growth and associated escalating property values form the largest concern. This was the dominant theme in Sandpoint, Coeur d'Alene, McCall, Boise, Hailey and Rexburg.

For a full understanding of the testimony provided at the public meetings please refer to the minutes for these meetings posted on the Idaho Legislature website: [www.legislature.idaho.gov](http://www.legislature.idaho.gov).

These public hearings led to a substantial discussion in the committee about the local nature of property tax issues. The committee used these hearings to formulate and debate property tax issues and potential solutions.

There was testimony from some citizens advocating that the Legislature enact legislation similar to California's Proposition 13 which limited assessed valuations to what was paid for the property at the time of purchase with small annual increments. Two other citizen's initiatives were discussed regarding limiting property values to one percent of market value. There was discussion on these issues but no action was taken on these concepts.

Senior citizens presented testimony indicating concern about the raising property values and the ability for them to remain in their homes and meet the property tax burden. Also some governmental entities in areas where property values are either stagnant or growing very little are facing different challenges than government entities in areas where the property values are rapidly escalating.

Testimony was received about the property tax exemption contained in Section 63-602FF, Idaho Code, and how it was unfair to the other property taxpayers as it allowed land that was being developed to be valued as land actively devoted to agriculture if it had once been in that status and construction of residential improvements had not commenced.

### **Committee Deliberations**

Following the public meetings the committee discussed and debated the full range of ideas that were generated through public testimony and by committee members. This led to the development of a list of 19 potential solutions that committee decided (by majority vote) deserved further consideration. The 19 potential solutions are presented below:

- Require disclosure of purchase price
- Freeze values at purchase price
- Limit annual assessment increases
- Use rolling average for assessments
- Adjust homeowner's exemption
- Bring renters under homeowner's exemption
- Defer property tax increases until sale
- Repeal/phase out "developer exemption"
- Consider recommending that the full legislature review all property tax exemptions
- Increase exemption/repeal personal property taxes
- Explore local option taxes
- Increase "circuit breaker"
- Broaden sales tax to fund relief
- State assume costs of some local programs
- Replace School M & O with state revenue
- Prohibit/limit levying for "foregone balances"
- Limit property taxes to a certain percent of assessed values
- Improve public participation in local budgeting
- Freeze assessments for one year

This list was further narrowed to ten ideas through a poll of committee members. The list of ten in order of highest number of points received is presented below:

- Increase "circuit breaker"
- Adjust homeowner's exemption

- Replace School M&O with state revenue
- Repeal/phase out “developer exemption”
- Explore local option taxes
- Freeze assessments for one year
- Recommend Legislature review all property tax exemptions
- Limit annual assessment increases
- Broaden Sales Tax to fund relief
- Defer property tax increases until sale

The committee then met to discuss these ideas. A 2/3 majority vote was required for any proposal to pass on to the legislature with a committee recommendation.

### **Recommendations**

The Committee makes the following recommendations to the Idaho Legislature with a 2/3 vote of support:

- 1. The “circuit breaker” be increased to an income limit of \$ 28,000 with a cap of \$1,320 on the amount that the state will contribute.
- 2. That the value of the land as defined by the definition of homestead (elsewhere in tax code) be added to the homeowner’s exemption.
- 3. The maximum amount that can be exempt from taxation for the homeowner’s exemption would be increased from \$50,000 to \$75,000 with indexing for inflation.
- 4. That the so called “developer’s exemption” be closed using RSMPN485 presented at the November 1, 2005, meeting.
- 5. That the concept of a Property Tax Equity Program - to provide for easier access to reverse mortgages and allow for deferral of property taxes - be established with details fleshed out as the concept progresses through the legislative process.
- 6. That the impact fee statute be simplified and opened to use for construction of school facilities.
- 7. That .15% of market value of the School Maintenance and Operation Levy be removed from property value to be replaced with state funds.

## Proposed Legislation

### AN ACT

relating to the Idaho housing and finance association; amending section 67-6206, Idaho code, to allow the Idaho housing and finance association to make and undertake commitments to make or participate in the making of mortgage loans to persons over sixty-two years of age to pay property taxes and other expenses on the person's residential property; amending section 41-210, Idaho code, to authorize the director of the department of insurance to promulgate rules authorizing insurers To make and undertake commitments to make or participate in the making of mortgage loans to persons over sixty-two years of age to pay property taxes and other expenses on the person's residential property; and amending section 67-2701, Idaho Code, to authorize the director of the department of finance to promulgate rules authorizing banks, savings and loan associations and credit unions To make and undertake commitments to make or participate in the making of mortgage loans to persons over sixty-two years of age to pay property taxes and other expenses on the person's residential property.

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

SECTION 1. That Section 67-6206, Idaho Code, be, and the same is hereby amended to read as follows:

67-6206. Powers of association. The housing and finance association is an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers which are hereby declared to be public purposes necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the association; and to make and from time to time amend and repeal bylaws, rules, not inconsistent with this act, to carry into effect the powers and purposes of the association.

(b) To conduct its operations within any or all of the counties of the state.

(c) To cooperate with housing authorities throughout Idaho in the development of housing projects.

(d) To assign priorities for action and revise or modify said priorities from time to time.

(e) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the association under this act, including contracts with any housing sponsor, mortgage lender, person, firm, corporation, governmental agency, or other entity; and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project and to designate mortgage



lenders to act for and in behalf of the association, with respect to originating or servicing and processing mortgage loans of the association, and to pay the reasonable value of service rendered to the association by such mortgage lenders pursuant to contracts with mortgage lenders.

(f) To lease, sell, construct, finance, reconstruct, restore, rehabilitate, operate or rent any housing projects, nonprofit facilities or any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or nonprofit facilities and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor.

(g) To own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein.

(h) To acquire any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein.

(i) To insure or provide for the insurance of any real or personal property or operation of the association against any risks or hazards, and to procure or agree to the procurement of insurance or guarantees from the federal government or other source for the payment or purchase of any bonds or parts thereof issued by the association, including the power to pay for any such insurance or guarantees.

(j) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which a bank, as defined in the "bank act," title 26, Idaho Code, may legally invest funds including without limitation, to agree to purchase the obligations of any federal, state or local government upon such conditions as the association may determine to be prudent and in its best interest.

(k) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low-income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low-income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(l) To participate in cooperative ventures with any agencies, organizations and individuals in order to undertake the provision of housing for persons of low-income, to undertake the provision of nonprofit facilities or agricultural facilities.

(m) To provide research and technical assistance to eligible agencies, organizations and individuals eligible to develop low cost housing and to research new low cost housing development and construction methods.

(n) To make and undertake commitments to make or participate in the making of mortgage loans to persons of low-income and to housing sponsors, including without limitation federally insured mortgage loans, and to make temporary loans and advances in anticipation of permanent loans to housing sponsors; said mortgage loans to housing sponsors shall be made to finance the construction, improvement, or rehabilitation of housing projects for persons of low-income, and/or mixed income housing projects upon the terms and conditions set forth in this act; provided, however, that such loans shall be made only upon the determination by the

association that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(o) To purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders which loans have been made for the construction, improvement, or rehabilitation of housing projects for persons of low-income and/or mixed income housing projects or loans which have been made to persons of low-income for residential housing, upon terms set forth in this act; provided, however, that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions. Also, to purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders whether or not said loans were made to persons of low-income, upon terms set forth in this act; provided, however, that the proceeds from such purchase or the equivalent thereof shall be reinvested in obligations of the association, in mortgage loans to persons of low-income or in mortgage loans for housing projects for persons of low-income and/or mixed income housing projects, and provided that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions.

(p) To provide interim financing for housing projects including mixed income housing projects approved by the association, provided that the association has determined that such financing is not otherwise available from mortgage lenders upon reasonably equivalent terms and conditions.

(q) To prescribe rules and policies in connection with the performance of its functions and duties.

(r) To do all other things deemed necessary and desirable to accomplish the objectives of this act.

(s) To borrow money and issue bonds and notes or other obligations, to invest the proceeds thereof in any lawful manner and to fund or refund the same, and to provide for the rights of the holders of its obligations as provided in this act and in connection therewith, to waive, by resolution or other document of the association, the exemption from federal income taxation of interest on any of the association's obligations under existing or future federal law and to establish, maintain and preserve the association's general obligation rating and any rating on its bonds, notes or other obligations.

(t) To receive and accept aid or contributions from any source.

(u) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

(v) To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing projects upon such terms and conditions as the association may prescribe.

(w) To fix and revise from time to time and charge and collect fees and charges in connection with loans made or other services provided by the association pursuant to this act, and to make and publish rules respecting the making and purchase of mortgage loans.

(x) To organize a nonprofit corporation to assist the association in providing for housing

projects.

(y) To enter upon and inspect any housing project, including housing projects undertaken by housing sponsors, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto.

(z) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof.

(aa) To make or purchase secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project costs of any nonprofit facility or agricultural facility, including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person for the project costs of a nonprofit facility or agricultural facility; and to charge and collect interest on the loans for the loan payments upon such terms and conditions, including without limitation bond rating and issuance conditions, as the board of commissioners considers advisable which are not in conflict with this chapter.

(bb) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of nonprofit facilities or agricultural facilities or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the association, to secure any loan made by the association and to pledge the revenues and receipts therefrom.

(cc) To issue bonds for the purpose of financing all or part of the project cost on any nonprofit facility or agricultural facility and to secure the payment of the bonds as provided in this chapter.

(dd) To purchase or sell by installment contract or otherwise, and convey all or any part of any nonprofit facility or agricultural facility for such purchase price and upon such terms and conditions as this board of commissioners considers advisable which are not in conflict with this chapter.

(ee) To lease all or any part of any nonprofit facility or agricultural facility for such rentals and upon such terms and conditions, including options to purchase, as the board of commissioners considers advisable and not in conflict with this chapter.

(ff) To construct and maintain one (1) or more nonprofit facilities or agricultural facilities, provided that the association shall not operate any nonprofit facility or agricultural facility as a business other than as lessor, seller or lender. The purchase, holding and enforcing of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of a nonprofit facility or agricultural facility as a business.

(gg) To act as the designated housing resource clearinghouse in the state for matters relating to affordable housing.

(hh) To coordinate the development and maintenance of a housing policy for the state.

(ii) To enter into agreements or other transactions and accept grants, reimbursements or other payments, with the cooperation of the United States or any agency thereof or of the state of Idaho or any agency thereof or municipality of the state in furtherance of the purposes of this act, including, but not limited to, the development, maintenance, operation and financing of any

transportation project and to do any and all things necessary in order to avail the association of such aid and cooperation.

(jj) To borrow money and issue bonds and notes or other evidences of indebtedness thereof as hereinafter provided to finance transportation projects approved and recommended by the transportation board.

(kk) To make and undertake commitments to make or participate in the making of mortgage loans to persons over sixty-two (62) years of age to pay property taxes and other expenses on the person's residential property.

SECTION 2. That Section 41-210, Idaho Code, be, and the same is hereby amended to read as follows:

41-210. General powers, duties. (1) The director shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code.

(2) The director shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(3) The director may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

(4) For any document required to be filed with the director or the department of insurance under the laws of this state, the director may specify the place and manner of filing of the document, including whether an electronic or paper filing is required or acceptable.

(5) The director shall have such additional powers and duties as may be provided by other laws of this state.

(6) To promulgate rules authorizing insurers to make and undertake commitments to make or participate in the making of mortgage loans to persons over sixty-two (62) years of age to pay property taxes and other expenses on the person's residential property.

SECTION 3. That Section 67-2701, Idaho Code, be, and the same is hereby amended to read as follows:

67-2701. Department of finance -- Creation -- Director -- Organization -- Powers and duties. (a) There is hereby created the department of finance. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of state government. The governor shall appoint, with the advice and consent of the senate, a director of the department of finance who shall serve at the pleasure of the governor. The director shall have had at least five (5) years practical experience in the banking business, or shall have served for a like period in the banking division of this or some other state. Neither the director of the department nor any administrator of a division in the department shall be the owner of or financially interested either directly or indirectly in any banking or insurance corporation subject to the supervision of the department.

(b) The department of finance shall be composed of such divisions as are established by law and such other units as may be administratively established. The director of the department shall appoint, subject to the approval of the governor, an administrator for such divisions as may be established. The director shall, subject to the approval of the governor, fix the salary of each administrator.

(c) The director of the department of finance shall have power:

1. To exercise the rights, powers and duties vested by law in the department or in the director.

(2)~~[2.]~~ To execute the laws relating to banks and banking.

3. To promulgate rules to allow banks, savings and loan associations and credit unions to make and undertake commitments to make or participate in the making of mortgage loans to persons over sixty-two (62) years of age to pay property taxes and other expenses on the person's residential property.

#### AN ACT

relating to property exempt from taxation; amending section 63-602G, Idaho Code, to provide that the first fifty thousand dollars of the market value for assessment purposes of the homestead or fifty percent of the market value for assessment purposes of the homestead, whichever is lesser, shall be exempt from property taxation and defining homestead and to provide for certain annual adjustments to the maximum amount subject to property tax exemption, to provide for publication and dissemination of adjustments, to provide that the publication of adjustments shall be exempt from the provisions of the administrative procedure act; declaring an emergency and providing retroactive application.

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

SECTION 1. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. Property exempt from taxation -- ~~Residential improvements~~ Homestead. (1) During the tax year ~~1983~~ 2006 and each year thereafter, subject to annual adjustment as provided herein, the first fifty thousand dollars (\$50,000) of the market value for assessment purposes of ~~residential improvements~~ the homestead as that term is defined in section 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment purposes of ~~residential improvements~~ the homestead as that term is defined in section 63-701, Idaho Code, whichever is the lesser, shall be exempt from property taxation.

(2) The exemption allowed by this section may be granted only if:

(a) The ~~residential improvements~~ homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the ~~residential improvements~~ homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The ~~residential improvements~~ homestead may consist of part of a multidwelling or multipurpose building

and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in an ~~owner-occupied residential property~~ homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the ~~residential improvements are~~ homestead is his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other ~~residential improvements~~ homestead in the county.

(d) For the purpose of this section, the definition of owner shall be the same definition set forth in section 63-701(7), Idaho Code.

When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.

(e) Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same ~~residential improvements~~ homestead for which the owner made application.

(c) The ~~residential improvements~~ homestead described in subsection (3)(b) of this section ~~are~~ is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate, as of January 1; provided however, that in the event the ~~residential improvements are~~ homestead is owner-occupied after January 1, but before April 15, the owner of the property is entitled to the

exemption.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.

(5) Recovery of property tax exemptions allowed by this section but improperly claimed or approved.

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should be allowed and if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment.

(b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners and county treasurer. Information disclosed to county officials by the state tax commission under this subsection may be used to decide the validity of any entitlement to the exemption provided in this section and is not otherwise subject to public disclosure pursuant to chapter 3, title 9, Idaho Code.

(c) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning the date the assessment notice reflecting the improperly claimed or approved exemption was required to be mailed to the taxpayer.

(d) The taxpayer may appeal to the board of county commissioners the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.

(e) A recovery of property tax shall be for each year the exemption allowed by this section was improperly claimed or approved up to the lesser of a maximum of seven (7) years or until the property was transferred to a bona fide purchaser for value. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year.

(f) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(g) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(h) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys

received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(6) The legislature declares that this exemption is necessary and just.

(7) ~~Residential improvements~~ A homestead having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's, beneficiary's, partner's, member's or shareholder's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone by the owner, beneficiary, partner, member or shareholder, as appropriate, as defined in section 112 of the Internal Revenue Code, and such ~~improvements~~ homestead would have otherwise qualified under this section, then the board of county commissioners of the county in which the ~~residential improvements are~~ homestead is located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

#### AN ACT

relating to property exempt from taxation; amending section 63-602G, Idaho Code, to provide that the first seventy-five thousand dollars of the market value for assessment purposes of residential improvements or the fifty percent of the market value for assessment purposes of residential improvements, whichever is lesser, shall be exempt from taxation; declaring an emergency and providing retroactive application.

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

SECTION 1. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. Property exempt from taxation -- Residential improvements. (1) During the tax year ~~1983~~ 2006 and each year thereafter, the first ~~fifty~~ seventy-five thousand dollars (~~\$750,000~~) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from property taxation.

(2) The exemption allowed by this section may be granted only if:

(a) The residential improvements are owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the residential improvements are owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The residential improvements may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or



building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in an owner-occupied residential property, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the residential improvements are his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other residential improvements in the county.

(d) For the purpose of this section, the definition of owner shall be the same definition set forth in section 63-701(7), Idaho Code.

When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.

(e) Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.

Beginning for tax year 2007, the state tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual cost-of-living percentage modification as determined by the secretary of health and human services pursuant to 42 U.S.C. 415(i). The state tax commission shall publish the adjustments required by this subsection each and every year the secretary of health and human services announces said cost-of-living percentage modification. The adjustments shall be published no later than October 1 of each year and shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

- (b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same residential improvements for which the owner made application.
- (c) The residential improvements described in subsection (3)(b) of this section are owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate, as of January 1; provided however, that in the event the residential improvements are owner-occupied after January 1, but before April 15, the owner of the property is entitled to the exemption.
- (4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.
- (5) Recovery of property tax exemptions allowed by this section but improperly claimed or approved.
- (a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should be allowed and if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment.
- (b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners and county treasurer. Information disclosed to county officials by the state tax commission under this subsection may be used to decide the validity of any entitlement to the exemption provided in this section and is not otherwise subject to public disclosure pursuant to chapter 3, title 9, Idaho Code.
- (c) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning the date the assessment notice reflecting the improperly claimed or approved exemption was required to be mailed to the taxpayer.
- (d) The taxpayer may appeal to the board of county commissioners the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.
- (e) A recovery of property tax shall be for each year the exemption allowed by this section was improperly claimed or approved up to the lesser of a maximum of seven (7) years or until the property was transferred to a bona fide purchaser for value. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year.
- (f) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.
- (g) Recovered property taxes shall be billed, collected and distributed in the same

manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(h) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(6) The legislature declares that this exemption is necessary and just.

(7) Residential improvements having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's, member's or shareholder's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code, or because the residential improvements have been leased because the owner, beneficiary, partner, member or shareholder is absent in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone by the owner, beneficiary, partner, member or shareholder, as appropriate, as defined in section 112 of the Internal Revenue Code, and such improvements would have otherwise qualified under this section, then the board of county commissioners of the county in which the residential improvements are located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

#### AN ACT

relating to school levies; amending section 33-802, Idaho Code, to reduce the maintenance and operation levy; amending section 33-1002, Idaho Code, to reduce the local district's contribution and to require school districts to reduce their local district contribution to be eligible for education support program distributions; and repealing section 33-1002D, Idaho Code; declaring an emergency and providing retroactive application.\*\*

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

SECTION 1. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

33-802. School levies. Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

1. Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations.

2. Maximum School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation, that do not exceed an amount equal to ~~four-tenths of one percent (.4%) during tax year 1994, and do not exceed an amount equal to one and five-tenths~~ three-tenths of one percent (.3,15%) during tax year ~~1995~~2006 and thereafter, applied to the actual or adjusted market value for assessment purposes of the district as such valuation existed on December 31 of the previous year, but allowances necessary as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, shall not be included in such maximum levies. Provided however, that in the event property within a district's boundaries is contained in a revenue allocation area established under chapter 29, title 50, Idaho Code, and such revenue allocation area has given notice of termination thereunder, then, only for the purpose of determining the levy described in this subsection, the district may add the increment value, as defined in section 50-2903, Idaho Code, to the actual or adjusted market value for assessment purposes of the district as such value existed on December 31 of the previous year.

3. Authorized School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation that do not exceed one hundred eleven percent (111%) of the local district's contribution authorized in subsection 2. of section 33-1002, Idaho Code. Implementation of the provisions of this subsection shall be authorized only after approval by a majority of the district's electors voting on the question. Levies otherwise authorized by law shall not require an election.

4. Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by subsection 2. or 3. of this section shall be made by a noncharter school district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

5. Charter District Supplemental Maintenance and Operation. Levies pursuant to the respective charter of any such charter district shall be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election.

6. The Local District Contribution. The local school district contribution levy is the amount utilized for calculating local district participation in the educational foundation program, which is applied to the adjusted market value for assessment purposes, as such valuation existed on December 31 of the previous year, together with the increment value, as defined in section 50-2903, Idaho Code, if applicable under the circumstance described in subsection 2. of this section, relating to termination of a revenue allocation area.

7. The board of trustees of any school district that has, for at least seven (7) consecutive years, been authorized through an election held pursuant to chapter 4, title 33, Idaho Code, to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite

term supplemental levy to the electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held pursuant to chapter 4, title 33, Idaho Code. The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

SECTION 2. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. Educational support program. The educational support program is calculated as follows:

1. State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

2. From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

- a. Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;
- b. Transportation support program as provided in section 33-1006, Idaho Code;
- c. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;
- d. The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;
- e. The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;
- f. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;
- g. Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;
- h. Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;
- i. For expenditure as provided by the public school technology program;
- j. For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and
- k. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state educational support funds.

3. Local Districts' Contribution Calculation. Without including any allowance as a credit for prepaid taxes as provided by section 63-1607, Idaho Code, the local districts' contribution shall be the amount appropriated pursuant to section 33-1002D, Idaho Code, plus three one and five-tenths percent (.315%) during fiscal year ~~2003-04~~ 2006-07 and each year thereafter, of the total state adjusted market value for assessment purposes for the previous year with such value being determined by the provisions of section 63-315, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the cooperative electrical associations'

property values that have been derived from the taxes paid in lieu of ~~ad-valorem~~ property taxes for the previous year as provided in section 63-3502, Idaho Code. In order to be eligible to participate in the educational support program pursuant to this chapter, each district, including specially chartered districts, shall have reduced its local district contribution and property tax levy for maintenance and operation purposes by two and five tenths percent (.25%) from tax year 1993-94.

4. Educational Support Program Distribution Funds. Add the local districts' contribution, subsection 3. of this section, and the state educational support program funds, subsection 1. of this section, together to secure the total educational support program distribution funds.

5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Units Allowed
41 or more ....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	.....	.. 15

..	23...grades 4,5 & 6....	
..	22...grades 1,2 & 3....1994-95	
..	21...grades 1,2 & 3....1995-96	
..	20...grades 1,2 & 3....1996-97	
	and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

#### COMPUTATION OF SECONDARY SUPPORT UNITS

##### Average Daily

Attendance	Attendance Divisor	Minimum Units Allowed
750 or more ....	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12		8
Grades 9-12		6
Grades 7- 9		1 per 14 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Minimum Units Allowed
14 or more ....	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

7. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection 2. of this section, by the total state support units to secure the state distribution factor per support unit.

8. District Share of State Funds for Educational Support Program. Ascertain a district's share of state funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 3. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:



(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 8.b.(1) of this section, and the support units allowance for the approved exceptional child program, subsection 8.b.(2) of this section.

c. Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection 2. of this section to secure the district's total allowance for the educational support program.

d. District Share. To secure the district's share of state apportionment, subtract the amount of the local district contribution calculation, subsection 3. of this section, from the amount of the total district allowance, subsection 8.c. of this section.

e. Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection 8.d. of this section.

SECTION 3. That Section 33-1002D, Idaho Code, be, and the same is hereby repealed.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.